

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 247

AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-15-9-0.5, AS AMENDED BY P.L.149-2012, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 0.5. (a) As used in this chapter, "estate" includes:

- (1) all real and personal property and other assets included within an individual's probate estate;
- (2) any interest in real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship, if the joint tenancy was created after June 30, 2002;
- (3) any real or personal property conveyed through a nonprobate transfer; and
- (4) any sum due after June 30, 2005, to a person after the death of a Medicaid recipient that is under the terms of an annuity contract purchased after May 1, 2005, with the assets of the Medicaid recipient.

(b) As used in this chapter, "nonprobate transfer" means a valid transfer, effective at death, by a transferor:

- (1) whose last domicile was in Indiana; and
- (2) who immediately before death had the power, acting alone, to prevent transfer of the property by revocation or withdrawal and:
 - (A) use the property for the benefit of the transferor; or
 - (B) apply the property to discharge claims against the



transferor's probate estate.

The term does not include transfer of a survivorship interest in a tenancy by the entireties real estate or payment of the death proceeds of a life insurance policy. **has the meaning set forth in IC 32-17-13-1.**

SECTION 2. IC 12-15-9-0.6, AS AMENDED BY P.L.44-2009, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 0.6. (a) The office's claim against assets ~~that are not included in the individual's probate estate transferred by a nonprobate transfer~~ may be enforced as set out in IC 32-17-13.

(b) **Except as provided in subsection (c)**, enforcement of a claim against assets ~~that are not included in an individual's probate estate transferred by a nonprobate transfer~~ must be commenced ~~not more than nine (9) months after the decedent's death. This limit does within the time limits provided in IC 32-17-13.~~

(c) **The time limits provided in subsection (b) do** not apply to any assets that were not reported to the county office of the division of family resources.

SECTION 3. IC 29-1-1-3, AS AMENDED BY P.L.190-2016, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) The following definitions apply throughout this article, unless otherwise apparent from the context:

(1) "Child" includes an adopted child but does not include a grandchild or other more remote descendants, nor, except as provided in IC 29-1-2-7, a child born out of wedlock.

(2) **"Claimant" means a person having a claim against the decedent's estate as described in IC 29-1-14-1(a).**

~~(2)~~ (3) "Claims" includes liabilities of a decedent which survive, whether arising in contract or in tort or otherwise, expenses of administration, and all taxes imposed by reason of the person's death. However, for purposes of IC 29-1-2-1 and IC 29-1-3-1, the term does not include taxes imposed by reason of the person's death.

~~(3)~~ (4) "Court" means the court having probate jurisdiction.

~~(4)~~ (5) "Decedent" means one who dies testate or intestate.

~~(5)~~ (6) "Devise" or "legacy", when used as a noun, means a testamentary disposition of either real or personal property or both.

~~(6)~~ (7) "Devise", when used as a verb, means to dispose of either real or personal property or both by will.

~~(7)~~ (8) "Devisee" includes legatee, and "legatee" includes devisee.

~~(8)~~ (9) "Distributee" denotes those persons who are entitled to the real and personal property of a decedent under a will, under the



statutes of intestate succession, or under IC 29-1-4-1.

~~(9)~~ **(10)** "Estate" denotes the real and personal property of the decedent or protected person, as from time to time changed in form by sale, reinvestment, or otherwise, and augmented by any accretions and additions thereto and substitutions therefor and diminished by any decreases and distributions therefrom.

~~(10)~~ **(11)** "Expenses of administration" includes expenses incurred by or on behalf of a decedent's estate in the collection of assets, the payment of debts, and the distribution of property to the persons entitled to the property, including funeral expenses, expenses of a tombstone, expenses incurred in the disposition of the decedent's body, executor's commissions, attorney's fees, and miscellaneous expenses.

~~(11)~~ **(12)** "Fiduciary" includes a:

- (A) personal representative;
- (B) guardian;
- (C) conservator;
- (D) trustee; and
- (E) person designated in a protective order to act on behalf of a protected person.

~~(12)~~ **(13)** "Heirs" denotes those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate, unless otherwise defined or limited by the will.

~~(13)~~ **(14)** "Incapacitated" has the meaning set forth in IC 29-3-1-7.5.

~~(14)~~ **(15)** "Interested persons" means heirs, devisees, spouses, creditors, or any others having a property right in or claim against the estate of a decedent being administered. This meaning may vary at different stages and different parts of a proceeding and must be determined according to the particular purpose and matter involved.

~~(15)~~ **(16)** "Issue" of a person, when used to refer to persons who take by intestate succession, includes all lawful lineal descendants except those who are lineal descendants of living lineal descendants of the intestate.

~~(16)~~ **(17)** "Lease" includes an oil and gas lease or other mineral lease.

~~(17)~~ **(18)** "Letters" includes letters testamentary, letters of administration, and letters of guardianship.

~~(18)~~ **(19)** "Minor" or "minor child" or "minority" refers to any person under the age of eighteen (18) years.



~~(19)~~ **(20)** "Mortgage" includes deed of trust, vendor's lien, and chattel mortgage.

~~(20)~~ **(21)** "Net estate" refers to the real and personal property of a decedent less the allowances provided under IC 29-1-4-1 and enforceable claims against the estate.

(22) "No contest provision" refers to a provision of a will that, if given effect, would reduce or eliminate the interest of a beneficiary of the will who, directly or indirectly, initiates or otherwise pursues:

(A) an action to contest the admissibility or validity of the will;

(B) an action to set aside a term of the will; or

(C) any other act to frustrate or defeat the testator's intent as expressed in the terms of the will.

~~(21)~~ **(23)** "Person" means:

(A) an individual;

(B) a corporation;

(C) a trust;

(D) a limited liability company;

(E) a partnership;

(F) a business trust;

(G) an estate;

(H) an association;

(I) a joint venture;

(J) a government or political subdivision;

(K) an agency;

(L) an instrumentality; or

(M) any other legal or commercial entity.

~~(22)~~ **(24)** "Personal property" includes interests in goods, money, choses in action, evidences of debt, and chattels real.

~~(23)~~ **(25)** "Personal representative" includes executor, administrator, administrator with the will annexed, administrator de bonis non, and special administrator.

~~(24)~~ **(26)** "Probate estate" denotes the property transferred at the death of a decedent under the decedent's will or under IC 29-1-2, in the case of a decedent dying intestate.

~~(25)~~ **(27)** "Property" includes both real and personal property.

~~(26)~~ **(28)** "Protected person" has the meaning set forth in IC 29-3-1-13.

~~(27)~~ **(29)** "Real property" includes estates and interests in land, corporeal or incorporeal, legal or equitable, other than chattels real.



~~(28)~~ **(30)** "Will" includes all wills, testaments, and codicils. The term also includes a testamentary instrument which merely appoints an executor or revokes or revives another will.

(b) The following rules of construction apply throughout this article unless otherwise apparent from the context:

(1) The singular number includes the plural and the plural number includes the singular.

(2) The masculine gender includes the feminine and neuter.

SECTION 4. IC 29-1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. If, in any will admitted to probate in any of the courts of this state, there is a provision or provisions providing that if any beneficiary thereunder shall take any proceeding to contest such will or to prevent the admission thereof to probate, or provisions to that effect, such beneficiary shall thereby forfeit any benefit which said will made for said beneficiary, such provision or provisions shall be void and of no force or effect. **(a) Except as provided in subsection (b), a no contest provision is enforceable according to the express terms of the no contest provision.**

(b) Subsection (a) does not apply to the following proceedings:

(1) An action brought by a beneficiary if good cause is found by a court.

(2) An action brought by an executor or other fiduciary of a will that incorporates a no contest provision, unless the executor or other fiduciary is a beneficiary against whom the no contest provision is otherwise enforceable.

(3) An agreement, including a nonjudicial settlement agreement, among beneficiaries and any other interested persons to settle or resolve any other matter relating to a will or estate.

(4) An action to determine whether a proposed or pending motion or proceeding constitutes a contest.

(5) An action brought by or on behalf of a beneficiary to seek a ruling regarding the construction or interpretation of a will.

(6) An action or objection brought by a beneficiary, an executor, or other fiduciary that seeks a ruling on proposed distributions, fiduciary fees, or any other matter where a court has discretion.

(7) An action brought by the attorney general that:

(A) seeks a ruling regarding the construction or interpretation of:

(i) a will containing a charitable trust or charitable bequest; or



- (ii) a no contest provision contained in a will or trust that purports to penalize a charity or charitable interest; or
 - (B) institutes any other proceedings relating to:**
 - (i) an estate; or
 - (ii) a trust;
- if good cause is shown to do so.**

SECTION 5. IC 29-1-7-7, AS AMENDED BY P.L.143-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) As soon as letters testamentary or of administration, general or special, supervised or unsupervised, have been issued, the clerk of the court shall publish notice of the estate administration.

(b) The notice required under subsection (a) shall be published in a newspaper of general circulation, printed in the English language and published in the county where the court is located, once each week for two (2) consecutive weeks. A copy of the notice, with proof of publication, shall be filed with the clerk of the court as a part of the administration of the estate within thirty (30) days after the publication. If no newspaper is published in the county, the notice shall be published in a newspaper published in an adjacent county.

(c) The notice required under subsection (a) shall be served by first class postage prepaid mail on each heir, devisee, legatee, and known creditor whose name and address is set forth in the petition for probate or letters, except as otherwise ordered by the court. The personal representative shall furnish sufficient copies of the notice, prepared for mailing, and the clerk of the court shall mail the notice upon the issuance of letters.

(d) The personal representative or the personal representative's agent shall serve notice on each creditor of the decedent:

- (1) whose name is not set forth in the petition for probate or letters under subsection (c);
- (2) who is known or reasonably ascertainable within one (1) month after the first publication of notice under subsection (a); and
- (3) whose claim has not been paid or settled by the personal representative.

The notice may be served by mail or any other means reasonably calculated to ensure actual receipt of the notice by a creditor. **The estate recovery unit of the office of Medicaid policy and planning (established by IC 12-8-6.5-1) is a reasonably ascertainable creditor under this section if the decedent was at least fifty-five (55) years of age at the time of death.**



(e) Notice under subsection (d) shall be served within one (1) month after the first publication of notice under subsection (a) or as soon as possible after the elapse of one (1) month. If the personal representative or the personal representative's agent fails to give notice to a known or reasonably ascertainable creditor of the decedent under subsection (d) within one (1) month after the first publication of notice under subsection (a), the period during which the creditor may submit a claim against the estate includes an additional period ending two (2) months after the date notice is given to the creditor under subsection (d). However, a claim filed under IC 29-1-14-1(a) more than nine (9) months after the death of the decedent is barred.

(f) A schedule of creditors that received notice under subsection (d) shall be delivered to the clerk of the court as soon as possible after notice is given.

(g) The giving of notice to a creditor or the listing of a creditor on the schedule delivered to the clerk of the court does not constitute an admission by the personal representative that the creditor has an allowable claim against the estate.

(h) If any person entitled to receive notice under this section is under a legal disability, the notice may be served upon or waived by the person's natural or legal guardian or by the person who has care and custody of the person.

(i) The notice shall read substantially as follows:

NOTICE OF ADMINISTRATION

In the _____ Court of _____ County, Indiana.

Notice is hereby given that _____ was, on the ____ day of _____, 20 __, appointed personal representative of the estate of _____, deceased, who died on the __ day of _____, 20 __.

All persons who have claims against this estate, whether or not now due, must file the claim in the office of the clerk of this court within three (3) months from the date of the first publication of this notice, or within nine (9) months after the decedent's death, whichever is earlier, or the claims will be forever barred.

Dated at _____, Indiana, this __ day of _____, 20 __.

CLERK OF THE _____ COURT
FOR _____ COUNTY, INDIANA

SECTION 6. IC 29-1-7-15.1, AS AMENDED BY P.L.36-2011, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 15.1. (a) When it has been determined that a decedent died intestate and letters of administration have been issued upon the decedent's estate, no will shall be probated unless it is



presented for probate:

- (1) before the court decrees final distribution of the estate; or
- (2) in an unsupervised estate, before a closing statement has been filed.

(b) No real estate ~~situate~~ **located** in Indiana of which any person may die seized shall be sold by the executor or administrator of the deceased person's estate to pay any debt or obligation of the deceased person, which is not a lien of record in the county in which the real estate is ~~situate~~, **located**, or to pay any costs of administration of any decedent's estate, unless: ~~letters testamentary or of administration upon the decedent's estate are taken out within five (5) months after the decedent's death:~~

- (1) a petition for the probate of a will and for the issuance of letters testamentary;**
- (2) a petition for the appointment of an administrator with the will annexed; or**
- (3) a petition for the appointment of an administrator;**

is filed in court under IC 29-1-7-5 not later than five (5) months after the decedent's death and the clerk issues letters testamentary or letters of administration not later than seven (7) months after the decedent's death.

(c) **The limitation described in subsection (b) on the sale of real estate does not apply if:**

- (1) a petition is filed in court under IC 29-1-7-5 not later than five (5) months after the decedent's death and if the petitioner has satisfied the requirements of:**

- (A) this article;**
- (B) the Indiana Rules of Trial Procedure; and**
- (C) the local rules of the court; and**

- (2) the failure of the clerk to issue letters testamentary or letters of administration not later than seven (7) months after the decedent's death is not the result of the petitioner's failure to comply with the requirements of:**

- (A) this article;**
- (B) the Indiana Rules of Trial Procedure; or**
- (C) the local rules of the court.**

~~(e)~~ **(d)** The title of any real estate or interest therein purchased in good faith and for a valuable consideration from the heirs of any person who died seized of the real estate shall not be affected or impaired by any devise made by the person of the real estate so purchased, unless:

- (1) the will containing the devise has been probated and recorded in the office of the clerk of the court having jurisdiction within



- five (5) months after the death of the testator; or
- (2) an action to contest the will's validity is commenced within the time provided by law and, as a result, the will is ultimately probated.

~~(d)~~ (e) Except as provided in subsection ~~(e)~~; (f), the will of the decedent shall not be admitted to probate unless the will is presented for probate before the latest of the following dates:

- (1) Three (3) years after the individual's death.
- (2) Sixty (60) days after the entry of an order denying the probate of a will of the decedent previously offered for probate and objected to under section 16 of this chapter.
- (3) Sixty (60) days after entry of an order revoking probate of a will of the decedent previously admitted to probate and contested under section 17 of this chapter.

However, in the case of an individual presumed dead under IC 29-2-5-1, the three (3) year period commences with the date the individual's death has been established by appropriate legal action.

~~(e)~~ (f) This subsection applies with respect to the will of an individual who dies after June 30, 2011. If:

- (1) no estate proceedings have been commenced for a decedent; and
- (2) an asset of the decedent remains titled or registered in the name of the decedent;

the will of the decedent may be presented to the court for probate and admitted to probate at any time after the expiration of the deadline determined under subsection ~~(d)~~ (e) for the sole purpose of transferring the asset described in subdivision (2). A will presented for probate under this subsection is subject to all rules governing the admission of wills to probate.

SECTION 7. IC 29-1-7-15.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 15.2. (a) This section applies to real estate subject to section 15.1(b) of this chapter, if all distributees consent to the sale of the real estate under IC 29-1-10-21.**

(b) The proceeds of the sale of real estate described in subsection (a) will retain the same protection that section 15.1(b) of this chapter provides to real estate. Such proceeds can only be used to satisfy a debt or obligation of the deceased person or costs of administration of the decedent's estate if the distributees consent to the personal representative's use of the proceeds to satisfy the debts, obligations, or costs of administration.

SECTION 8. IC 29-1-7-25, AS AMENDED BY P.L.149-2012,



SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 25. (a) Any will that has been proved or allowed in any other state or in any foreign country, according to the laws of that state or country, may be received and recorded in this state:

- (1) before the deadlines imposed by section ~~15.1(d)~~ **15.1(e)** of this chapter, unless the will is probated for a purpose described in section ~~15.1(e)~~ **15.1(f)** of this chapter; and
- (2) in the manner and for the purpose stated in sections 26 and 27 of this chapter.

(b) A foreign will received and recorded for a purpose described in section ~~15.1(e)~~ **15.1(f)** of this chapter may not be admitted to probate for any other purpose and is subject to all rules governing the admission of wills to probate.

SECTION 9. IC 29-1-8-1, AS AMENDED BY P.L.137-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) Forty-five (45) days after the death of a decedent and upon being presented an affidavit that complies with subsection (b), a person:

- (1) indebted to the decedent; or
- (2) having possession of personal property or an instrument evidencing a debt, an obligation, a stock, or a chose in action belonging to the decedent;

shall make payment of the indebtedness or deliver the personal property or the instrument evidencing a debt, an obligation, a stock, or a chose in action to a distributee claiming to be entitled to payment or delivery of property of the decedent as alleged in the affidavit.

(b) The affidavit required by subsection (a) must be an affidavit made by or on behalf of the distributee and must state the following:

- (1) That the value of the gross probate estate, wherever located, (less liens, ~~and~~ encumbrances, ~~and~~ **reasonable funeral expenses**) does not exceed fifty thousand dollars (\$50,000).
- (2) That forty-five (45) days have elapsed since the death of the decedent.
- (3) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction.
- (4) The name and address of each distributee that is entitled to a share of the property and the part of the property to which each distributee is entitled.
- (5) That the affiant has notified each distributee identified in the affidavit of the affiant's intention to present an affidavit under this section.



(6) That the affiant is entitled to payment or delivery of the property on behalf of each distributee identified in the affidavit.

(c) If a motor vehicle or watercraft (as defined in IC 9-13-2-198.5) is part of the estate, nothing in this section shall prohibit a transfer of the certificate of title to the motor vehicle if five (5) days have elapsed since the death of the decedent and no appointment of a personal representative is contemplated. A transfer under this subsection shall be made by the bureau of motor vehicles upon receipt of an affidavit containing a statement of the conditions required by subsection (b)(1) and (b)(6). The affidavit must be duly executed by the distributees of the estate.

(d) A transfer agent of a security shall change the registered ownership on the books of a corporation from the decedent to a distributee upon the presentation of an affidavit as provided in subsection (a).

(e) For the purposes of subsection (a), an insurance company that, by reason of the death of the decedent, becomes obligated to pay a death benefit to the estate of the decedent is considered a person indebted to the decedent.

(f) For purposes of subsection (a), property in a safe deposit box rented by a decedent from a financial institution organized or reorganized under the law of any state (as defined in IC 28-2-17-19) or the United States is considered personal property belonging to the decedent in the possession of the financial institution.

(g) For purposes of subsection (a), a distributee has the same rights as a personal representative under IC 32-39 to access a digital asset (as defined in IC 32-39-1-10) of the decedent.

SECTION 10. IC 29-1-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 10. (a) On or before three (3) months and fifteen (15) days after the date of the first published notice to creditors, the personal representative shall allow or disallow each claim filed ~~within~~ **not later than** three (3) months after the date of the first published notice to creditors, ~~by making and as to any claim filed not later than nine (9) months after the decedent's death by a claimant (other than the United States, the state, or a subdivision of the state) who did not receive notice of administration under IC 29-1-7-7,~~ **the personal representative shall allow or disallow the claim not later than fifteen (15) days after the date of filing of the claim.**

(b) **The personal representative shall allow or disallow each claim filed by the United States, the state, or a subdivision of the state on or before the later of:**



(1) three (3) months and fifteen (15) days after the first published notice to creditors; or

(2) fifteen (15) days after the date on which the United States, the state, or a subdivision of the state filed the claim.

(c) The personal representative shall make appropriate notations on the margin of the claim and allowance docket showing the action taken as to the claim, **or, in a jurisdiction that has implemented electronic filing, by making appropriate notations of the action taken as to the claim according to rules established by the Indiana supreme court, or if the Indiana supreme court adopts no rule regarding the notations, then by local rules established by the court where the claim is filed.**

(d) If a personal representative determines that the personal representative should not allow a claim in full, the claim shall be noted "disallowed". The clerk of the court shall give written notice to a creditor if a claim has been disallowed in full or in part.

(e) All claims that are disallowed, or are neither allowed nor disallowed within ~~three (3) months and fifteen (15) days~~, **the deadlines provided in subsection (a) or (b)**, shall be set for trial in the probate court upon the petition of either party to the claim. The personal representative shall make an appropriate notation of any compromise or adjustment on the margin of the claim and allowance docket, **or in a jurisdiction that has implemented electronic filing, by making appropriate notations of the action taken as to the claim according to rules established by the Indiana supreme court, or if the Indiana supreme court adopts no rule regarding the notations, then by local rules established by the court where the claim is filed.** If the personal representative, after allowing a claim and before paying it, determines that the claim should not have been allowed, the personal representative shall change the notation on the claim and allowance docket from "allowed" to "disallowed" and give written notice to the creditor. If a claim has been paid in full or in part, the creditor shall:

(1) release the claim to the extent that the claim has been paid; and

(2) give written notice to the clerk of the court of the release.

~~(b)~~ **(f)** Claims for expenses of administration may be allowed upon application of the claimant or of the personal representative, or may be allowed at any accounting, regardless of whether or not they have been paid by the personal representative.

SECTION 11. IC 29-1-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) At any time during the administration, upon application of the personal



representative or any distributee, with or without notice as the court may direct, the court may order the personal representative to deliver to any distributee, who consents to it, possession of any specific real or tangible personal property to which he is entitled under the terms of the will or by intestacy, provided that other distributees and claimants are not prejudiced thereby. The court may at any time prior to the decree of final distribution order him to return such property to the personal representative if it is for the best interest of the estate. The court may require the distributee to give security for such return.

(b) At any time during the administration, when it is apparent that the estate is solvent, the court in its discretion may order distribution to the persons entitled thereto of such items of property of the estate as:

- (1) are perishable in nature,
- (2) would materially depreciate in value if distribution were delayed, or
- (3) would necessitate the expenditure of estate funds for storage or preservation if not distributed.

Such distribution may be with or without security or notice to the interested parties as the court may direct.

(c) After the expiration of the time limited for the filing of claims and before final settlement of the accounts of the personal representative, a partial distribution may be decreed, with notice to interested persons as the court may direct. Such distribution shall be as conclusive as a decree of final distribution, except that the court may, as provided in section ~~2(b)~~ **2(d)** of this chapter, modify such decree of partial distribution to the extent necessary to protect the other distributees and claimants, and assure them that they will receive the amount due them on final distribution. Before a partial distribution is so decreed, the court may require that security be given for the return of the property so distributed to the extent necessary to satisfy any distributees and claimants who may be prejudiced as aforesaid by the partial distribution.

(d) The person to whom possession or distribution has been made under the provisions of this section, shall be entitled to the income and profits from such property.

SECTION 12. IC 29-1-17-2, AS AMENDED BY P.L.95-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) After the expiration of the time limit for the filing of claims, and after all claims against the estate, including state and federal inheritance and estate taxes, have been determined, paid, or provision made therefor, except contingent and unmatured claims which cannot then be paid, the personal representative shall, if the



estate is in a condition to be closed, render a final account and at the same time petition the court to decree the final distribution of the estate. ~~Notice of the hearing of the petition shall be given under IC 29-1-16-6.~~

(b) The final account will include a verified statement that the clerk of the court, the personal representative, or a previous personal representative, has done the following:

(1) Published notice to creditors as provided in IC 29-1-7-7(b), with the first publication occurring more than three (3) months before the date of the final account.

(2) Provided notice to creditors as required under IC 29-1-7-7(c) and IC 29-1-7-7(d).

(c) Notice of the hearing of the petition shall be provided under IC 29-1-16-6.

~~(b)~~ **(d)** In its decree of final distribution, the court shall designate the persons to whom distribution is to be made, and the proportions or parts of the estate, or the amounts, to which each is entitled under the will and the provisions of this probate code, including the provisions regarding advancements, election by the surviving spouse, lapse, renunciation, adjudicated compromise of controversies, and retainer. Every tract of real property so distributed shall be specifically described therein. The decree shall find that all state and federal inheritance and estate taxes are paid, and if all claims have been paid, it shall so state; otherwise, the decree shall state that all claims except those therein specified are paid and shall describe the claims for the payment of which a special fund is set aside, and the amount of such fund. If any contingent claims which have been duly allowed are still unpaid and have not become absolute, such claims shall be described in the decree, which shall state whether the distributees take subject to them. If a fund is set aside for the payment of contingent claims, the decree shall provide for the distribution of such fund in the event that all or a part of it is not needed to satisfy such contingent claims. If a decree of partial distribution has been previously made, the decree of final distribution shall expressly confirm it, or, for good cause, shall modify said decree and state specifically what modifications are made.

~~(c)~~ **(e)** If a distributee dies before distribution to the distributee of the distributee's share of the estate, the distributee's share may be distributed to the personal representative of the distributee's estate, if there is one; or if no administration on the deceased distributee's estate is had and none is necessary according to IC 29-1-8, the share of the deceased distributee shall be distributed in accordance with IC 29-1-8.

~~(d)~~ **(f)** The decree of final distribution shall be a conclusive



determination of the persons who are the successors in interest to the estate of the decedent and of the extent and character of their interest therein, subject only to the right of appeal and the right to reopen the decree. It shall operate as the final adjudication of the transfer of the right, title, and interest of the decedent to the distributees therein designated; but no transfer before or after the decedent's death by an heir or devisee shall affect the decree, nor shall the decree affect any rights so acquired by grantees from the heirs or devisees.

(e) (g) Whenever the decree of final distribution includes real property, a certified copy thereof shall be recorded by the personal representative in every county of this state in which any real property distributed by the decree is ~~situated~~ **located** except the county in which the estate is administered. The cost of recording such decree shall be charged to the estate.

SECTION 13. IC 30-4-1-2, AS AMENDED BY P.L.51-2014, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. As used in this article:

- (1) "Adult" means any person eighteen (18) years of age or older.
- (2) "Affiliate" means a parent, descendant, spouse, spouse of a descendant, brother, sister, spouse of a brother or sister, employee, director, officer, partner, joint venturer, a corporation subject to common control with the trustee, a shareholder, or corporation who controls the trustee or a corporation controlled by the trustee other than as a fiduciary, an attorney, or an agent.
- (3) "Beneficiary" has the meaning set forth in IC 30-2-14-2.
- (4) "Breach of trust" means a violation by the trustee of any duty which is owed to the settlor or beneficiary.
- (5) "Charitable trust" means a trust in which all the beneficiaries are the general public or organizations, including trusts, corporations, and associations, and that is organized and operated wholly for religious, charitable, scientific, public safety testing, literary, or educational purposes. The term does not include charitable remainder trusts, charitable lead trusts, pooled income funds, or any other form of split-interest charitable trust that has at least one (1) noncharitable beneficiary.
- (6) "Court" means a court having jurisdiction over trust matters.
- (7) "Income", except as otherwise stated in a trust agreement, has the meaning set forth in IC 30-2-14-4.
- (8) "Income beneficiary" has the meaning set forth in IC 30-2-14-5.
- (9) "Inventory value" means the cost of property to the settlor or the trustee at the time of acquisition or the market value of the



property at the time it is delivered to the trustee, or the value of the property as finally determined for purposes of an estate or inheritance tax.

(10) "Minor" means any person under the age of eighteen (18) years.

(11) "No contest provision" refers to a provision of a trust instrument that, if given effect, would reduce or eliminate the interest of a beneficiary of the trust who, directly or indirectly, initiates or otherwise pursues:

(A) an action to contest the validity of:

(i) the trust; or

(ii) the terms of the trust;

(B) an action to set aside or vary any term of the trust; or

(C) any other act to frustrate or defeat the settlor's intent as expressed in the terms of the trust.

~~(11)~~ **(12)** "Person" has the meaning set forth in IC 30-2-14-9.

~~(12)~~ **(13)** "Personal representative" means an executor or administrator of a decedent's or absentee's estate, guardian of the person or estate, guardian ad litem or other court appointed representative, next friend, parent or custodian of a minor, attorney in fact, or custodian of an incapacitated person (as defined in IC 29-3-1-7.5).

~~(13)~~ **(14)** "Principal" has the meaning set forth in IC 30-2-14-10.

~~(14)~~ **(15)** "Qualified beneficiary" means:

(A) a beneficiary who, on the date the beneficiary's qualification is determined:

(i) is a distributee or permissible distributee of trust income or principal;

(ii) would be a distributee or permissible distributee of trust income or principal if the interest of the distributee described in item (i) terminated on that date;

(iii) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date;

(iv) is a charitable organization expressly designated to receive distributions under the terms of a charitable trust;

(v) is a person appointed to enforce a trust for the care of an animal under IC 30-4-2-18; or

(vi) is a person appointed to enforce a trust for a noncharitable purpose under IC 30-4-2-19; or

(B) the attorney general, if the trust is a charitable trust having its principal place of administration in Indiana.

~~(15)~~ **(16)** "Remainderman" means a beneficiary entitled to



principal, including income which has been accumulated and added to the principal.

~~(16)~~ **(17)** "Settlor" means a person who establishes a trust including the testator of a will under which a trust is created.

~~(17)~~ **(18)** "Terms of a trust", "terms of the trust", or "terms of a charitable trust" means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct.

~~(18)~~ **(19)** "Trust estate" means the trust property and the income derived from its use.

~~(19)~~ **(20)** "Trust for a benevolent public purpose" means a charitable trust (as defined in subdivision (5)), a split-interest trust (as defined in Section 4947 of the Internal Revenue Code), a perpetual care fund or an endowment care fund established under IC 23-14-48-2, a prepaid funeral plan or funeral trust established under IC 30-2-9, a funeral trust established under IC 30-2-10, a trust or an escrow account created from payments of funeral, burial services, or merchandise in advance of need described in IC 30-2-13, and any other form of split-interest charitable trust that has both charitable and noncharitable beneficiaries, including but not limited to charitable remainder trusts, charitable lead trusts, and charitable pooled income funds.

~~(20)~~ **(21)** "Trust instrument" means an instrument, agreement, or other written document executed by the settlor that contains the terms of the trust, including any amendments to the terms of the trust.

~~(21)~~ **(22)** "Trust property" means property either placed in trust or purchased or otherwise acquired by the trustee for the trust regardless of whether the trust property is titled in the name of the trustee or the name of the trust.

~~(22)~~ **(23)** "Trustee" has the meaning set forth in IC 30-2-14-13.

SECTION 14. IC 30-4-2.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. ~~A provision in a trust that provides, or has the effect of providing, that a beneficiary forfeits a benefit from the trust if the beneficiary contests the trust is void. (a) Except as provided in subsection (b), a no contest provision is enforceable according to the express terms of the no contest provision.~~

- (b) Subsection (a) does not apply to the following proceedings:**
(1) An action brought by a beneficiary if good cause is found by a court.



(2) An action brought by a trustee or other fiduciary serving under the terms of the trust that incorporates a no contest provision, unless the trustee or other fiduciary is a beneficiary against whom the no contest provision is otherwise enforceable.

(3) An agreement, including a nonjudicial settlement agreement, among beneficiaries and any other interested persons to settle or resolve any other matter relating to a trust.

(4) An action to determine whether a proposed or pending motion or proceeding constitutes a contest.

(5) An action brought by or on behalf of a beneficiary to seek a ruling regarding the construction or interpretation of a trust.

(6) An action or objection brought by a beneficiary, executor, or other fiduciary that seeks a ruling on proposed distributions, fiduciary fees, or any other matter where a court has discretion, including actions under IC 30-4-3-22.

(7) An action brought by the attorney general that:

(A) seeks a ruling regarding the construction or interpretation of:

(i) a charitable trust or a trust containing a charitable interest; or

(ii) a no contest provision contained in a trust that purports to penalize a charity or charitable interest; or

(B) institutes any other proceedings relating to a trust if good cause is shown to do so.

SECTION 15. IC 32-17-13-1, AS AMENDED BY P.L.198-2016, SECTION 661, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) As used in this chapter, "nonprobate transfer" means a valid transfer, effective at death, by a transferor:

(1) whose last domicile was in Indiana; and

(2) who immediately before death had the power, acting alone, to prevent transfer of the property by revocation or withdrawal and:

(A) use the property for the benefit of the transferor; or

(B) apply the property to discharge claims against the transferor's probate estate.

(b) The term does not include a transfer at death (other than a transfer to or from the ~~decedent's~~ **deceased transferor's** probate estate) of:

(1) a survivorship interest in a tenancy by the entireties real



estate;

(2) a life insurance policy or annuity;

(3) the death proceeds of a life insurance policy or annuity;

(4) an individual retirement account or a similar account or plan;

or

(5) benefits under an employee benefit plan.

(c) With respect to a nonprobate transfer involving a multiple party account, a nonprobate transfer occurs if the last domicile of the depositor whose interest is transferred under IC 32-17-11 was in Indiana.

(d) With respect to a motor vehicle or a watercraft, a nonprobate transfer occurs if the transferee obtains a certificate of title in Indiana under IC 9-17.

(e) A transfer on death transfer completed under IC 32-17-14 is a nonprobate transfer.

SECTION 16. IC 32-17-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) **As used in this chapter, "claimant" means the surviving spouse or a surviving child, to the extent that statutory allowances are affected, or a person who has filed a timely claim in a deceased transferor's probate estate under IC 29-1-14, and is entitled to enforce the claim against a transferee of a nonprobate transfer.**

(b) **As used in this chapter, "nonprobate transferee" means a person who acquires an interest in property by a nonprobate transfer.**

(c) Except as otherwise provided by statute, a transferee of a nonprobate transfer is subject to liability to a ~~decedent's~~ **deceased transferor's** probate estate for:

(1) allowed claims against the ~~decedent's~~ **deceased transferor's** probate estate; and

(2) statutory allowances to the decedent's spouse and children;

to the extent the decedent's probate estate is insufficient to satisfy those claims and allowances.

~~(b)~~ **(d)** The liability of the nonprobate transferee may not exceed the value of nonprobate transfers received or controlled by the nonprobate transferee.

~~(c)~~ **(e)** The liability of the nonprobate transferee does not include the net contributions of the nonprobate transferee.

SECTION 17. IC 32-17-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. Nonprobate transferees are liable for the insufficiency described in section 2 of this chapter in the following order:



(1) As provided in the ~~decedent's~~ **deceased transferor's** will or other governing instrument.

(2) To the extent of the value of the nonprobate transfer received or controlled by the trustee of trusts that can be amended, modified, or revoked by the decedent during the ~~decedent's~~ **deceased transferor's** lifetime. If there is more than one (1) such trust, in proportion to the relative value of the trusts.

(3) Other nonprobate transferees in proportion to the values received.

SECTION 18. IC 32-17-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. **(a)** Upon due notice to a nonprobate transferee, the liability imposed by this chapter is enforceable in proceedings in Indiana in the county where:

- (1) the transfer occurred;
- (2) the transferee is located; or
- (3) the probate action is pending.

(b) A proceeding under this chapter may be commenced as a separate cause from a cause in which a probate action is pending with respect to a deceased transferor of a nonprobate transfer by filing a complaint against a nonprobate transferee as a defendant and serving a summons and a complete copy of the complaint to each defendant under the Indiana Rules of Trial Procedure.

SECTION 19. IC 32-17-13-7, AS AMENDED BY P.L.6-2010, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. **(a)** A proceeding under this chapter may not be commenced unless the personal representative of the decedent's estate has received a written demand for the proceeding from the surviving spouse or a surviving child; to the extent that statutory allowances are affected; or a creditor. **A proceeding under this chapter may not be commenced unless:**

- (1) the claimant files a claim in the deceased transferor's estate and delivers a copy of the claim to each nonprobate transferee known by the claimant not later than five (5) months after the deceased transferor's death;**
- (2) the claimant delivers a written demand for the proceeding to:**
 - (A) the personal representative of the deceased transferor's estate; and**
 - (B) each known nonprobate transferee; and**
- (3) except as provided in subsection (i), the written demand has been filed in the estate, not later than seven (7) months after the deceased transferor's death.**



(b) The written demand must include the following information:

- (1) The cause number of the deceased transferor's estate.**
- (2) A statement of the claimant's interest in the deceased transferor's estate and nonprobate transfers, including the date on which the claimant filed a claim in the deceased transferor's estate.**
- (3) A copy of the claim attached as an exhibit to the written demand.**
- (4) A description of the nonprobate transfer, including:**
 - (A) a description of the transferred asset, as the asset would be described under IC 29-1-12-1, regardless of whether the asset is part of the decedent's probate estate, subject to the redaction requirements of the Indiana administrative rules, established by the Indiana supreme court;**
 - (B) a description or copy of the instrument by which the deceased transferor established the nonprobate transfer, subject to the redaction requirements of the Indiana administrative rules, established by the Indiana supreme court; and**
 - (C) the name and mailing address of each nonprobate transferee known by the claimant.**

(c) A proceeding under this chapter may not be commenced on behalf of a claimant, if the claimant has not filed a claim in the deceased transferor's estate by not later than nine (9) months after the deceased transferor's death.

(d) A proceeding under this chapter may not be commenced on behalf of a claimant who has not delivered and filed the written demand under subsection (a) by the later of the following dates:

- (1) Thirty (30) days after the final allowance of the claimant's claim.**
- (2) Nine (9) months after the deceased transferor's death.**

(e) A proceeding under this chapter may not be commenced on behalf of a claimant if the personal representative has neither allowed nor disallowed the claimant's claim within the deadlines in IC 29-1-14-10(a) and IC 29-1-14-10(b), unless the claimant's petition to set the claim for trial in the probate court under IC 29-1-14-10(a) has been filed within thirty (30) days after the expiration of the deadlines applicable to the claimant's claim under IC 29-1-14-10(a) and IC 29-1-14-10(b).

(f) If the personal representative declines or fails to commence a proceeding under this chapter within ~~sixty (60)~~ thirty (30) days



after receiving the **written demand required under subsection (a)**, a person making the demand may commence the proceeding in the name of the **decedent's deceased transferor's** estate at the expense of the person making the demand and not of the estate.

(c) **(g)** A personal representative who declines in good faith to commence a requested proceeding incurs no personal liability for declining.

(h) Nothing in this section shall affect or prevent any action or proceeding to enforce a valid and otherwise enforceable lien, warrant, mortgage, pledge, security interest, or other comparable interest against property included in a nonprobate transfer.

(i) A claimant may file the written demand required in subsection (a) concurrently with the claimant's filing of a claim in the deceased transferor's estate, but the claimant shall deliver the written demand not later than the later of:

(1) seven (7) months after the deceased transferor's death; or

(2) the earlier of:

(A) thirty (30) days after the final allowance of the claimant's claim; or

(B) if the personal representative of the deceased transferor's estate disallows the claimant's claim, two (2) years after the deceased transferor's death.

SECTION 20. IC 32-17-13-8, AS AMENDED BY P.L.6-2010, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. **(a) A proceeding under this chapter must be commenced not later than nine (9) months after the person's deceased transferor's death, but a proceeding on behalf of a creditor claimant whose claim was timely filed in the deceased transferor's estate may be commenced within not later than sixty (60) days after the personal representative of the deceased transferor's estate has received a timely written demand if the personal representative declines or fails to commence a proceeding under this chapter after the time limits specified in section 7 of this chapter.**

(1) sixty (60) days after final allowance of the claim; or

(2) ninety (90) days after demand is made under section 7 of this chapter if the personal representative declines or fails to commence a proceeding after receiving the demand.

(b) Notwithstanding any other provision in this chapter, a proceeding under this chapter must be commenced not later than two (2) years after the deceased transferor's death.

SECTION 21. IC 32-17-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9. Unless written notice



asserting that a ~~decedent's~~ **deceased transferor's** probate estate is insufficient to pay allowed claims and statutory allowances has been received from the ~~decedent's~~ **deceased transferor's** personal representative, the following rules apply:

- (1) Payment or delivery of assets by a financial institution, registrar, or another obligor to a nonprobate transferee under the terms of the governing instrument controlling the transfer releases the obligor from all claims for amounts paid or assets delivered.
- (2) A trustee receiving or controlling a nonprobate transfer is released from liability under this section on any assets distributed to the trust's beneficiaries. Each beneficiary, to the extent of the distribution received, becomes liable for the amount of the trustee's liability attributable to that asset imposed by sections 2 and 3 of this chapter.

SECTION 22. IC 32-17-13-10 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2018]: **Sec. 10. (a) If the personal representative of a deceased transferor's probate estate commences a separate proceeding under this chapter and recovers all or part of the value of the nonprobate transfer from the nonprobate transferees, the personal representative must:**

- (1) include the value in the inventory of the deceased transferor's probate estate; and**
 - (2) pay or distribute the value as the personal representative would pay or distribute other assets of the deceased transferor's probate estate.**
- (b) If:**
- (1) the personal representative of a deceased transferor's probate estate declines or fails to commence a proceeding under this chapter after receiving written demand;**
 - (2) the person making the written demand commences a timely and proper action under this chapter; and**
 - (3) the person making the written demand recovers all or part of the value of the nonprobate transfer from the nonprobate transferees;**

the person making the written demand may retain the recovered value without remitting it to the personal representative of the deceased transferor's probate estate.

(c) If one (1) or more claimants of the deceased transferor's estate intervenes in the separate proceeding, the court shall enter an order allocating the recovered value among the plaintiff and other claimants according to the priorities of their claims in the



deceased transferor's estate, and allow the plaintiff to retain plaintiff's costs and reasonable attorney's fees from the recovered value.

(d) Any claimant that recovers assets under this section must file a satisfaction or partial satisfaction of the claimant's claim in the deceased transferor's probate estate to the extent of the recovered value within thirty (30) days after the recovery.

SECTION 23. IC 32-39-2-4, AS ADDED BY P.L.137-2016, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. If a deceased user consented to, or a court directs, disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the personal representative gives the custodian the following:

- (1) A written request for disclosure in physical or electronic form.
- (2) A certified or authenticated copy of the death certificate of the user.
- (3) A copy of the letters (as defined in ~~IC 29-1-1-3(a)(17)~~ **IC 29-1-1-3(a)(18)**) of the personal representative or of the order of no supervision or order of unsupervised administration issued to the personal representative under IC 29-1-7.5.
- (4) Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications.
- (5) If requested by the custodian:
 - (A) a number, username, address, or other unique subscriber identifier or account identifier assigned by the custodian to identify the user's account;
 - (B) evidence linking the account to the user; or
 - (C) a finding by the court that:
 - (i) the user had a specific account with the custodian, identifiable by the information specified in clause (A);
 - (ii) disclosure of the content of electronic communications of the user would not violate 18 U.S.C. 2701 et seq., 47 U.S.C. 222, or other applicable law;
 - (iii) unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or
 - (iv) disclosure of the content of electronic communications of the user is reasonably necessary for administration of the



user's estate.

SECTION 24. IC 32-39-2-5, AS ADDED BY P.L.137-2016, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. Unless the user prohibited disclosure of the user's digital assets or a court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the content of electronic communications, of the user, if the personal representative gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) a certified or authenticated copy of the death certificate of the user;
- (3) a copy of the letters (as defined in ~~IC 29-1-1-3(a)(17)~~ **IC 29-1-1-3(a)(18)**) of the personal representative or of the order of no supervision or order of unsupervised administration issued to the personal representative under IC 29-1-7.5; or
- (4) if requested by the custodian:
 - (A) a number, username, address, or other unique subscriber identifier or account identifier assigned by the custodian to identify the user's account;
 - (B) evidence linking the account to the user;
 - (C) an affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the user's estate; or
 - (D) a finding by the court that:
 - (i) the user had a specific account with the custodian, identifiable by the information specified in clause (A); or
 - (ii) disclosure of the user's digital assets is reasonably necessary for administration of the user's estate.

SECTION 25. IC 32-39-2-12, AS ADDED BY P.L.137-2016, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 12. (a) The legal duties imposed on a fiduciary charged with managing tangible property, including:

- (1) the duty of care;
- (2) the duty of loyalty; and
- (3) the duty of confidentiality;

also apply to a fiduciary charged with managing digital assets.

(b) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

- (1) except as otherwise provided in section 1 of this chapter, is subject to the applicable terms of service;
- (2) is subject to other applicable law, including copyright law;



- (3) is limited by the scope of the fiduciary's duties; and
 - (4) may not be used to impersonate the user.
- (c) A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access any digital asset:
- (1) in which the decedent, protected person, principal, or settlor had a right or interest; and
 - (2) that is not held by a custodian or subject to a terms-of-service agreement.
- (d) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer fraud and unauthorized computer access laws, including IC 24-4.8-2, IC 24-5-22, IC 35-43-1-7, IC 35-43-1-8, IC 35-43-2-3, and IC 35-45-13.
- (e) A fiduciary with authority over the tangible, personal property of a decedent, protected person, principal, or settlor:
- (1) has the right to access the property and any digital asset stored in the property; and
 - (2) is an authorized user for the purpose of computer fraud and unauthorized computer access laws, including IC 24-4.8-2, IC 24-5-22, IC 35-43-2-3, and IC 35-45-13.
- (f) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.
- (g) A fiduciary of a user may request that a custodian terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and must be accompanied by:
- (1) if the user is deceased, a certified or authenticated copy of the death certificate of the user;
 - (2) a copy of:
 - (A) the letters (as defined in ~~IC 29-1-1-3(a)(17)~~ **IC 29-1-1-3(a)(18)**) of the personal representative or of the order of no supervision or order of unsupervised administration issued to the personal representative under IC 29-1-7.5;
 - (B) the court order;
 - (C) the power of attorney; or
 - (D) the trust;
 giving the fiduciary authority over the account; and
 - (3) if requested by the custodian:
 - (A) a number, username, address, or other unique subscriber identifier or account identifier assigned by the custodian to



identify the user's account;
(B) evidence linking the account to the user; or
(C) a finding by the court that the user had a specific account with the custodian, identifiable by the information specified in clause (A).



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 247 — CC 1

