

ARTICLE 18: PROBATE

18.01 ADMISSION OF WILL TO PROBATE – LETTERS OF ADMINISTRATION

(a) With a petition for probate of a handwritten will, in addition to a facsimile thereof, petitioner shall file a typewritten copy of the will and an affidavit of the petitioner or the petitioner’s attorney that, to the best of their knowledge, the typewritten copy is correct.

(b) With a petition for probate of a will in language other than English, in addition to a facsimile thereof, petitioner shall file a translation by a qualified translator who shall certify that the translation is correct.

18.02 PETITION FOR EXPENDITURE FOR WARD

A petition of a guardian to apply any part of the ward’s estate for the comfort, suitable support or education of the ward or other persons entitled to support from the ward, or for any other purpose for the best interests of the ward, shall be in writing and shall state the value of the estate at the time of presenting the petition, the annual income available to the ward, and the amount of the last authorization for an expenditure on behalf of the ward for the same purpose.

18.03 INVESTMENT BY PLENARY GUARDIAN OR GUARDIAN OF THE ESTATE

A petition of a plenary guardian or guardian of the estate to invest the ward’s property shall identify the category of investment under 755 ILCS 5/21-2.01 through 5/21-2.14 in which the proposed investment falls and shall state that the proposed investment complies with the limitations applicable to that category. If the proposed investment is to be purchased directly or indirectly from the guardian or from any firm or corporation in which the guardian or conservator has an interest or of which the guardian or conservator is an officer or director, the petition shall so state.

18.04 INVENTORIES

(a) Each inventory shall designate each item of personal estate other than cash and goods and chattels as “good,” “doubtful,” or “desperate,” and state the approximate total value of the decedent’s personal estate at date of death, the approximate annual income from real estate in the possession of the representative, and the amount of the bond then in force and whether surety, surety waived, corporate or individual.

(b) Consecutive item numbers, commencing with Arabic “1,” shall be assigned to each item inventoried and carried forward into each account. Numbers so assigned shall be

supplemented by additional consecutive item numbers for items added in subsequent inventories and accounts.

(c) Descriptions of real estate shall include the legal description of each parcel, street and number, if any, the improvements and encumbrances. If a beneficial interest in real estate is an asset of the estate, the name and address of the trustee and other identifying information shall be stated. As to each parcel of real estate listed, the inventory shall state whether the representative is in possession, or if not, the reason the representative is not in possession. (See 755 ILCS 5/20-1, Probate Act)

(d) Descriptions of stock shall include the number of shares, class of stock, exact corporate title, and state of incorporation if necessary for the purposes of identification. Description of bonds and debentures shall include the total face value, name of obligor, kind of bond or debenture, rate of interest, date of maturity, interest dates, coupons attached or date which interest is paid, and endorsements. Descriptions of notes owed to the decedent shall include the face amount and unpaid balance, date of note, date of maturity, name of maker, interest dates, rate of interest, date to which interest is paid, endorsements, and if secured, a description of the security.

(e) Descriptions of partnership interest shall include the partnership name and address and the approximate interest of the estate, if known.

(f) If any real estate or tangible or intangible personal property is encumbered, the inventory shall include a brief description of the encumbrance and the principal balance owing at the date of death.

(g) Descriptions of causes of action shall include the name of the person against whom the cause of action exists, its nature, and if suit has been instituted, the title, name of the court where pending and the case number.

(h) Each inventory and amended or supplemental inventory shall be presented to the judge for filing and approval.

(i) An amended or supplemental inventory shall be filed and approved by a judge if:

- (1) Real or personal property has been erroneously described in a prior inventory;
- (2) Assets have been improperly included in or excluded from a prior inventory; or
- (3) Additional assets have been received by the representative or have come to the

representative's knowledge.

A supplemental inventory or an amendment to an inventory need not repeat assets correctly described in a prior inventory.

18.05 FORM OF ACCOUNTS

(a) Each asset listed in an account shall be designated by the number in the inventory, supplemental inventory or prior account in which it first appears, but this requirement does not apply if the account is prepared and controlled by mechanized accounting system. Distribution of an item or conversion into cash or other disposition need be described only in the first account after completion of the transaction.

(b) Each disbursement stated in an account shall be numbered and supported by a voucher. Vouchers shall be numbered and arranged in the order of the disbursements, securely fastened together under a separate cover, and filed with the account. If the account is presented by a bank or trust company, the judge may waive the requirement of exhibiting vouchers for disbursements other than distributions, upon presentation of a certificate of an officer stating that the vouchers are on file with the bank or trust company.

(c) With respect to an unincorporated business or real estate (or beneficial interest in real estate) in the possession of the representative, the judge may accept a summary accounting of the operation.

(d) Each guardian and each executor or administrator of an estate shall present an annual report or account of his/her administration. The date for the first filing of such accounts shall be approximately one (1) year from the issuance of letters otherwise known as the "status date." Thereafter, accounts shall be filed as ordered by the Court. Each probate file shall be assigned a future date. The Court may, on the motion of any interested party, or on its own motion, issue an order requiring the guardian, executor, or administrator to appear and take any appropriate action as deemed necessary by the Court. The order shall be served by the Clerk of the Court by regular U.S. mail on the guardian, executor or administrator and the attorney for the estate.

(e) If the attorney states at the time the inventory is filed that a federal estate tax return is required, the judge approving the inventory may enter an order fixing a date eighteen (18) months after the issuance of letters for the filing of the representative's first account.

(f) Unless waived by the person entitled thereto, notice of the hearing on a final account or an account intended to be binding under Section 24-2 or Section 24-11(b), shall be given as

follows:

(1) On an account of a guardian, temporary guardian: to the ward, to each claimant whose claim is filed and remains undetermined or unpaid, and to other persons entitled to notice. If a person entitled to notice other than the ward is represented by an attorney whose appearance is on file, notice as required for motions shall be sent to the attorney not less than twenty (20) days before the date set for the hearing.

(2) On an account of an executor or administrator, or administrator to collect: to persons entitled to notice. If a person entitled to notice is represented by an attorney at law, attorney-in-fact or consul or consular agent whose appearance is on file, notice as required for motions shall be sent to the attorney at law, attorney-in-fact or consul or consular agent not less than twenty (20) days before the date set for hearing.

(3) Notice to all other persons entitled to notice shall be given as follows:

(i) If the name and present post office address of the person is known to the representative or the representative's attorney, the notice, accompanied by a copy of the account, shall be given to the person entitled to notice in person or sent by mail to his or her post office address not less than twenty (20) days before the hearing, unless the post office address of the person is outside the United States or Canada, in which event the notice shall be sent not less than thirty (30) days before the hearing.

(ii) If the name of the person is known to the representative or the representative's attorney, a copy of the notice, accompanied by a copy of the account, shall be sent to the person by mail to his or her last known post office address, if any, not less than twenty (20) days before the date of the hearing. If the person entitled to notice last known post office address is outside the United States or Canada, the notice shall be sent not less than thirty (30) days before the date of the hearing.

(iii) If the name or present post office address of the person is not known to the representative or the representative's attorney, notice shall be given by publication once a week for three (3) successive weeks, the first publication to be not less than thirty (30) days before the date of the hearing.

(iv) The notice shall contain the time, place and nature of the hearing and

substantially the following sentence: “If the account is approved by the judge upon hearing, in the absence of fraud, accident or mistake, the account as approved is binding upon all persons to whom this notice is given.”

(g) A representative shall not be discharged until the entry of an Order of Discharge in the form prescribed by the Court.

(h) An account of a guardian or temporary guardian shall state the physical location of the ward and the ward’s physical and mental condition.

(i) An account of a guardian shall state the physical location of the ward and the fact of attendance at school or occupation.

(j) An account of a guardian or temporary guardian shall disclose pendency of any suit or proceeding, if known, by or against the estate or representative of the estate.

(k) At the time of presenting an account, the guardian, conservator or conservator to collect shall establish to the judge’s satisfaction the existence of the assets stated.

(l) On the final settlement of a ward’s estate, if the person entitled to the estate is the ward, the guardian will not be discharged unless the ward appears in court and acknowledges the settlement. The personal attendance of the ward and the ward’s acknowledgment of the settlement may be waived, however, if the Court is satisfied, by affidavit of the ward or by other evidence, that the final settlement is correct, that the ward is in possession of all of the ward’s estate, and that the personal attendance of the ward is impracticable.

(m) If a distributee of a decedent’s estate dies after decedent’s death but before receipt of the distributee’s entire distributive share, evidence of the distributee’s death, and such other documents as may be required for the entry of an order of distribution, shall be presented and the order of discharge shall so state.

(n) The Court may in its discretion require a bond with sufficient surety regardless of any provision in the will or stipulation to the contrary.

18.06 OUT-OF-STATE PERSONAL REPRESENTATIVES (RESERVED)

18.07 PROCEDURES FOR ESTATES OF DISABLED ADULTS

(a) In all estates wherein the ward is a disabled adult, the Guardian of the Person shall provide the Court with a biennial report (one report every two years) concerning the

condition of the person of the ward, except that the first report after appointment of the Guardian of the Person shall be within twelve (12) months of the entry of the initial order appointing the Guardian. Upon its own motion or at the request of the Guardian, the Court may extend the reporting period to such time as the Court deems appropriate.

(b) In all estates wherein the ward is a disabled adult, the Guardian of the Estate shall provide the Court with an annual accounting concerning the condition of the finances of the Ward. Upon its own motion or at the request of the Guardian, the Court may extend or excuse the annual accounting as the Court deems appropriate.

18.08 PROCEDURES REGARDING GUARDIANSHIP CASES FOR MINORS

(a) In all guardianship cases wherein the ward is a minor, the Guardian of the Person shall provide the Court with a biennial report (one report every two years) concerning the condition of the person of the ward, except that the first report after appointment of the Guardian of the Person shall be within twelve (12) months of the entry of the initial order appointing the Guardian. Upon its own motion or at the request of the Guardian, the Court may extend the annual or biennial report to such time as the Court deems appropriate.

(b) In all guardianship cases where the ward is a minor, the Guardian of the Estate shall provide the Court with an annual accounting concerning the condition of the finances of the ward. Upon its own motion or at the request of the Guardian of the Estate, the Court may extend or excuse the annual accounting as the Court deems appropriate.