

***** Act 642 of 1978 THIS ACT IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

REVISED PROBATE CODE
Act 642 of 1978

AN ACT to revise and consolidate the laws relative to the probate of decedents' estates, guardianships, conservatorships, protective proceedings, trusts, and powers of attorney; to prescribe penalties and liabilities; and to repeal certain acts and parts of acts.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

The People of the State of Michigan enact:

ARTICLE 1

***** 700.1 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.1 Short title.

Sec. 1. This act shall be known and may be cited as the "Revised probate code".

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.2 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.2 Meanings of words and phrases.

Sec. 2. For the purposes of this act, the words and phrases defined in sections 3 to 12 shall have the meanings respectively ascribed to them in those sections.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.3 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.3 Definitions; A to C.

Sec. 3. (1) "Attorney" means, if appointed to represent a child under the provisions referenced in section 427a, an attorney serving as the child's legal advocate in the manner defined and described in section 13a of chapter XIIA of 1939 PA 288, MCL 712A.13a.

(2) "Authenticated" means that the genuineness and validity of the original or a copy of a public or official document, instrument, or record is proved.

(3) "Beneficiary" as it relates to trust beneficiaries, includes a beneficiary of a present or future interest, vested or contingent, and the owner of an interest by assignment or other transfer. Beneficiary includes a party entitled to enforce the trust if the trust is a charitable trust.

(4) "Child" includes a person entitled to take as a child under this act by intestate succession from the parent whose relationship is in question and excludes a stepchild, a foster child, a grandchild, or any more remote descendant who is not so entitled to inherit.

(5) "Claim" includes, in respect to estates of decedents and protected persons, liabilities of the decedent or protected person whether arising in contract, in tort, or otherwise, and liabilities of the estate that arise before, at, or after the death of the decedent or the appointment of the conservator, including funeral and burial expenses and expenses of administration. Claim does not include estate and inheritance taxes, demands, or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(6) "Conservator" means a person appointed by the court, as provided in article 4, to exercise powers over the estate of a protected person.

(7) "County public administrator" means a county public administrator appointed under 1947 PA 194, MCL 720.201 to 720.223.

(8) "Court" means the probate court.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1988, Act 222, Eff. Jan. 1, 1989;--Am. 1998, Act 481, Eff. Mar. 1, 1999.

***** 700.4 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.4 Definitions; D, E.

Sec. 4. (1) "Devise" when used as a noun, includes legacy and means a testamentary disposition of real or personal property or both. "Devise" when used as a verb, means to dispose of real or personal property or both by will.

(2) "Devisee" means a person designated in a will to receive a devise.

(3) "Disability" means cause for a protective order as described by section 461(b).

(4) "Disappeared person" means a person who meets all of the following:

(a) The person has been absent from his last known place of abode for at least 7 continuous years.

(b) The person's whereabouts were unknown by those persons most likely to know of his whereabouts during the time required by subdivision (a).

(c) The person has not communicated with any of those persons most likely to receive communication from him during the time required by subdivision (a).

(5) "Distributee" means a person who received property of a decedent from his personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of assets or increment thereto remaining in his hands. A beneficiary of a testamentary trust to whom the trustee has distributed is considered a distributee of the personal representative.

(6) "Estate" means the property of the decedent or other person whose affairs are subject to this act as the property is originally constituted and as it exists during administration.

(7) "Exempt property" means that property of a decedent's estate which is described in section 286.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.5 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.5 Definitions; F.

Sec. 5. (1) "Fiduciary" includes a conservator, guardian, personal representative, or a successor fiduciary. Fiduciary includes a testamentary trustee until section 598 applies. Fiduciary includes a plenary guardian or partial guardian appointed as provided in chapter 6 of Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1600 to 330.1642 of the Michigan Compiled Laws.

(2) The following are fiduciaries:

(a) Conservator.

(b) Foreign personal representative.

(c) Guardian.

(d) Personal representative including an independent personal representative.

(e) Trustee, to the extent included in subsection (1).

(3) When used as part of the title of any fiduciary listed in subsection (2):

(a) "Successor" fiduciary means a fiduciary who is appointed to succeed a previously appointed fiduciary.

(b) "Temporary" fiduciary means a person acting by authority of the court for a brief time until a regular fiduciary is appointed or in the place of a fiduciary whose powers have been suspended or revoked by the court, such as a temporary personal representative or temporary guardian.

(4) Whenever the term fiduciary is used in this act, unless otherwise specifically provided, any grant of authority to a fiduciary with respect to property is limited to a fiduciary serving as a personal representative, trustee, or conservator.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.6 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.6 Definitions; F to H.

Sec. 6. (1) "Foreign personal representative" means a personal representative of a jurisdiction other than this state.

(2) "Guardian" means a person appointed by the court or designated as such in a will as provided in article 4, to exercise powers over the person of a minor or of a legally incapacitated person. Guardian does not include a guardian ad litem.

(3) "Heirs" means those persons, including the surviving spouse, who are entitled to the property of a decedent under the statutes of intestate succession.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.7 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.7 Definitions; I, J.

Sec. 7. (1) "Independent personal representative" means a

person administering an estate of a deceased pursuant to article 3.

(2) "Independent probate" means probate designed to operate without unnecessary intervention by the probate court as provided in article 3.

(3) "Interested party" means an heir, devisee, beneficiary, a fiduciary of a legally incapacitated person who is an heir, devisee, or beneficiary, a fiduciary or trustee named in an instrument involved, or a special party.

(4) "Interested person" means an interested party, creditor, surety, or any other person having a property right in a trust estate or the estate of a decedent or ward which may be affected by the proceeding. Interested person includes a person nominated as a personal representative and a fiduciary representing an interested person. The meaning may vary as it relates to a particular person and shall be determined according to the particular purpose of, and matter involved in, any proceeding.

(5) "Intestate succession" means succession by, through, or from a person, both lineal and collateral, as provided in sections 105 to 113.

(6) "Issue" of a person means all of the person's lineal descendants of all generations, except those who are descendants of a living descendant, with the relationship of parent and child at each generation being determined by the definitions of child and parent contained in this act.

(7) "Judge" means a judge of probate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.8 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.8 Definitions; L to N.

Sec. 8. (1) "Lawyer-guardian ad litem" means an attorney appointed under section 427 or 437 who has the powers and duties referenced by and provided in section 427a.

(2) "Lease" includes an oil and gas lease or other mineral lease.

(3) "Legally incapacitated person", as used in sections 3 to 12 and in article 4, means a person, other than a minor, who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, to the extent that the person lacks sufficient understanding or capacity to make or communicate informed decisions concerning his or her person. Except as used

in sections 3 to 12 and in article 4, "legally incapacitated person" means a person, other than a minor, who is a legally incapacitated person as defined for purposes of article 4 or who is a protected person.

(4) "Limited guardian" means a guardian who possesses fewer than all of the legal rights and powers of a full guardian, and whose rights, powers, and duties have been specifically enumerated by court order.

(5) "Mental health professional" means a person who is trained and experienced in the area of mental illness and who is any of the following:

(a) A physician who is licensed to practice allopathic medicine or osteopathic medicine in this state.

(b) A psychologist who has been granted a full or limited license to practice in this state.

(c) A social worker who is registered as a certified social worker in this state.

(d) A registered professional nurse who is licensed to practice nursing in this state and who is a graduate of a state-approved school of nursing.

(6) "Minor" means a person who is less than 18 years of age.

(7) "Net estate" in respect to a decedent's estate, means the property of a decedent exclusive of homestead allowance, exempt property, family allowance, enforceable claims, and administration expenses against the estate.

(8) "Nonresident decedent" means a decedent who was domiciled outside of this state at the time of his or her death.

(9) "Notice" means notice prescribed by supreme court rule, unless otherwise prescribed by law.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1988, Act 398, Eff. Mar. 30, 1989;--Am. 1998, Act 481, Eff. Mar. 1, 1999.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.9 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.9 Definitions; P to R.

Sec. 9. (1) "Parent", for inheritance purposes, includes a person entitled to take, or who would be entitled to take if the child died without a will, as a parent under this act by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, a foster parent, or a grandparent who is not so entitled to inherit.

(2) "Person" includes an individual or other legal entity.

(3) "Personal representative" includes executor, administrator, administrator with will annexed, administrator de bonis non, a temporary or successor personal representative, and a person who performs substantially the same functions in respect to the estate of a decedent under the law governing their status.

(4) "Property" includes both real and personal property and means anything that may be the subject of ownership.

(5) "Protected person" means a minor or other person for whom a conservator is appointed or other protective order is made pursuant to sections 461 to 491.

(6) "Protective proceeding" means a proceeding under the provisions of section 461 to determine that a person cannot effectively manage or apply the person's estate to necessary ends, because the person lacks the ability or is otherwise inconvenienced, or because the person is a minor, and to secure administration of his or her estate by a conservator or other appropriate relief.

(7) "Registered mail" includes certified mail, return receipt requested.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.10 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.10 Definitions; S.

Sec. 10. (1) "Security" includes a note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under a title or lease, collateral trust certificate, transferable share, voting trust certificate, or in general, an interest or instrument commonly known as a security, or a certificate of interest or participation, a temporary or interim certificate, receipt or certificate of deposit for, or a warrant or right to subscribe to, or purchase any of the foregoing.

(2) "Settlement" as to a decedent's estate, includes the full

process of administration, distribution, and closing.

(3) "Special party" means any of the following persons which are required to be given notice pursuant to law or supreme court rule: attorney general; foreign consul; a county or state department of social services; guardian; guardian ad litem; attorney of record of an interested party; or an attorney in fact or agent having durable power of attorney.

(4) "State public administrator" means a state public administrator appointed under Act No. 194 of the Public Acts of 1947, being sections 720.201 to 720.223 of the Michigan Compiled Laws.

(5) "Supervised administration" means administration in a proceeding authorized by law or rule and designed to give court control of the acts of a personal representative.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.11 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.11 Definitions; T.

Sec. 11. (1) "Testator" includes testatrix.

(2) "Trust" means an express trust, private or charitable, with additions thereto, where created and whether created by will or other than by will. It includes a trust created by judgment or decree under which the trust is to be administered in the manner of an express trust. Trust excludes other constructive trusts, and it excludes resulting trusts, business trusts providing for certificates to be issued to beneficiaries, investment trusts, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts created for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.12 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.12 Definitions; V, W.

Sec. 12. (1) "Verified" means a statement under oath or under penalties of perjury by the person attesting to the truth of the contents of the document or instrument.

(2) "Ward", except as used in article 4, means a minor or a legally incapacitated person for whom a guardian is appointed pursuant to article 4 or a protected person for whom a

conservator is appointed pursuant to article 4. As used in article 4, "ward" means only a person for whom a guardian is appointed and a "minor ward" is a minor for whom a guardian is appointed solely because of minority.

(3) "Will" includes codicil and any testamentary instrument which merely appoints an executor or revokes or revises another will.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.21 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.21 Exclusive legal and equitable jurisdiction of probate court.

Sec. 21. The court has exclusive legal and equitable jurisdiction of all of the following:

(a) Matters relating to the settlement of the estate of a deceased person, whether testate or intestate, who was at the time of death domiciled in the county or was at the time of death domiciled out of state leaving an estate within the county to be administered, including, but not limited to, the following proceedings:

(i) The internal affairs of the estate.

(ii) Estate administration, settlement, and distribution.

(iii) Declaration of rights involving estates, devisees, heirs, and fiduciaries.

(iv) The construction of a will.

(v) The determination of heirs.

(b) Proceedings concerning the validity, internal affairs, and settlement of trusts, the administration, distribution, modification, reformation, and termination of trusts, and the declaration of rights involving trusts, trustees, and beneficiaries of trusts, including, but not limited to, the following proceedings to:

(i) Appoint or remove a trustee.

(ii) Review the fees of a trustee.

(iii) Require, hear, and settle interim or final accounts.

(iv) Ascertain beneficiaries.

(v) Determine any question arising in the administration or distribution of any trust, including questions of construction of wills and trusts; instruct trustees, and determine relative thereto the existence or nonexistence of an immunity, power, privilege, duty, or right.

(vi) Release registration of a trust.

(vii) Determine an action or proceeding involving settlement of an inter vivos trust as provided in Act No. 185 of the Public Acts of 1966, being sections 555.81 to 555.84 of the Michigan Compiled Laws.

(c) Proceedings concerning guardianships, conservatorships, and protective proceedings.

(d) Proceedings to review and settle the accounts of a fiduciary as defined in section 5, and to order, upon request of an interested person, instructions or directions to a fiduciary, concerning an estate within the court's jurisdiction.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1989, Act 69, Eff. Sept. 1, 1989.

***** 700.22 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.22 Concurrent legal and equitable jurisdiction of probate court; removal of action or proceeding to probate court; purpose and policy of section.

Sec. 22. (1) In addition to the jurisdiction conferred by section 21 and other laws, the probate court has concurrent legal and equitable jurisdiction of the following matters involving an estate of a decedent, ward, or trust:

(a) To determine property rights and interests.

(b) To authorize partition of property.

(c) To authorize specific performance of a contract in a joint or mutual will or of a contract to leave property by will.

(d) To ascertain survivorship of persons.

(e) To bar a mentally incompetent or minor wife from her dower right under sections 1 to 29 of chapter 66 of the Revised Statutes of 1846, as amended, being sections 558.1 to 558.29 of the Michigan Compiled Laws, in the real estate of her living husband as provided in section 2931 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2931 of the Michigan Compiled Laws.

(f) To determine cy-pres, gifts, grants, bequests, and devises

in trust or otherwise as provided in Act No. 280 of the Public Acts of 1915, as amended, being sections 554.351 to 554.353 of the Michigan Compiled Laws.

(g) To hear and decide an action or proceeding against distributees of an estate fiduciary to enforce liability arising because the estate was liable upon some claim or demand before distribution of the estate.

(h) To require, hear, and settle an accounting of an attorney in fact or a fiduciary, other than a fiduciary as defined in section 5.

(i) To impose a constructive trust.

(j) to hear and decide any claim by or against a fiduciary or trustee for the return of property.

(k) To hear and decide any contract proceeding or action by or against an estate, trust, or ward.

(2) In an action or proceeding pending in any other court of this state of which the probate court and the other court have concurrent jurisdiction, the judge of the other court, upon motion of a party and after a finding and order on the jurisdictional issue, may by order remove the action or proceeding to the probate court. If the action or proceeding is removed to the probate court, the judge of the other court shall forward to the probate court the original of all papers in the action or proceeding and thereafter proceedings shall not be heard before the other court, except by appeal or review provided by supreme court rule or law, and the action or proceeding shall be prosecuted in the probate court as a probate court proceeding.

(3) The underlying purpose and policy of this section is to simplify the probate of estates and the disposition of actions or proceedings involving estates of decedents, estates of wards, and trust estates by having the probate and other related actions or proceedings in the probate court.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 326, Imd. Eff. Dec. 17, 1980;--Am. 1989, Act 69, Eff. Sept. 1, 1989.

***** 700.23 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.23 Probate court proceedings; representation of interested persons; persons bound and affected by proceedings; adult acting on own behalf.

Sec. 23. (1) In estate proceedings within the exclusive jurisdiction of probate court and in probate court proceedings to which an estate, through a fiduciary, is a party, interests of minors without guardians may be represented by their parents, and

interests of persons in an estate being administered by a fiduciary may be represented by the fiduciary, where a conflict of interest between the interested person and his representative in regard to the matter of controversy is not apparent.

(2) Takers in default or other persons whose interests are subject to a power of revocation or a presently exercisable general power of appointment, including 1 in the form of amendment, are bound by proceedings to the extent that the sole holder or all coholders of the power are bound, without regard to notice or conflict of interest.

(3) The interest of a person including an unborn or unascertained person who is not otherwise represented may be affected to the same extent as that of another party having a substantially identical interest in the proceeding.

(4) This section shall not prevent an adult who is not legally incapacitated from acting on his own behalf when he is a proper party.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.24 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.24 Guardian ad litem; appointment for minor, legally incapacitated person, or person whose identity or address unknown; revocation; report; representation of unknown, unascertained, or presumptive heir at law by attorney general; explanation of proceedings.

Sec. 24. (1) When it considers necessary, the court may appoint a guardian ad litem to appear for a minor or a legally incapacitated person, or a person whose identity or address is unknown, to represent the person in a matter pending before the court, or to prosecute a matter or proceeding in the person's behalf, with or without notice, as the court directs. Upon the application of the minor or the presumptive heirs at law of a legally incapacitated person or in the discretion of the court, the court may revoke the appointment and appoint another guardian ad litem. If the appointment is accepted, the guardian ad litem shall make a report, in writing or recorded testimony, of his or her investigation and recommendation concerning the matters for which the guardian ad litem was appointed. If not precluded by conflict of interests, a guardian ad litem may be appointed to represent several persons of interest.

(2) After the attorney general files an appearance as required by law in the estate proceeding on behalf of an unknown or unascertained heir at law or a presumptive heir at law, the attorney general represents that interest, and the court shall not appoint a guardian ad litem. If a guardian ad litem was previously appointed for the interest, the appointment of the

guardian ad litem terminates.

(3) After the court appoints a guardian ad litem for a minor under section 2a or 19b of Act No. 288 of the Public Acts of 1939, being sections 712A.2a and 712A.19b of the Michigan Compiled Laws, or for a legally incapacitated person and before the first proceeding begins in which the guardian ad litem is to represent the individual, the guardian ad litem shall meet with the minor or legally incapacitated person and, to the extent to which the individual can comprehend, explain the nature of the proceedings to him or her. The court shall not order compensation of the guardian ad litem unless the guardian ad litem states on the record that he or she has complied with this subsection. The court may waive the requirements of this section for an individual under the age of 6 who is unable to adequately understand the nature of the proceedings in regard to himself or herself.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1994, Act 319, Imd. Eff. Oct. 6, 1994.

***** 700.31 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.31 Notice governed by supreme court rule.

Sec. 31. Except as otherwise provided by law, any notice required by law shall be governed by supreme court rule.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.32 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.32 Notice generally.

Sec. 32. In all proceedings under this act notice to a parent is notice to minor children residing with the parent, and notice to a fiduciary or guardian ad litem is notice to those to whom the fiduciary or guardian ad litem is obligated, except that notice shall be given to all interested persons in proceedings by a fiduciary against those to whom his duties are owed or in any other proceeding involving an apparent conflict of interest between the representative and those the fiduciary or guardian ad litem represents.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.33 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.33 Notice; unborn or unascertained persons.

Sec. 33. Notice requirements relating to unborn or

unascertained persons not represented by a fiduciary without apparent conflict of interest are as follows:

(a) Where an interest is limited to a person in being and the same interest is further limited upon the happening of a future event to unborn or unascertained persons, notice need be given only to the person to whom the interest is first limited.

(b) Where an interest is limited to the persons who compose a class upon the happening of a future event, notice need be given only to the persons in being who would constitute the class if the event had happened immediately before the time when the notice is given.

(c) In cases not covered by subdivision (a) or (b), notice to all known persons whose interests in the proceeding are substantially identical to those of the unborn or unascertained persons is the only notice required.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.34 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.34 Notice of hearing and service of instruments; waiver; consent.

Sec. 34. A legally competent person who is interested in a hearing, or a person designated by law or supreme court rule to be eligible to be served on behalf of a person who is interested in a hearing but is not legally competent, or an attorney who filed a written appearance on behalf of an interested party, may, on behalf of the ward, beneficiary, child, client, or principal, as the case may be, waive notice of a hearing, receipt of a petition, report, inventory, account, or other instrument, and may consent to the granting of a petition, except that a conservator or trustee shall not waive or consent on petitions, accounts, and reports made by him as the conservator or trustee. The attorney general may waive the notice of hearing and service of instruments and make consent on behalf of a person or interest that he is required by law to represent.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.35 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.35 Appeal from sentence, order, or denial; cessation of proceedings; appointment of temporary administrator; orders not stayed pending appeal; appearance by surety; appeal.

Sec. 35. (1) After an appeal is claimed and notice thereof given at the court, all further proceedings in pursuance of the sentence, order, or denial appealed from shall cease until the

appeal is determined. When an appeal is taken from an order admitting or denying probate of a will or appointing or not appointing a fiduciary, the court may appoint a temporary administrator to take charge of and protect the estate. A temporary administrator shall have such power as the court deems necessary and confers by order in the particular case.

(2) An order removing a fiduciary for failure to give bond or to render an inventory or accounting, appointing temporary administrator or temporary guardian, granting a new trial or rehearing, granting an allowance to the spouse or children of a decedent, or suspending a fiduciary shall not be stayed pending appeal unless ordered by the court on motion for good cause shown.

(3) A surety on the bond given by a fiduciary and filed in the probate court may appear in the court in support of, or in opposition to, the allowance of the account of the fiduciary and may appeal from the final order of the court when aggrieved by the order and prosecute the appeal to effect.

History: 1978, Act 642, Eff. July 1, 1979.

ARTICLE 2

***** 700.101 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.101 Small estate; petition for administration; inventory; testimony and investigation; funeral expenses; bond; granting administration without prior notice; letters of authority; sale of property to pay funeral expenses; order of assignment.

Sec. 101. (1) When a petition is made to the court for the administration of a small estate, whether testate or intestate, pursuant to subsection (4), a true and complete inventory of the estate of the deceased, verified as provided by supreme court rule, showing the net value of the estate at the date of the death of the decedent over and above mortgages, liens, and encumbrances may accompany the petition, or be subsequently filed with the court.

(2) Upon receiving and filing the petition, the court shall take testimony and make an investigation of the case and the facts stated in the petition, as it considers proper and necessary.

(3) If the funeral expenses of the deceased have not been paid, the court may require a personal bond in the penal sum equal to the amount of the unpaid funeral expenses. If the funeral expenses have been paid, a bond may not be required and the personal representative may qualify by filing an acceptance of his appointment.

(4) If from the petition, investigation, and testimony, it appears to the court that the true cash value of the gross estate, at the date of death of the decedent, less mortgages, liens, and encumbrances is not more than the sum equal to the exemptions and allowances for a surviving spouse and minor children, if any, provided for in article 2, the court may grant administration of the estate, without prior notice, to the personal representative named in the will, if any, the surviving spouse, or some other suitable person named by the surviving spouse, and may issue letters of authority to the person without further bond, inventory, or account.

(5) If it becomes necessary under this section to sell any property to pay funeral expenses or any expenses of administration, the personal representative may proceed as an independent personal representative in the manner provided by section 331.

(6) When it appears to the court that the funeral expenses have been paid, the court may order the property assigned to the surviving spouse, if there is one; or, if there is not a surviving spouse, then to the fiduciary of the minor child or children of the decedent at the time of decedent's death, and thereafter discharge the personal representative. The order of assignment without further deed or other conveyance shall vest title to the property absolutely in the surviving spouse, or if there is not a surviving spouse, in the fiduciary of the surviving minor child or children. An order of the court assigning the property is a conclusive determination of the jurisdiction of the court and cannot be collaterally attacked, and the property, except for creditors holding mortgages, liens, or encumbrances, shall not be subject to claims of creditors.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.102 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.102 Estate valued at \$15,000.00 or less; order turning over property; payment of funeral and burial expenses; responsibility for unsatisfied debt.

Sec. 102. (1) Upon a showing of evidence, satisfactory to the court, of payment of the expenses for the decedent's funeral and burial and if the balance of a decedent's gross estate consists of property of the value of \$15,000.00 or less, the court may order that the property be turned over to the surviving spouse or, if there is not a spouse, to the decedent's heirs.

(2) Upon a showing of evidence, satisfactory to the court, that the decedent's funeral or burial expenses are unpaid or were paid by a person other than the estate, and if the balance of the gross estate after payment of the expenses would consist of property of the value of \$15,000.00 or less, the court shall

order that the property be first used to pay the unpaid funeral and burial expenses, or to reimburse the person that paid those expenses, and may order that the balance be turned over to the surviving spouse or, if there is not a spouse, to the decedent's heirs.

(3) Other than a surviving spouse who qualifies for allowances under this act or minor children of the decedent, an heir who receives property through an order under this section is responsible, for 60 days after the date of the order, for any unsatisfied debt of the decedent up to the value of the property received through the order. The court shall state in the order the condition on the distribution of property provided by this subsection.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 261, Imd. Eff. Dec. 14, 1984;--Am. 1994, Act 274, Eff. Oct. 1, 1994.

***** 700.103 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.103 Hospital, home, morgue, or law enforcement agency; delivery of cash and wearing apparel to spouse, child, or parent of decedent; release; prior right; accountability.

Sec. 103. A hospital, convalescent or nursing home, morgue, or law enforcement agency holding cash not exceeding \$100.00 and wearing apparel of a decedent may deliver the cash and wearing apparel to a person furnishing identification and an affidavit that the person is the spouse, child, or parent of the decedent and that an estate of the decedent is not pending. The hospital, home, morgue, or law enforcement agency making the delivery shall be released to the same extent as if delivery were made to a legally qualified fiduciary of the decedent's estate and is not required to see to the disposition of the property. The person to whom delivery is made shall be answerable therefor to a person having a prior right and accountable to a fiduciary of the estate of the decedent thereafter appointed.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.104 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.104 Estate not disposed of by will.

Sec. 104. Any part of the estate of a decedent not effectively disposed of by his will passes to his heirs or the state as prescribed in sections 105 to 113.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.105 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.105 Intestate share of surviving spouse.

Sec. 105. The intestate share of the surviving spouse shall be 1/2 of the following:

(a) If there is not a surviving issue or parent of the decedent, the entire intestate estate.

(b) If there is not a surviving issue but the decedent is survived by at least 1 parent the first \$60,000.00, which shall be reduced in case of partial intestacy by any amount given the spouse by will, plus 1/2 of the balance of the intestate estate.

(c) If there are surviving issue all of whom are issue of the surviving spouse also, the first \$60,000.00 plus 1/2 of the balance of the intestate estate.

(d) If there are surviving issue, 1 or more of whom are not the issue of the surviving spouse, 1/2 of the intestate estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.106 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.106 Intestate estate not passing to surviving spouse.

Sec. 106. The part of the intestate estate not passing to the surviving spouse under section 105 or the entire intestate estate if there is not a surviving spouse, shall pass as follows:

(a) To the issue of the decedent. If they are all in the same degree of kinship to the decedent they shall take equally, but if of unequal degree, then those of more remote degrees take by representation.

(b) If there is no surviving issue, to his or her surviving parents equally.

(c) If there is no surviving issue or parent, to the brothers and sisters and children of deceased brothers and sisters of the decedent. If they are all in the same degree of kinship to the decedent they shall take equally, but if of unequal degree, then those of more remote degree take by representation.

(d) If there is no surviving issue, parent, brothers or sisters, or children of deceased brothers and sisters of a decedent, but the decedent is survived by 1 or more grandparents or issue of grandparents, 1/2 of the estate shall pass to the surviving paternal grandparents, or to the issue of the paternal grandparents if both are deceased, the issue to take equally if they are all of the same degree of kinship to the decedent, but if of unequal degree then those of more remote degree shall be

excluded; and the other 1/2 shall pass to the maternal relatives in the same manner; but if there is no surviving grandparents or issue of grandparents on the paternal or maternal side, the entire estate shall pass to the relatives on the other side in the same manner as the 1/2.

(e) If an eligible survivor is not then known or determinable to take under subdivisions (a) to (d), then to the state by escheat.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.107 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.107 Person failing to survive decedent by 120 hours; presumptions.

Sec. 107. A person who fails to survive the decedent by 120 hours is deemed to have predeceased the decedent for purposes of homestead allowance, exempt property, and intestate succession and the decedent's heirs are determined accordingly. If the time of death of the decedent or of the person who would otherwise be an heir, or the times of death of both cannot be determined, and it cannot be established that the person who would otherwise be an heir survived the decedent by 120 hours, it is presumed that the person failed to survive for the required period.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.108 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.108 Division of estate; surviving heirs; representation; posthumous children.

Sec. 108. When representation is called for by section 106(a), (c) or (d) the estate shall be divided into as many equal shares as there are surviving heirs in the nearest degree of kinship and deceased persons in the same degree who left issue who survived decedent, each surviving heir in the nearest degree receiving 1 share and the share of each deceased person in the same degree being divided among his issue in the same manner. Posthumous children are considered as living at the death of their parent.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.109 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.109 Relatives of half blood; heirs conceived before but born after decedent's death.

Sec. 109. (1) Relatives of the half blood shall inherit the

same share which they would have inherited if they had been of the whole blood.

(2) Heirs of the decedent conceived before his death but born thereafter shall inherit as if they had been born in the lifetime of the decedent.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.110 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.110 Intestate succession; adopted person.

Sec. 110. (1) The permanent termination of parental rights to and concerning a minor child by order of a court of competent jurisdiction, by a release for purposes of adoption by the parent, but not a guardian, to a licensed child placement agency or before a probate or juvenile court, or, excepting termination by emancipation or death by any other process recognized by the law governing the parent-child status at the time of termination, ends kinship between the parent whose rights are so terminated and the child for all purposes of intestate succession.

(2) The entry by a court of competent jurisdiction of an interlocutory decree of adoption which is not thereafter vacated or reversed makes the adopted child kin of the adopting parents for all purposes of intestate succession.

(3) If a person was adopted or in the future is adopted, the adopted person is an heir of the adopting parents and an heir of the lineal and collateral kindred of the adopting parents and the adopted person shall no longer be an heir of his natural parent or an heir of the lineal and collateral kindred of his natural parents, except that a right, title or interest vested before this act shall not be divested by this section.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.111 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.111 Intestate succession; child as heir of natural parents; presumptions; utilization of assisted reproductive technology; participation in marriage ceremony; exclusive right to disprove presumption; child born out of wedlock or born or conceived during marriage but not issue of marriage; passing of property; relationship, status, rights, and duties of child; biological father of child born out of wedlock or born or conceived during marriage but not issue of marriage.

Sec. 111. (1) For all purposes of intestate succession, a child is the heir of each of his or her natural parents notwithstanding the relationship between the parents except as otherwise provided

by section 110.

(2) If a child is born or conceived during a marriage, both spouses are presumed to be the natural parents of the child for all purposes of intestate succession. A child conceived by a married woman with the consent of her husband following the utilization of assisted reproductive technology shall be considered as their child for all purposes of intestate succession. Consent of the husband is presumed unless the contrary is shown by clear and convincing evidence. If a man and a woman participated in a marriage ceremony in apparent compliance with the law before the birth of a child, even though the attempted marriage is void, the child is considered to be their child for all purposes of intestate succession.

(3) Only the person presumed to be the natural parent of a child under subsection (2) may disprove any presumption that may be relevant to the relationship, and this exclusive right to do so terminates upon the death of the presumed parent.

(4) If a child is born out of wedlock or if a child is born or conceived during a marriage but is not the issue of that marriage, a man is considered to be the natural father of that child for all purposes of intestate succession if any of the following occurs:

(a) The man joins with the mother of the child and acknowledges that child as his child by completing an acknowledgment of parentage as prescribed in the acknowledgment of parentage act.

(b) The man joins with the mother in a written request for a correction of certificate of birth pertaining to the child that results in issuance of a substituted certificate recording the birth of the child.

(c) The man and the child have borne a mutually acknowledged relationship of parent and child that began before the child became age 18 and continued until terminated by the death of either.

(d) The man has been determined to be the father of the child and an order of filiation establishing that paternity has been entered as provided in the paternity act, Act No. 205 of the Public Acts of 1956, being sections 722.711 to 722.730 of the Michigan Compiled Laws.

(5) Property of a child born out of wedlock or a child born or conceived during a marriage but not the issue of that marriage passes in accordance with the law of intestate succession except that the father and his kindred shall not be considered as relatives of the child unless the child might have inherited from the father as provided in this section.

(6) If a person is considered or presumed by a provision of

this section, not including subsection (7), to be the natural parent of a child born out of wedlock or a child born or conceived during a marriage but not the issue of that marriage, that child shall bear the same relationship to that person as a child born or conceived during a marriage for all other purposes and shall have the identical status, rights, and duties of a child born in lawful wedlock effective from birth.

(7) The biological father of a child who is born out of wedlock, or who is born or conceived during a marriage but is not the issue of that marriage, shall be considered to be the natural father of that child for the purpose of intestate succession from the father to the child only. This subsection does not extinguish a child's right to inherit from another person considered to be the child's natural or legal father under another provision of law. This subsection does not apply to a child who is adopted by another man before the date of death of the child's biological father.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1993, Act 206, Imd. Eff. Oct. 19, 1993;--Am. 1994, Act 387, Imd. Eff. Dec. 29, 1994;--Am. 1996, Act 8, Eff. June 1, 1996;--Am. 1996, Act 306, Eff. June 1, 1997.

***** 700.111a THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.111a Intestate succession; property treated as advancement; condition; valuation; failure of recipient to survive decedent.

Sec. 111a. If a person dies intestate as to his or her entire estate, property which the person gave while living to an heir shall be treated as an advancement against the heir's share of the estate only if declared to be an advancement in a contemporaneous writing by the decedent or acknowledged to be an advancement in writing by the heir. For this purpose the property advanced shall be valued as of the time the heir came into possession or enjoyment of the property or as of the time of death of the decedent, whichever occurs first. If the recipient of the property fails to survive the decedent, the property shall not be taken into account in computing the intestate share to be received by the recipient's issue, unless the declaration or acknowledgment provides otherwise.

History: Add. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.112 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.112 Debt owed decedent; charging against debtor's intestate share.

Sec. 112. A debt owed to the decedent shall not be charged against the intestate share of any person except the debtor. If

the debtor fails to survive the decedent, the debt shall not be taken into account in computing the share of the debtor's issue.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.113 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.113 Alien as heir.

Sec. 113. A person is not disqualified to take as an heir because he or a person through whom he claims is or was an alien.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.114 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.114 Intestacy; county granting letters of authority.

Sec. 114. When a person dies intestate, being domiciled in this state, letters of authority of his estate shall be granted by the court in the county in which he was domiciled at the time of his death. If the deceased person, at the time of his death, resided in any other state or country, leaving estate to be administered in this state, administration thereof shall be granted by the court in any county in which the decedent left property. The administration first legally granted shall extend to all the estate of the deceased in this state, and shall exclude the jurisdiction of the court in every other county.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.115 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.115 Intestacy; administration of estate; filing and contents of petition.

Sec. 115. (1) A proceeding for administration of the estate of a person dying intestate shall be commenced by filing a petition with the court. The petition shall contain the information required by supreme court rule.

(2) The petition shall be filed by any of the following persons in the following order:

(a) The surviving spouse.

(b) Heirs of the decedent.

(c) A creditor, a person in whose favor a right or a cause of action exists which cannot be enforced without the administration, or the public administrator of the proper county

as authorized by law if the surviving spouse or an heir does not petition for administration for 30 days after death of the intestate.

(d) The state public administrator or the county public administrator under any of the circumstances in which that person may be appointed as personal representative under section 116(1)(c), (d), (e), (f), or (g).

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.116 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.116 Intestacy; administration of estate; appointment of personal representative.

Sec. 116. (1) Administration of the estate of an intestate decedent shall be granted to any of the following persons who qualify under section 531 and who are respectively entitled to be appointed as personal representative in the following order:

(a) To the surviving spouse, or to a person whose appointment is requested by the surviving spouse.

(b) To an heir of the decedent by degree of kinship, or to a person whose appointment is requested by an heir.

(c) If the surviving spouse, heirs, or the person selected by any of them shall be incompetent or unsuitable, or if such persons do not petition for administration for 30 days after the death of the decedent, administration may be granted to another interested person or to the public administrator of the proper county as the court considers proper.

(d) If the petitioner under subdivision (a) or (b) is a nonresident foreign national, or someone acting in the name or on behalf of such a nonresident foreign national, claiming to be an interested party, and the nonresident foreign national does not appear in person before the court with sufficient admissible proof of identity and relationship to the decedent, the county public administrator shall be appointed.

(e) To the state public administrator when it appears that the decedent died leaving no known heirs or when there is not a spouse or heir entitled to a distributive share in the estate of the decedent resident in the United States.

(f) To the state public administrator or a county public administrator upon petition when it appears that the deceased died intestate, leaving no known heirs; when it appears that there is not a spouse or heir of the deceased residing within the United States; or when it appears that the deceased left a spouse or heir entitled to a distributive share in the estate of the

deceased resident in the United States, but neither the spouse nor such an heir petitioned for administration within 30 days after the date of the death of the intestate.

(g) To the state public administrator or a county public administrator, as temporary personal representative, for the purposes of making necessary burial arrangements and taking charge of, marshaling and conserving the estate of a person dying under circumstances covered in subdivision (e) or (f) until a personal representative is appointed and qualified. Appointment under this subdivision shall be made when the granting of letters of administration is delayed, when it is necessary for the preservation of the assets of the estate, or when the judge considers it expedient for any other cause. A temporary personal representative appointed under this subdivision shall have the powers and duties set forth in sections 175 to 179.

(2) When 2 or more persons share a priority, the court may appoint any person who is acceptable to those representing a majority in interest, or in default of accord, any competent and suitable person. A person who is a creditor or attorney for a creditor or has an interest conflicting with the interests of the estate shall not be appointed personal representative, but the payment of funeral expenses or expenses of last illness by a member of the immediate family shall not bar that person from acting as personal representative. If it appears that the estate is probably insolvent, or has little value in excess of that needed to meet probable expenses, costs, and claims, the court may appoint any suitable person who is acceptable to a majority in interest of the creditors, or in default of accord, any competent and suitable person.

(3) A minor over the age of 14 years, who does not have a fiduciary of his estate and who is an heir of a decedent dying intestate, may petition for the appointment of a personal representative for the estate of the intestate decedent. In such cases the court shall appoint a guardian ad litem to represent the minor upon the hearing of the petition.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.117 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.117 Intestacy; payment of charges against estate; sale of property; contribution by heirs possessing estate; liability of personal representative.

Sec. 117. (1) When a person dies intestate as to any or all of his property, the property shall be first appropriated to the payment of all charges against the decedent's estate and all of the property of the decedent, or so much of it as may be necessary, may be sold for that purpose by the personal representative.

(2) All of the heirs who, with the consent of the personal representative or otherwise, have possession of any part of the estate before all of the charges against the estate are paid or satisfied, shall hold the estate subject to those charges and shall be held to contribute according to their respective liabilities to the personal representative or to any heir from whom any part of the estate may have been taken for the payment or satisfaction of the charges. The personal representative is liable if any of those heirs fails to make contribution as provided in this subsection unless it is shown that the possession of property by the person was without the consent of the personal representative and that the personal representative was unable by diligent effort to prevent the possession.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.118 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.118 Instructions relating to decedent's body, funeral, and burial arrangements.

Sec. 118. Before the appointment, a person named personal representative in a will may carry out written instructions of the decedent relating to the decedent's body, funeral, and burial arrangements.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.121 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.121 Will; age; sound mind.

Sec. 121. A person 18 years of age or older who is of sound mind may make a will.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.122 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.122 Will to be in writing; signatures; competency of witnesses; presumption; beneficial devise to subscribing witness; creditor as witness.

Sec. 122. (1) A will shall be in writing signed by the testator or in the testator's name by some other person in the testator's presence and by his direction and shall be signed by at least 2 persons each of whom witnessed either the signing or the testator's acknowledgment of the signature or of the will. If the witnesses are competent at the time of signing the will, their subsequent incompetency, from whatever cause, shall not prevent

admission of the will to probate, if it is otherwise satisfactorily proved. If, after diligent search and effort and after the signature of the testator is identified, it appears that the whereabouts of the witnesses to a will cannot be ascertained and it appears on the face of the will that the requirements in this section for a valid will have been met, a presumption shall arise that the will was executed in all particulars as required by law.

(2) A beneficial devise made or given in a will to a subscribing witness thereto, is void, unless there are 2 other competent subscribing witnesses to the will, but a mere charge on the lands of the testator for the payment of debts shall not prevent his creditors from being competent witnesses to his will.

(3) If the witness to whom a beneficial devise may have been made or given, would have been entitled to any share of the estate of the testator if the will were not established, then so much of the share that would have been distributed to the witness as would not exceed the devise made to him in the will shall be saved to him, and he may recover the same from the devisees named in the will in proportion to and out of the parts devised to them.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.123 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.123 Holographic will.

Sec. 123. A will which does not comply with section 122 is valid as a holographic will, whether or not witnessed, if it is dated, if the signature appears at the end of the will and the material provisions are in the handwriting of the testator.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.123a THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.123a Validity of will executed pursuant to S 700.123c.

Sec. 123a. A will which is executed in the form prescribed by section 123c and which is otherwise in compliance with the terms of the Michigan statutory will form is a valid will.

History: Add. 1986, Act 61, Eff. July 1, 1986.

***** 700.123b THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.123b Printing and distribution of Michigan statutory will; printing of notice provisions.

Sec. 123b. Persons printing and distributing the Michigan statutory will shall print and distribute the form verbatim as it appears in section 123c. The notice provisions shall be printed in 10-point boldface type.

History: Add. 1986, Act 61, Eff. July 1, 1986.

***** 700.123c THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.123c Form of Michigan statutory will.

Sec. 123c. The form of the Michigan statutory will is as follows:

MICHIGAN STATUTORY WILL

NOTICE

1. Any person age 18 or older and of sound mind may sign a will.
2. There are several kinds of wills. If you choose to complete this form, you will have a Michigan statutory will. If this will does not meet your wishes in any way, you should talk with a lawyer before choosing a Michigan statutory will.
3. Warning! It is strongly recommended that you do not add or cross out any words on this form except for filling in the blanks because all or part of this will may not be valid if you do so.
4. This will has no effect on jointly-held assets, on retirement plan benefits, or on life insurance on your life if you have named a beneficiary who survives you.
5. This will is not designed to reduce inheritance or estate taxes.
6. This will treats adopted children and children born outside of wedlock who would inherit if their parent died without a will the same way as children born or conceived during marriage.
7. You should keep this will in your safe deposit box or other safe place. By paying a small fee, you may file the will in your county's probate court for safekeeping. You should tell your family where the will is kept.
8. You may make and sign a new will at any time. If you marry or divorce after you sign this will, you should make and sign a new will.

INSTRUCTIONS:

1. To have a Michigan statutory will, you must complete the blanks on the will form. You may do this yourself, or direct someone to do it for you. You must either

- sign the will or direct someone else to sign it in your name and in your presence.
2. Read the entire Michigan statutory will carefully before you begin filling in the blanks. If there is anything you do not understand, you should ask a lawyer to explain it to you.

MICHIGAN STATUTORY WILL OF

 (Print or type your full name)

ARTICLE 1. DECLARATIONS

This is my will and I revoke any prior wills and codicils. I live in _____ County, Michigan.

My spouse is _____.
 (Insert spouse's name or write "None")

My children now living are:

 (Insert names or write "None") _____

ARTICLE 2. DISPOSITION OF MY ASSETS

2.1 CASH GIFTS TO PERSONS OR CHARITIES. (Optional)

I can leave no more than two (2) cash gifts. I make the following cash gifts to the persons or charities in the amounts stated here. Any inheritance tax due shall be paid from the balance of my estate and not from these gifts.

Full name and address of person or charity to receive cash gift.

(Name only one (1) person or charity here)

(Please print) _____ of _____
 (Insert name) (Insert address)

AMOUNT OF GIFT (In figures): \$ _____

AMOUNT OF GIFT (In words): _____dollars

Your Signature

Full name and address of person or charity to receive cash gift.

(Name only one (1) person or charity here)

(Please print) _____ of _____
(Insert name) (Insert address)

AMOUNT OF GIFT (In figures): \$ _____

AMOUNT OF GIFT (In words): _____dollars

Your Signature

2.2 PERSONAL AND HOUSEHOLD ITEMS.

I may leave a separate list or statement either in my handwriting or signed by me at the end, regarding gifts of specific books, jewelry, clothing, automobiles, furniture, and other personal and household items.

I give my spouse all my books, jewelry, clothing, automobiles, furniture, and other personal and household items not included on any such separate list or statement. If I am not married at the time I sign this will, or if my spouse dies before me, my personal representative shall distribute those items, as equally as possible, among my children who survive me. If no children survive me, these items shall be distributed as set forth in paragraph 2.3.

Any inheritance tax due shall be paid from the balance of my estate and not from these gifts.

2.3 ALL OTHER ASSETS.

I give everything else I own to my spouse. If I am not married at the time I sign this will, or if my spouse dies before me, I give these assets to my children and the descendants of any deceased child. If no spouse, children, or descendants of children survive me, I choose one of the following distribution clauses by signing my name on the line after that clause. If I sign on both lines, or if I fail to sign on either line, or if I am not now married, these assets will go under distribution clause (b).

Distribution clause, if no spouse, children, or descendants of children survive me (Select only one).

- (a) One-half to be distributed to my heirs as if I did not have a will, and one-half to be distributed to

my spouse's heirs as if my spouse had died just after me without a will.

(Your Signature)

(b) All to be distributed to my heirs as if I did not have a will.

(Your Signature)

ARTICLE 3. NOMINATIONS OF PERSONAL REPRESENTATIVE, GUARDIAN, AND CONSERVATOR

Personal representatives, guardians, and conservators have a great deal of responsibility. The role of a personal representative is to collect your assets, pay debts and taxes from those assets, and distribute the remaining assets as directed in the will. A guardian is a person who will look after the physical well-being of a child. A conservator is a person who will manage a child's assets and make payments from those assets for the child's benefit. Select them carefully. Also, before you select them, ask them whether they are willing and able to serve.

3.1 PERSONAL REPRESENTATIVE. (Name at least one)

I nominate _____
(Insert name of person or eligible financial institution)

of _____
(Insert address)
to serve as personal representative.

If my first choice does not serve, I nominate

_____ of
(Insert name of person or eligible financial institution)

_____ to serve as personal
(Insert address)
representative.

3.2 GUARDIAN AND CONSERVATOR.

Your spouse may die before you. Therefore, if you have a child under age 18, name a person as guardian of the child, and a person or eligible financial institution as conservator of the child's assets. The guardian and the conservator may, but need not be, the same person.

If a guardian or conservator is needed for any child of mine, I nominate

_____ (Insert name of person)

of _____ as guardian
(Insert address)

and _____
(Insert name of person or eligible financial institution)

of _____
(Insert address)

as conservator.

If my first choice cannot serve, I nominate

_____ (Insert name of person)

of _____ as guardian
(Insert address)

and _____
(Insert name of person or eligible financial institution)

of _____
(Insert address)

as conservator.

3.3 BOND.

A bond is a form of insurance in case your personal representative or a conservator performs improperly and jeopardizes your assets. A bond is not required. You may choose whether you wish to require your personal representative and any conservator to serve with or without bond. Bond premiums would be paid out of your assets.

(Select only one)

(a) My personal representative and any conservator I have named shall serve with bond.

(Your signature)

(b) My personal representative and any conservator I have named shall serve without bond.

(Your signature)

3.4 DEFINITIONS AND ADDITIONAL CLAUSES.

Definitions and additional clauses found at the end of this form are part of this will.

I sign my name to this Michigan statutory will on

_____, 19____.

(Your signature)

NOTICE REGARDING WITNESSES

You must use two (2) adult witnesses who will not receive assets under this will. It is preferable to have three (3) adult witnesses. All the witnesses must observe you sign the will, or have you tell them you signed the will, or have you tell them the will was signed at your direction in your presence.

STATEMENT OF WITNESSES

We sign below as witnesses, declaring that the person who is making this will appears to be of sound mind and appears to be making this will freely and without duress, fraud, or undue influence and that the person making this will acknowledges that he or she has read, or has had it read to them, and understands the contents of this will.

(Print Name)

(Signature of Witness)

(Address)

(City) (State) (Zip)

(Print Name)

(Signature of Witness)

(Address)

(City) (State) (Zip)

(Print Name)

(Signature of Witness)

(Address)

(City) (State) (Zip)

Definitions

The following definitions and rules of construction shall apply to this Michigan statutory will:

(a) "Assets" means all types of property you can own, such as real estate, stocks and bonds, bank accounts, business interests, furniture, and automobiles.

(b) "Jointly-held assets" means those assets ownership of which is transferred automatically upon the death of 1 of the owners to the remaining owner or owners.

(c) "Spouse" means your husband or wife at the time you sign this will.

(d) "Descendants" means your children, grandchildren, and their descendants.

(e) "Descendants" or "children" includes persons born or conceived during marriage, persons legally adopted, and persons born out of wedlock who would inherit if their parent died without a will.

(f) Whenever a distribution under a Michigan statutory will is to be made to a person's descendants, the assets are to be divided into as many equal shares as there are then living descendants of the nearest degree of living descendants and deceased descendants of that same degree who leave living descendants. Each living descendant of the nearest degree shall receive 1 share. The share of each deceased descendant of that same degree shall be divided among his or her descendants in the same manner.

(g) "Heirs" means those persons who would have received your assets if you had died without a will, domiciled in Michigan, under the laws which are then in effect.

(h) "Person" includes individuals and institutions.

(i) Plural and singular words include each other, where appropriate.

(j) If a Michigan statutory will states that a person shall perform an act, the person is required to perform that act. If a Michigan statutory will states that a person may do an act, the person's decision to do or not to do the act shall be made in a good faith exercise of the person's powers.

Additional Clauses

(a) Powers of personal representative.

(1) The personal representative shall have all powers of administration given by Michigan law to independent personal representatives, and the power to invest and reinvest the estate from time to time in any property, real or personal, even though such investment, by reason of its character, amount, proportion to the total estate, or otherwise, would not be considered appropriate for a fiduciary apart from this provision. In dividing and distributing the estate, the personal representative may distribute partially or totally in kind, may determine the value of distributions in kind without reference to income tax basis, and may make non pro rata distributions.

(2) The personal representative may distribute estate assets otherwise distributable to a minor beneficiary to (a) the conservator, or (b) in amounts not exceeding \$5,000.00 per year, either to the minor, if married; to a parent or any adult person with whom the minor resides and who has the care, custody, or control of the minor; or the guardian. The personal representative is free of liability and is discharged from any further accountability for distributing assets in compliance with the provisions of this paragraph.

(b) Powers of guardian and conservator. A guardian named in this will shall have the same authority with respect to the child as a parent having legal custody would have. A conservator named in this will shall have all of the powers conferred by law.

History: Add. 1986, Act 61, Eff. July 1, 1986.

***** 700.124 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.124 Will; acts of revocation; divorce or annulment; remarriage; separation.

Sec. 124. (1) A will or any part thereof is revoked by either of the following actions:

(a) A subsequent will which revokes the prior will or part expressly or by inconsistency.

(b) Being burned, torn, canceled, obliterated, or destroyed by the testator or by another person in his presence and by his direction, with the intent and for the purpose of revocation.

(2) If after executing a will the testator is divorced or his marriage annulled, the divorce or annulment revokes any disposition or appointment of property made by the will to the former spouse, any provision conferring a general or special power of appointment on the former spouse, and any nomination of the former spouse as a personal representative, unless the will expressly provides otherwise. Property prevented from passing to a former spouse because of revocation by divorce passes as if the

former spouse failed to survive the decedent and other provisions conferring some power or office on the former spouse are interpreted as if the spouse failed to survive the decedent. Provisions not revoked by any means except the operation of this subsection are revived by testator's remarriage to the former spouse. A decree of separation which does not terminate the status of husband and wife is not a divorce for purposes of this section. Any other change of circumstances does not revoke a will.

(3) For purposes of subsection (2), divorce or annulment means either of the following:

(a) A valid divorce or annulment.

(b) A divorce or annulment judgment or decree which is not recognized as valid by the laws of this state for other purposes if it was obtained by the decedent and acknowledged as valid by the surviving spouse by entering into a marriage ceremony with a third person or if it was obtained by the surviving spouse.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.125 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.125 Revocation of second will as revoking first will.

Sec. 125. (1) If a testator executes a will and later executes a second will which, if effective at death, would revoke the first will wholly or in part, and thereafter revokes the second will by any of the acts specified in section 124(1), the first will is revoked wholly or in part unless it is evident from the circumstances of the revocation of the second will or from testator's contemporary or subsequent declarations that he intended the first will to take effect as executed, in which event the first will is not revoked.

(2) If a testator executes a will and later executes a second will which, if effective at death, would revoke the first will wholly or in part, and thereafter revokes the second will by a third will, the first will is revoked wholly or in part unless it appears from the terms of the third will that the testator intended the first will to take effect as executed, in which event the first will is not revoked.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.126 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.126 Will; failure to provide for surviving spouse.

Sec. 126. (1) If a testator fails to provide by will for his

surviving spouse who married the testator after the execution of the will, the omitted spouse shall receive the same share of the estate the omitted spouse would have received if the decedent did not leave a will, unless it appears from the will that the omission was intentional, or unless the testator provided for the spouse by transfers outside the will and the intent that the transfers were in lieu of a testamentary provision is shown by declarations of the testator, by the amount of the transfers, or by other evidence.

(2) If a testator fails to provide by will for the surviving spouse because of oversight or mistake, the omitted spouse shall receive the same share of the estate he would have received if the decedent did not leave a will.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.127 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.127 Will; failure to provide for child or issue of deceased child, child born out of wedlock or born or conceived during marriage but not issue of marriage; assignment of share to after-born or omitted child.

Sec. 127. (1) If a child is born or adopted after the making of the child's parent's will and a provision for the child is not made in the will, that child shall have the same share in the estate of the testator as if the parent died intestate. The child's share shall be assigned to the child as provided by law in case of intestate estates, unless it is apparent from the will that it was the testator's intention not to make a provision for the child.

(2) If a testator fails to provide in the testator's will for any of his or her children; for the issue of a deceased child; or for a child who is born out of wedlock or who is born or conceived during a marriage but is not the issue of that marriage, which child was conceived as a result of sexual intercourse between the testator and the child's mother, and except as provided in subsection (3), it appears that the omission was not intentional but was made by mistake or accident, the child, or the issue of the child, shall have the same share in the estate of the testator as if the testator had died intestate. The share shall be assigned as provided in subsection (1).

(3) If a testator fails to provide in the testator's will for a child who is born out of wedlock or who is born or conceived during a marriage but is not the issue of that marriage, which child was conceived as a result of nonconsensual sexual intercourse between the testator and the child's mother, the child shall have the same share in the estate of the testator as if the testator had died intestate. The share shall be assigned

as provided in subsection (1).

(4) If a share of the estate of a testator is assigned to a child born after the making of a will, or to a child or the issue of a child omitted in the will, pursuant to subsection (1), (2), or (3), the share shall first be taken from the estate not disposed of by the will, if any. If the portion of the estate passing intestate, if any, is not sufficient, so much as is necessary shall be taken from all the devisees in proportion to the value of the estate that they would have otherwise received respectively under the will, unless the obvious intention of the testator, in relation to some specific devise or other provision in the will, would thereby be defeated, in which event, the specific devise or provision may be exempted from the apportionment, and a different apportionment may be adopted in the discretion of the court.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1993, Act 206, Imd. Eff. Oct. 19, 1993.

***** 700.128 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.128 Terms construed as including adopted person and his descendants.

Sec. 128. In the construction of a trust agreement or will, whether executed on, before, or after June 23, 1966, the term "child", "grandchild", "issue", "heir", "descendant", "beneficiary" or other equivalent term shall be construed to include any adopted person and his descendants whether natural or adopted unless a contrary intention appears by the terms of the instrument or unless the estate devised to the "child", "grandchild", "issue", "heir", "descendant", "beneficiary" or equivalent person vested before June 23, 1966, in an already ascertained person or persons who have an immediate indefeasible right of enjoyment or a present indefeasible fixed right of future enjoyment in the estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.129 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.129 Devise to person whose whereabouts unascertainable or who declines acceptance; distribution as residue.

Sec. 129. In an estate where the sum of \$50.00 or less is devised to a person whose whereabouts, after diligent inquiry, cannot be ascertained or who declined to accept the devise, the sum may be distributed as a part of the residue of the estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.130 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.130 Incorporation by reference.

Sec. 130. A writing in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.131 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.131 Reference to acts and events of significance.

Sec. 131. A will may dispose of property by reference to acts and events which have significance apart from their effect upon the disposition made by the will, whether they occur before or after the execution of the will or before or after the testator's death. The execution or revocation of a will of another person is such an event.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.131a THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.131a Reference in will to written statement or list to dispose of certain tangible personal property; admissibility of writing.

Sec. 131a. Whether or not the provisions relating to holographic wills apply, a will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money, evidences of indebtedness, documents of title, securities, and property used in a trade or business. To be admissible under this section as evidence of the intended disposition, the writing must either be in the handwriting of the testator or be signed by the testator, and must describe the items and the devisees with reasonable certainty. The writing may be referred to as one in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation; and it may be a writing which has no significance apart from its effect upon the dispositions made by the will.

History: Add. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.132 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.132 Failure of devisee to survive testator by 120 hours.

Sec. 132. A devisee who fails to survive the testator by 120 hours is treated as if he predeceased the testator, unless the will of the decedent contains some language dealing explicitly with simultaneous deaths or deaths in a common disaster or requiring that the devisee survive the testator or survive the testator for a stated period in order to take under the will.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.133 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.133 Legal effect of disposition; applicable law; testator's expressed intent; rules of construction; after-acquired property.

Sec. 133. (1) The meaning and legal effect of a disposition in a will shall be determined by the local law of a particular state selected by the testator in his instrument unless the application of that law is contrary to the provisions relating to the elective share, the provisions relating to exempt property and allowances described in this act, or any other public policy of this state otherwise applicable to the disposition.

(2) The intention of a testator as expressed in his will controls the legal effect of his dispositions. The rules of construction expressed in sections 130 to 134 apply unless a contrary intention is indicated by the will.

(3) A will is construed to pass all property which the testator owns at death, including property acquired after the execution of the will.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.133a THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.133a General direction in will to pay taxes imposed on account of testator's death; construction.

Sec. 133a. (1) A general direction in a will to pay all taxes imposed on account of a testator's death shall not be construed to include any taxes imposed because the testator was a deemed transferor of a generation-skipping transfer under sections 2601 to 2622 of the internal revenue code unless the testator expressly manifests an intention that taxes so imposed be paid out of his or her estate.

(2) A general direction in a will to pay all taxes imposed on account of a testator's death shall not be construed to include taxes imposed because of the testator's exercise, nonexercise, or

release of a power of appointment unless the testator expressly manifests an intention that taxes so imposed be paid out of his or her estate.

(3) A general direction in a will to pay all taxes imposed on account of a testator's death shall not be construed to include any taxes imposed because the testator had a qualifying income interest for life taxable under section 2044 of the internal revenue code unless the testator expressly manifests an intention that taxes so imposed be paid out of his or her estate.

History: Add. 1982, Act 500, Eff. Mar. 30, 1983.

***** 700.134 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.134 Class gift; lineal descendant of grandparent of testator as devisee; effect of failure to survive testator; failure of devise.

Sec. 134. (1) If a lineal descendant of a grandparent of the testator who is designated as a devisee or would have been a devisee under a class gift had the descendant survived the testator, fails to survive the testator, whether the devisee dies before or after the execution of the will, or is deemed to have predeceased the testator, the issue of the deceased devisee who survive the testator by 120 hours shall take in place of the deceased devisee by representation. A person who would be a devisee under a class gift if that person survived the testator is treated as a devisee for purposes of this section whether that person's death occurred before or after the execution of the will.

(2) Except as provided in subsection (1), if a devise other than a residuary devise fails for any reason, it becomes a part of the residue.

(3) Except as provided in subsection (1), if the residue is devised to 2 or more persons and the share of 1 of the residuary devisees fails for any reason, his or her share passes to the other residuary devisees in proportion to their interests in the residue.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.135 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.135 Specifically devised securities; distributions prior to death.

Sec. 135. (1) If the testator intended a specific gift of certain securities rather than the equivalent value thereof, the

specific devisee is entitled only to all of the following:

(a) As much of the devised securities as are a part of the estate at the time of the testator's death.

(b) Additional or other securities of the same entity owned by the testator by reason of action initiated by the entity excluding any acquired by exercise of purchase options.

(c) Securities of another entity owned by the testator as a result of a merger, consolidation, reorganization, or other similar action initiated by the entity.

(2) Distributions prior to death with respect to a specifically devised security which is not provided for in subsection (1) are not part of the gift.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.136 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.136 Specifically devised property; sale, condemnation, or casualty; right of devisee; reduction.

Sec. 136. (1) If specifically devised property is sold by a fiduciary or if a condemnation award or insurance proceeds are paid to a fiduciary as a result of condemnation, fire or casualty, the specific devisee has the right to a general pecuniary devise equal to the net sale price, the condemnation award, or the insurance proceeds. This subsection does not apply if subsequent to the sale, condemnation, or casualty, the court determines that the incapacity of the testator ceased and the testator survives the determination by 1 year, or if the devise is ineffective at death for reasons other than the change of form of the specifically devised asset. The right of the specific devisee is reduced by any right he has under subsection (2).

(2) A specific devisee shall have the specifically devised property and the same right to:

(a) Any balance of the purchase price together with any security interest owing from a purchaser to the testator at death by reason of sale of the property.

(b) Any amount of a condemnation award for the taking of the property unpaid at death.

(c) Any proceeds unpaid at death on fire or casualty insurance on the property, unless the property is restored to its previous condition.

(d) Property owned by testator at death as a result of foreclosure of the security for a specifically devised obligation

or property obtained in lieu of foreclosure.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.137 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.137 Specific devise subject to security interest.

Sec. 137. A specific devise passes subject to any security interest existing at the date of death.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.138 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.138 Half bloods, adopted persons, persons born out of wedlock, and persons born or conceived during marriage but not issue of marriage; inclusion in terms; exception.

Sec. 138. Half bloods, adopted persons, persons born out of wedlock, and persons born or conceived during a marriage but not the issue of that marriage are included in class gift terminology and terms of relationship in accordance with rules for determining relationships for purposes of intestate succession, except that a person born out of wedlock or born or conceived during a marriage but not the issue of that marriage shall not be treated as the child of the father unless section 111(4), (5), or (7) applies.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1993, Act 206, Imd. Eff. Oct. 19, 1993.

***** 700.139 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.139 Property given by testator during lifetime; satisfaction of devise.

Sec. 139. Property which a testator gave in his lifetime to a devisee shall be treated as a satisfaction of the devise in whole or in part, if the will provides for deduction of the lifetime gift.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.140 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.140 Contract to make will, not to revoke will, or to die intestate; establishment; joint will or mutual will; presumption.

Sec. 140. (1) A contract to make a will or devise, not to revoke a will or devise, or to die intestate, if executed after the effective date of this act, can be established only by 1 of the following:

(a) A provision of a will stating material provisions of the contract.

(b) An express reference in a will to a contract and extrinsic evidence proving the terms of the contract.

(c) A writing signed by the decedent evidencing the contract.

(2) The execution of a joint will or mutual wills does not give rise to a presumption of a contract not to revoke the will or wills.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.141 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.141 Surviving spouse; exclusions.

Sec. 141. (1) A person who at the time of the decedent's death is validly divorced from the decedent or whose marriage to the decedent is validly annulled is not a surviving spouse. A decree of separation which does not terminate the status of husband and wife is not a divorce for purposes of this section.

(2) For purposes of this act, a surviving spouse does not include any of the following:

(a) A person who obtains or consents to a final decree or judgment of divorce from a decedent or an annulment of their marriage which decree or judgment is not recognized as valid in this state, except that this subdivision shall not apply if that person and decedent subsequently participated in a marriage ceremony purporting to marry each to the other or subsequently lived together as husband and wife.

(b) A person who, following a defective decree or judgment of divorce or annulment obtained by the decedent, participates in a marriage ceremony with a third person.

(c) A person who, at the time of the decedent's death, is living in a bigamous relationship with another person which is not covered by subdivision (a) or (b).

(3) For purposes of this act, a surviving spouse does not include a spouse who was party to a valid proceeding concluded by an order purporting to terminate all marital property rights, or who voluntarily entered into a valid written contract

specifically settling all marital property rights.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.142 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.142 Deposit of will with court; certificate of deposit; fee; delivery to testator or authorized person during lifetime; public opening and retention of will by court after death; forwarding or delivering will or codicil after death; liability for failure or refusal.

Sec. 142. (1) A will in writing, which is enclosed in a sealed wrapper and which has indorsed thereon the testator's name, place of residence, and social security number or state of Michigan driver's license number, if any, and the day on which and the name of the person by whom it is delivered, may be deposited by the person making the will, or by any person for him, with the court in the county where the testator lives. The court shall receive and safely keep the will and give a certificate of the deposit of the will. For this service the court shall charge and collect a fee of \$5.00 which shall be credited in the general fund of the county.

(2) During the lifetime of the testator, the will shall be delivered only to the testator, or to some person authorized by the testator in writing which is duly proved by the oath of a subscribing witness. After the death of the testator, and at the first session of the court after notice thereof of the testator's death, the will shall be publicly opened and retained by the court.

(3) After the death of the testator, should jurisdiction of the will for probate belong to the probate court in any other county, upon request of the personal representative named in the will or any other person interested in its provisions, the will shall be forwarded by registered mail to the other court or delivered to the personal representative, or to some other person interested in the provisions of the will, to be presented for probate in the other court.

(4) A custodian of a will or codicil or person having possession or care of a will or codicil shall forward it to the court having jurisdiction with reasonable promptness after the death of the testator either by delivering it personally or by sending it properly addressed by registered mail. A person who neglects to perform this duty without reasonable cause is liable in damages which may be sustained by the neglect. A person who wilfully refuses or fails to deliver a will or codicil after being ordered by the court in a proceeding brought for the purpose of compelling delivery is guilty of contempt of court and subject to the penalty for contempt.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.143 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.143 Instrument evidencing testamentary intent; reference to majority and minority status.

Sec. 143. A provision contained in any will, codicil or other lawful instrument evidencing testamentary intent which was executed before January 1, 1972, being the effective date of Act No. 79 of the Public Acts of 1971, being sections 722.51 to 722.55 of the Michigan Compiled Laws, and which makes reference to a "minor", "age of majority", "age of 21 years" or any similar phrase differentiating between the majority and minority status of a person shall remain effective and shall be construed as though age 21 were still the legal age of majority, except to the extent a contrary intention appears in the terms of the will, codicil or instrument or until the provision is superseded by an instrument executed on or after January 1, 1972.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.144 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.144 Will to be duly proved and admitted to probate.

Sec. 144. A will shall not be effectual to pass property unless it is duly proved and admitted to probate as provided in this article or on appeal. The admission of a will to probate pursuant to this act shall be conclusive as to its due execution.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.145 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.145 Admission of will to probate; filing and contents of petition; refusal to act; incompetency; authenticated copy of will.

Sec. 145. (1) The personal representative named in the will, an heir of the testator, or a devisee under the will may file a petition for the admission of the will to probate after the death of the testator if the testator was a resident of this state. A creditor or the attorney general may file a petition for the admission of the will to probate if a petition is not filed within 30 days after the testator's death by the personal representative named in the will, an heir of the testator, or a devisee under the will. The failure of a resident testator to leave property in this state is not a bar to the admission of the will to probate. A petition for admitting a will for probate under this subsection shall be filed only in the county in which

the testator was domiciled at the time of the testator's death and shall contain the information required by supreme court rule.

(2) If the personal representative refuses to act, or if a personal representative is not named in the will and devisees named in the will are not competent to act for themselves, then the following provisions apply:

(a) The fiduciary of such a devisee may petition for admission of the will to probate.

(b) If such a devisee does not have a fiduciary, is not born, or his present existence cannot after diligent search and inquiry be ascertained, then the court having jurisdiction thereof may appoint a guardian ad litem for such a devisee who, subject to the approval of the court, may engage counsel and obtain evidence to assist in securing the admission of the will to probate; and the reasonable expenses so incurred shall be a proper charge against the estate of the testator.

(3) A will may be established and admitted to probate if an authenticated copy of the will is filed with a petition praying for admission of the will to probate in accordance with subsection (1) or (2).

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.146 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.146 Proving execution of will.

Sec. 146. The execution of the will may be proven on the testimony of 1 of the subscribing witnesses, on the testimony of any person who has personal knowledge of the execution of the will, or on the filing of an authenticated copy of the will and of the record admitting that will to probate in another jurisdiction.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.147 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.147 Admitting will of resident testator to probate; witnesses; evidence of execution.

Sec. 147. (1) The court may admit the will of a resident testator to probate on the testimony of 1 of the subscribing witnesses if the witness shall testify that the will was executed in all particulars as required by law.

(2) If a person does not appear to contest the will of a resident testator at the time appointed for that purpose, the

court may, if the will on its face appears to be executed in all particulars as required by law, admit the will to probate without taking testimony of any subscribing witness.

(3) If none of the subscribing witnesses to the will of a resident testator resides in this state at the time appointed for proving the will, the court may admit the testimony of other witnesses to prove the execution of the will, and as evidence of the execution of the will may admit proof of the handwriting of the testator or of the subscribing witnesses.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.148 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.148 Objections to admission of will.

Sec. 148. Objections to the admission of a will to probate may be offered by an interested person. An objection shall be filed in writing and served on the proponent, or his attorney, at or before the hearing for the admission of the will to probate. If an objection is filed less than 5 days before the date of hearing, the proponent shall be entitled to an adjournment of at least 7 days as a matter of right. The filing of objections shall not be a prerequisite to an appeal from an order of the court admitting the will to probate. If the will is contested, the person named in the will as personal representative or a proponent may petition the court for authorization to retain counsel for the purpose of sustaining the will; and the reasonable expense of counsel and of procuring evidence to sustain the will shall be a proper charge against the estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.149 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.149 Lost, destroyed, or suppressed will; filing and contents of petition; effect on former will produced for probate.

Sec. 149. (1) When it is proposed to establish an allegedly lost, destroyed, or suppressed will, the petition filed in the court praying for the admission of such an alleged will to probate shall contain a full and complete statement of the contents of the alleged will to the extent the contents can be ascertained and shall disclose the names of the subscribing witnesses, if known, and if living, their place of residence, together with the names and residences of all known persons who have personal knowledge of the execution of the alleged will and its contents. An alleged will shall not be admitted to probate unless its execution and its contents are established by at least 2 reputable witnesses.

(2) Neither a revoking clause in an allegedly lost, destroyed, or suppressed will, nor an alleged disposition of property, terms, or conditions contained in the alleged will, which is claimed to be inconsistent with a former will which was produced for probate, shall be sufficient to defeat or destroy the effect of that former will, unless the legal execution of the allegedly lost, destroyed, or suppressed will, together with the fact that it contained such a revoking clause or such an inconsistent disposition of property, terms, or conditions, is established by at least 2 reputable witnesses, having knowledge thereof.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.151 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.151 Validity of will; execution in compliance with applicable law.

Sec. 151. A will is valid if executed in compliance with the laws of this state or with the law at the time of execution of the place where the will is executed, or with the law of the place where at the time of execution or at the time of death the testator is domiciled, has his habitual residence, or is a national.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.152 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.152 Will of nonresident decedent; admission to probate.

Sec. 152. (1) A will of a nonresident decedent that was admitted to probate at the domicile of the decedent in any other state or in a foreign country may be admitted to probate in a county of this state in which the decedent left property upon the filing of an authenticated copy of the will and of the record admitting that will to probate.

(2) Upon proof being shown that the authenticated copy of the will and of the record admitting the will of a nonresident decedent is in existence in a foreign country but has not been secured from the foreign country within 6 months after request was made for the copy, a certified reproduction of the will pursuant to the records media act may be admitted to probate if secured through the office of the United States consul for the foreign country.

(3) A final order of a court of another state determining testacy made in a proceeding is uncontestable and shall be accepted as determinative by the probate court in this state if it includes, or is based upon, a finding that the decedent was domiciled at his or her death in the state where the final order

was made.

(4) A will from the place of decedent's domicile, which does not provide for probate of a will after death, may be proved for admission to probate in this state by a duly authenticated certificate of the legal custodian of the will that the copy introduced is a true copy and that the will became effective under the laws of decedent's domicile.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1992, Act 209, Imd. Eff. Oct. 5, 1992.

***** 700.153 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.153 Foreign personal representative; authority.

Sec. 153. A foreign personal representative of a will of a nonresident decedent which is admitted to probate in this state shall have the same authority over that portion of the deceased's estate located in this state as the personal representative under the will would have had if he had been appointed in this state.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.154 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.154 Proving will; time and place; notice of hearing; interested persons.

Sec. 154. When a will of a resident or nonresident decedent is filed for admission to probate, the court shall appoint a time and place for proving it. Notice of hearing shall be served as provided by supreme court rule. All interested persons may appear at the hearing and contest the probate of the will except where a contest of the will is not permitted by law.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.155 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.155 Will of nonresident decedent; letters of authority; distribution of estate and residue.

Sec. 155. When a will of a nonresident decedent is admitted to probate, the court shall grant letters of authority which shall extend to all of the estate of the testator in this state. After payment of all charges against the estate, the estate shall be distributed according to the will, sofar as the will operates upon it, and the residue shall be distributed as provided by law in cases of estates in this state belonging to persons who are residents of any other state or country.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.156 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.156 Payment of charges against estate; appropriation.

Sec. 156. (1) If the testator designates a specific portion of the estate to be appropriated in his will for the payment of any charges against his estate, the charges shall be paid according to the provisions of the will, and out of that portion of the estate thus appropriated insofar as it is sufficient.

(2) If the provision made by will, or the estate appropriated, is not sufficient to pay all of the charges against the estate, that part of the estate which has not been distributed by the will, if any, shall be appropriated according to the provisions of the law for that purpose.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.157 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.157 Devisee's estate; liability for payment or satisfaction of charges, requirements, or devises; insufficient assets; agreement; priority; proportionate appropriation of property.

Sec. 157. (1) The estate given by will to any devisee shall be held liable for the payment of:

(a) All charges against the estate.

(b) The share of the surviving spouse in the event that the spouse elects to take against the will and the will does not provide for the estate to be used for that purpose.

(c) The share of a child born after the execution of the will, a child or of the issue of a child omitted in the will, or of a spouse omitted in the will.

(2) If the assets are insufficient to pay or satisfy all of the charges or requirements of subsection (1) and to pay or satisfy all devises, subject to sections 155 and 156, then the charges or requirements shall be paid or satisfied in any manner agreeable to the devisees. If the devisees fail to agree, the devises shall be paid or satisfied in the following order of priority:

(a) Property specifically devised.

(b) Property passing by general or demonstrative devise.

(c) Property devised by the residuary clause.

(3) If more than 1 person is interested in property under subsection (2), the property within that subdivision which may be appropriated to pay charges against the estate, or the other charges or requirements of subsection (1), shall be appropriated for that purpose proportionately.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.158 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.158 Devisees, distributees, and heirs; possession of estate subject to charges and requirements; contribution; liability of personal representative.

Sec. 158. The devisees who, with the consent of the personal representative or otherwise, have possession of the estate given to them by will before all of the charges against the estate and the requirements of section 157 are paid or satisfied, shall hold the same subject to those charges and requirements, and shall be held to contribute according to their respective liabilities to the personal representative or to any devisee from whom any part of the estate devised was taken for the payment or satisfaction of the charges or items or any of them. The persons who, as heirs or distributees, received the estate not distributed by the will, are liable to contribute, in like manner as the devisees. The personal representative is held liable if a person fails to make contribution as provided in this section, unless it is shown that the possession by the person was without the consent of the personal representative and that the personal representative was unable by diligent effort to prevent the same.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.159 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.159 Insolvency or death of person liable to contribute.

Sec. 159. If any of the persons liable to contribute according to section 158 is insolvent and unable to pay his share, the others shall be severally liable for the loss occasioned by the insolvency in proportion to, and to the extent of, the estate which they received. If any of the persons liable to contribute die before having paid his share, the claim shall be valid against his estate in the same manner as if it had been his proper debt.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.160 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.160 Settlement of liabilities; contribution; claimant's remedies.

Sec. 160. By order the court may settle the amount of the several liabilities as provided in sections 157 to 159 and order how much, and in what manner, each person shall contribute. The court may issue execution as circumstances may require. A claimant may also have a remedy in any proper action or complaint at law or in equity.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.161 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.161 Will; certificate of proof; evidence.

Sec. 161. When proved as provided in this article, a will shall have a certificate of proof endorsed on it or annexed to it, signed by the judge, and attested by the seal of the court. A will so certified, and the record thereof, or a transcript of that record certified by the judge and attested by the seal of the court, may be received in evidence in any court within this state, without further proof.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.162 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.162 Will devising land, order admitting will to probate, and order assigning residue; recording; expense.

Sec. 162. An attested copy of a will devising land or an interest in land, of the order admitting the will to probate, and of the order assigning residue, shall be recorded in the office of the register of deeds of the county in which the land thereby devised is situated. The court shall cause that recording to be made. The expense of recording shall be a charge against the estate and shall be paid in the same manner as other expenses of administration are paid.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.163 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.163 Personal representative under full age; administration of estate.

Sec. 163. When the person named personal representative in a will is under full age at the time of proving the will, administration shall be granted, with the will annexed, during the minority of the personal representative, unless there is

another personal representative who accepts the trust. In the latter event, the personal representative shall be issued letters of authority and shall administer the estate until the minor attains the age of 18 years, at which time he may be appointed as joint personal representative.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.164 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.164 Personal representative; authority to act; unsuitability.

Sec. 164. (1) When all personal representatives appointed in a will are not authorized, for any reason, to act in that capacity, those personal representatives who are authorized shall have the same authority to perform every act and discharge every trust required and allowed by the will. Their acts shall be as valid and effectual for every purpose as if all were authorized and should act together. Personal representatives, though not appointed in the will, shall have the same authority to perform every act and discharge every trust as the personal representative named in the will would have had, and their acts shall be as valid and effectual for every purpose.

(2) Upon the hearing of the petition for appointment of the personal representative of the decedent, if the court finds that the named personal representative is unsuitable to serve because of circumstances of which the decedent was unaware which occurred subsequent to the execution of the will, the court shall appoint another person who is suitable to administer the estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.165 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.165 Personal representative; possession of estate liable for charges and shares; claim.

Sec. 165. (1) The personal representative may retain possession of the estate until the liabilities are settled by order of the court and until the devises so liable are accordingly assigned by order of the court, when the estate given by a will is liable for the payment of:

(a) Charges against the estate.

(b) The share of a child born after the execution of the will, a child or of the issue of a child not provided for in the will.

(c) The surviving spouse in the event of the spouse's election to take against the will.

(2) When the same can properly be done, any devisee may make his claim to the court to have the liability settled and his devise assigned to him.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.166 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.166 Petition for payment of money or delivery of property; presentation; contents; citation to show cause; notice of hearing; order; inability to deliver personal property; supplemental citation or notice for hearing; consent to order; waiver of hearing.

Sec. 166. (1) Where a person is entitled by the terms of the will to the payment of money or the delivery of property by a personal representative, he may present to the court a written verified petition, setting forth the facts which entitle him to payment or delivery, and praying for an order directing payment or delivery accordingly. The personal representative may be cited to show cause why the order should not be made. If the petitioner is entitled to payment or delivery only upon the happening of a contingency or after the expiration of a certain time, the petitioner must show in his petition that his right to the money or other property has become absolute. Upon the presentation of the petition, the court shall issue a citation or cause notice of hearing to be served.

(2) Upon the return of a citation or proof of the giving of notice, the court shall hear the allegations and proofs of the parties and make such order as justice requires. The court may require a personal representative who is unable to deliver personal property to which the petitioner is entitled to pay the value of the property.

(3) If it appears upon the presentation of a petition, as prescribed in subsection (1), that an order made pursuant to the prayer of the petition might affect the rights of other persons with respect to the estate or fund held by the personal representative, the citation shall also be directed or notice given to those persons. If that fact appears upon return of the citation or upon the hearing, and it also appears presumptively that the petitioner is entitled to an order, each person whose rights may be so affected shall be brought in by supplemental citation or notice for a hearing and adjudication of his rights before an order is made. A person whose rights may be so affected may consent to an order or waive a hearing on the issue.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.167 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.167 Pecuniary devises; interest.

Sec. 167. Pecuniary devises shall bear interest at the legal rate beginning 1 year after the first appointment of a personal representative and until payment, unless a contrary intent is indicated by the will.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.168 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.168 Penalty for contesting will; enforceability.

Sec. 168. A provision in a will purporting to penalize an interested person for contesting the will or instituting other proceedings relating to the estate shall be unenforceable if probable cause exists for instituting proceedings.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.169 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.169 Final order of court of another state determining testacy or construing will.

Sec. 169. A final order of a court of another state determining testacy or construing a will made in a proceeding shall be accepted by the court in this state as determinative of the issue of will or no will and of the meaning of any language construed, if that order includes or is based upon a finding that the decedent was domiciled at his death in the state where the order was made.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.171 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.171 Embezzlement or conversion of decedent's property.

Sec. 171. If a person embezzles or wrongfully converts any of the moneys, goods, chattels, or effects of any deceased person before letters of authority are granted, that person shall stand chargeable and be liable to the action of the personal representative of the estate, for double the value of the property so embezzled or converted, to be recovered for the benefit of the estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.172 THIS SECTION IS REPEALED BY ACT 386 OF 1998

EFFECTIVE APRIL 1, 2000 *****

700.172 Petition for appointment of personal representative;
notice of hearing.

Sec. 172. When petition is made to the court for the appointment of a personal representative, notice of any required hearing and of the time and place of the hearing shall be served as provided by supreme court rule.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.173 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.173 Revocation of first administration upon subsequent proving and allowance of will; duties of personal representative; powers of successor personal representative; last dated will considered first; determination; wilful fraud or gross negligence.

Sec. 173. (1) If letters of authority are granted to a personal representative of the estate of a decedent as though the decedent died intestate, and thereafter a will of the decedent is duly proved and allowed by the court, the first administration shall, by order of the court, be revoked, the powers of that personal representative shall cease, and that personal representative shall forthwith turn over all of the assets of the estate to the successor personal representative and render an account of his administration within the time the court directs.

(2) The successor personal representative may demand, sue for, and collect all the unadministered goods, chattels, rights and credits of the deceased and may prosecute to final judgment an action commenced by the personal representative before the revocation of his letters of authority.

(3) If a petition for admission of a will to probate is filed, and before that petition was heard, a petition for the admission of another will is filed, the court shall consider the last dated will first to determine whether it should be admitted as the last will and testament of decedent.

(4) If a will is admitted to probate, and thereafter a petition for admission of another will is filed, the court shall determine whether the other will is the last will and testament of the decedent and should be admitted to probate and the former admission revoked.

(5) After final distribution of an intestate or testate estate, a will, or another will if 1 is admitted to probate, shall not be admitted to probate, except if the personal representative or an interested party commits wilful fraud or gross negligence.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.174 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.174 Temporary personal representative; appointment.

Sec. 174. When by reason of delay in granting letters of authority or for other good cause, the court after such notice as it directs may appoint a temporary personal representative to act in collecting and taking charge of the estate of the deceased and protecting the conserving it until a personal representative is appointed. A personal representative nominated in the will of the decedent shall be considered as an interested party for the purpose of petitioning the court for appointment of a temporary personal representative in the cause, even though an objection to his appointment as personal representative is filed in the court.

History: 1978, Act 642, Eff. July 1, 1979.

Compiler's note: Near the end of the first sentence of this section, "protecting the conserving" evidently should read "protecting and conserving."

***** 700.175 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.175 Temporary personal representative; powers and duties; pending action.

Sec. 175. A temporary personal representative appointed according to the provisions of section 174 shall collect the goods, chattels, and debts of the deceased, and preserve them for the personal representative who may subsequently be appointed. The temporary personal representative may commence and maintain actions as personal representative, may sell any perishable property and may sell any other property that the court may order to be sold. All personal actions, the cause of which by law survives and which may be pending either for or against the deceased, may be proceeded with, and be prosecuted by or against, the temporary personal representative, and the same proceedings taken with regard to those actions as are provided by law in cases where a personal representative is appointed.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.176 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.176 Temporary personal representative; liability; allowance and payment of claims.

Sec. 176. The temporary personal representative shall not be liable to an action by any creditors or be called upon in any

other way to pay the debts of the deceased, except that, on special application of a preferred creditor, the court may for special reasons, on the usual notice in such cases, allow any claim against the estate to be proved in court. If so proved, the court may order the temporary personal representative to pay a preferred claim so allowed. The court may, for special reasons on the usual notice, order the temporary personal representative, after the time for appeal has expired, to pay any claim otherwise properly allowed against the deceased and the estate. The court shall not direct the temporary personal representative to pay any but preferred claims provided for by statute.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.177 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.177 Temporary personal representative; bond; condition.

Sec. 177. Before entering upon the duties of his trust, a temporary personal representative shall give to the court the bond required, if any, of fiduciaries, with the further condition that he will truly account, when required by the court, for all the goods, chattels, debts, and effects of the deceased which are received by him and will deliver them to the person who is subsequently appointed personal representative of the estate, or to such other person as is legally authorized to receive them.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.178 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.178 Temporary personal representative; cessation of power; delivery of property; final account; prosecution of action.

Sec. 178. Upon the court's granting of letters of authority to a personal representative, the power of the temporary personal representative shall cease; and he shall forthwith deliver to the personal representative all the goods, chattels, money, and effects of the deceased in his hands. The temporary personal representative shall render his final account within 30 days after the personal representative qualifies. The personal representative may prosecute to final judgment an action commenced by the temporary personal representative.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.179 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.179 Temporary personal representative as personal representative; waiver of special requirements; accountability.

Sec. 179. If the temporary personal representative becomes the personal representative, all special requirements of sections 174 to 178 shall be waived and the temporary personal representative shall be accountable as though he were the personal representative from the date of appointment as temporary personal representative.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.180 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.180 Foreign heirs or devisees; notice; waiver.

Sec. 180. When it appears upon petition to the court for letters of authority, or to admit the will of a deceased person, that the heirs or devisees of the deceased, or any of them, are residents of a foreign country, the petitioner or his attorney shall notify the consul of the foreign nation in the city of New York, or of the district having jurisdiction, or the consul, vice-consul, or consular agent, resident in this state, if there is one, about the pending of, and the day appointed for hearing the application. The notice shall be given as provided by supreme court rule at least 60 days before the day of hearing, unless the heir or devisee files a waiver of the notice in the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.181 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.181 No known heirs; service upon attorney general; proof of service; rights of attorney general.

Sec. 181. (1) When a petition for the appointment of a personal representative of the estate of a deceased person is filed with the court and it appears from the petition that the decedent died intestate without leaving any known heirs, when it appears during the course of administration of an intestate estate that the decedent did not leave any known heirs, or when a petition is filed for the administration of the estate of a testate decedent and from the petition it appears that the devisees of the purported will would not be entitled to share in the estate but for the terms of the will and that the decedent died without leaving any known heirs; the petitioner or his attorney shall immediately serve notice of hearing, together with either a copy of the petition in an intestate estate or a copy of the petition and will in a testate estate, upon the attorney general, public administration division, and proof of the service shall be filed with the court. The court shall not proceed with any hearing absent proof of service being filed.

(2) In any such case, the attorney general, representing the state, shall have all the rights of any heir, representative or

creditor to be heard and to contest the validity of any claim, order, appointment or any instrument purporting to be a contract or will of the decedent, and shall have all the rights granted or accruing to an heir, representative, or creditor by laws relating to the settlement of testate or intestate estates in the probate court or by way of appeal.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.183 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.183 Determination of heirs and devisees; petition; notice and waiver of hearing.

Sec. 183. (1) The court may determine the heirs and devisees in any matter before the court.

(2) An interested party may file a verified petition for determination of heirs and devisees. The petition shall contain the information required by supreme court rule.

(3) The court shall schedule a hearing on the verified petition and notice of the hearing shall be served with a copy of the petition upon all interested parties pursuant to supreme court rules. The hearing may be waived by written consent of all interested parties.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.184 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.184 Determination of heirs and devisees; adjudication; recording; evidence.

Sec. 184. At the hearing on the petition, the court shall hear proofs taken by commission or by witnesses produced in open court and legally admissible documentary proofs of the facts set forth in the petition. If the evidence is sufficient to establish the claimed relationship and negate the existence of others of closer or equal degree to the decedent, the court shall determine the heirs and devisees of the deceased who are entitled by the laws of this state to inherit the property of the deceased, or to take title to property conveyed or granted to the heirs or devisees of the deceased, which determination and adjudication, showing the date of decedent's death, shall be entered on the journal of the court. An authenticated copy of the determination and adjudication with respect to real property shall be recorded in the office of the register of deeds of the county of probate and may be filed in any other county in the state, and shall, unless appealed from, be conclusive evidence of the fact as to who were the heirs and devisees of the deceased person as of the time of his death or as of such other date as specified in the

determination if that determination is made in the course of the administration of the estate or 15 years elapsed since the death of the decedent. In all other cases it shall be prima facie evidence only. The original record of the court or an authenticated copy thereof, or record of the authenticated copy recorded in the office of the register of deeds, or a certified copy thereof, shall be admitted in evidence in all the courts of this state upon any trial or proceedings in any court where the question of title may be involved or wherein it becomes material.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.185 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.185 Surviving spouse living in bigamy.

Sec. 185. (1) A person who, at the time of the death of the lawful spouse of the person, was or shall be living with another person, within or without the state, pursuant to a purported marriage, but in fact in a bigamous relation, shall not inherit or take an estate, right, or interest whatever, by way of dower under sections 1 to 29 of chapter 66 of the Revised Statutes of 1846, as amended, or by way of allowances, inheritance, distribution, or otherwise, in the property or estate, of the deceased.

(2) If it appears to the court that the surviving spouse was thus living in bigamy at the time of death, the order determining heirs or of distribution shall be made in all respects as if the spouse had not survived.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 326, Imd. Eff. Dec. 17, 1980.

***** 700.191 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.191 Agreement to alter interest, shares, or amounts under will or laws of intestacy; transfer of asset in settlement of will contest.

Sec. 191. (1) Subject to the rights of creditors and taxing authorities, competent interested parties may agree among themselves to alter the interest, shares, or amounts to which they are entitled under the will of the decedent or under the laws of intestacy, in any way that they provide in a written agreement executed by all who are affected by its provisions. When there is, or may be, an interested party to the agreement who is a minor or incapacitated person or where there is an inalienable estate or future contingent interest, after notice to the representative of such person or interest as provided by supreme court rule, the probate court having jurisdiction of the matter may, if the agreement is made in good faith and appears

just and reasonable for the person or interest, direct the representative of the person or interest to sign and enter into the agreement. The personal representative shall abide by the terms of the agreement subject to his obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration, and to carry out the responsibilities of his office for the benefit of any interested party who is not a party to the agreement.

(2) The transfer of an asset to a person in settlement of a will contest, whether the settlement is effected under this article or any other provision of law, shall be treated for inheritance tax purposes as a transfer to the person receiving the asset and not as a transfer to the person named in the will in all cases where the settlement agreement was in writing and made a part of the record of the estate before distribution of the asset.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.192 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.192 Payment of charges against estate; order of priority; order assigning residue of estate; life estate; trustee or bond; annual accounts.

Sec. 192. (1) The charges against an estate shall be paid in the following order of priority:

(a) Expenses of administration.

(b) Funeral and burial expenses for the deceased. Burial expenses include expenses of cremation.

(c) Family allowances made for spouse and minor children pursuant to section 287.

(d) Homestead provisions for spouse and minor children pursuant to section 285.

(e) Allowances made for spouse and minor children pursuant to section 286.

(f) Claims allowed against the estate.

(2) After the payment of the charges in subsection (1), or when sufficient assets are reserved in the hands of the personal representative for each of the purposes stated in subsection (1), the court shall, by order for that purpose, assign the residue of the estate, if any, to persons as are by law entitled to the same subject to the right of the personal representative to withhold and pay from that residue all inheritance and estate taxes payable therefrom.

(3) When a person has a life estate in, or the right to the use or income, for life, of property, without unlimited power to take or exhaust that property, the court shall either appoint a trustee to whom the residue of property shall be assigned in trust for the life tenant for the duration of his estate, or require a bond with sufficient surety from the life tenant conditioned on his accounting for that property. The trustee so appointed or the life tenant furnishing bond shall render annual accounts to the court in the same manner as that for which provision is made in the case of a testamentary trustee.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.193 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.193 Order assigning residue; rights of named persons; appeal.

Sec. 193. The order assigning residue shall state the date of death of the decedent and shall name the persons and the proportions or parts of the estate to which each shall be entitled. Those named persons shall have the right to demand and recover their respective shares from the personal representative, or from any other person having the same or any part thereof, after the expiration of 30 days from the date of the order, unless an appeal is filed. If an appeal is filed, those named persons shall have the same right immediately upon the final termination of the appeal, subject to the right of the personal representative to withhold and pay from the share of each such person the just proportion of an inheritance and estate tax payable from the residue of the estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.194 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.194 Order assigning residue; petition; right of heir or devisee to order; bond; computation and payment before audit of federal estate tax return.

Sec. 194. The order assigning residue may be made on the petition of the personal representative or of any other interested party, but an heir or devisee is not entitled to an order for his share until payment of the debts, allowances, expenses, and inheritance and estate taxes are made or provided for, unless he gives bond to the court, with such surety as the court directs, to secure the payment of his just proportion of the debts, allowances, expenses, and inheritance and estate taxes or part thereof as remains unprovided for, and to indemnify the personal representative against them. If there is a federal

estate tax and if the personal representative consents, the order may be made after the filing of the federal estate tax return and before its audit and after payment of any additional inheritance tax which shall be forthwith computed on the basis of the return. The computation or payment before the audit of the return shall not be a bar to the collection of additional inheritance tax found owing by reason of the audit.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.196 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.196 Petition for partition; validity of partition and distribution; hearing; notice.

Sec. 196. (1) Upon petition of an interested party when the probate estate is open or closed, the court may partition the estate when the estate assigned to 2 or more heirs or devisees shall be in common and undivided, and the respective shares are not separated and distinguished.

(2) If the court makes a partition and distribution before making an assignment of an estate to the heirs or devisees and the partition and distribution is accepted or acquiesced in by the heirs and devisees to whom the estate is subsequently assigned, and if the assignment has been in effect for at least 15 years, the partition and distribution is valid and effectual to convey the legal title of the property described in the partition and distribution as against the heirs or devisees to whom the assignment of the estate is and against persons claiming under or through those heirs or devisees, as if the partition and distribution were made after the assignment.

(3) When the petition for partition is filed, the court shall fix a date for hearing and notice of hearing shall be given to all interested parties as provided by supreme court rule.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.197 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.197 Partition; assent, release of rights, or conveyance by fiduciary or guardian ad litem; validity.

Sec. 197. (1) Unless his authority is limited, a fiduciary of a minor or incapacitated person may, without order of the court, join in and assent to a partition or to a sale for purposes of partition.

(2) The court, by order, may direct or authorize a fiduciary or guardian ad litem for the purposes of partition to agree to a division or a sale of the entire estate or of as much of the

estate as in the opinion of the court is incapable of partition, or of as much of the estate as the best interest of the ward requires to be sold.

(3) An assent, release of rights or conveyance made by a fiduciary or guardian ad litem under this section shall be valid and effectual to release and convey the share or interest of the ward without further order of the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.198 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.198 Partition notwithstanding conveyance or acquisition of shares.

Sec. 198. Partition of the estate may be made even though some of the original heirs or devisees may have conveyed their shares to other persons or their shares were acquired at their deaths by others.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.199 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.199 Partition; setting out estate by metes and bounds or description, or according to consent; set off.

Sec. 199. In the partition proceeding the estate shall be set out by the court to each individual in proportion to his right, by metes and bounds or description, that the same may be easily distinguished, unless 2 or more of the interested parties consent to have their share, or any portion thereof, set out according to the consent. Where the estate consists in whole or in part of money due, or to become due, on a contract made by the deceased for the sale of real estate, the land described in the contract shall be set off in fee, with the contract, to the party entitled to the contract, but subject to the terms thereof.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.200 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.200 Partition; assignment of property to parties; paying or securing value.

Sec. 200. When any of the property in a partition proceeding cannot be divided without prejudice or inconvenience to the owners, the court may in the partition proceeding assign the whole to any of the parties entitled to shares therein, who will accept it. A party accepting the whole shall pay to the other

interested parties their proportion of the true value of the property as fixed by the court, or shall secure the same to their satisfaction.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.201 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.201 Partition of property having greater value than either party's share; set off by court; paying or securing sums awarded.

Sec. 201. When any property has a greater value than either party's share in the estate to be partitioned and divided, and the property cannot be divided without injury to the same, it may be set off by the court to either of the parties who will accept it if the party accepting it pays or secures to any of the others such sums as the court awards to make the partition equal. The court shall make its award accordingly, but the partition shall not be established by the court until the sum so awarded is paid to the parties entitled to it, or secured to their satisfaction.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.202 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.202 Order of assignment; partition unnecessary.

Sec. 202. When the court makes an order of assignment of an estate to a person entitled to the same, partition of the estate is not necessary unless the parties to whom the assignment is ordered or any of them requests that a partition be made.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.203 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.203 Partition of property in common and undivided; parties.

Sec. 203. An heir or devisee of a decedent, or a person taking from or through them, or other person having property in common with them, may petition for partition of the property which is in common and undivided. The other person shall be made a party to the partition proceeding and the court shall divide and sever the estate of the deceased from the estate with which it lies in common or partition the whole in the same manner as provided for partitioning an estate in common among parties to the estate of a decedent. A division or partition so made by the court shall be binding on the heirs, devisees, and any other persons having an interest in the property.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.204 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.204 Partition; petition by heir or devisee having estate in possession.

Sec. 204. An heir or devisee who has an estate in possession of property may petition for partition, but a person who has only an estate in reversion or remainder may not petition for partition.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.205 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.205 Partition; petition by heir or devisees having estate in possession of ores, minerals, or metals in real estate.

Sec. 205. An heir, devisee, or a person taking from or through them, who has an estate in possession of any ores, minerals, or metals in real estate may petition for partition. But the petition may be brought only against those persons who have estates in possession of ores, minerals, and metals.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.206 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.206 Person deemed to have estate in fee simple entitled to maintain petition for partition.

Sec. 206. A person entitled to petition for partition under this article who owns an undivided interest in all of the estates in possession and in expectancy in the property of which partition is sought, is deemed to have an estate in fee simple, absolute in possession, in the property to the extent of the least share which he has in any of the estates and is entitled to maintain a petition for partition.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.207 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.207 Partition proceedings against state; service upon attorney general; costs and expenses.

Sec. 207. (1) Partition proceedings authorized in this article may be brought against the state of Michigan when any property is held as tenants in common by interested parties and the state of Michigan.

(2) Papers required to be served on the people of the state as parties in the partition proceeding shall be served upon the attorney general, who shall appear in behalf of the state and attend to its interests. The proceeding shall be conducted in the same manner as if it were against individuals and like orders shall be had. The proportion of the costs and expenses which are ordered paid by the people of this state shall be authenticated by the attorney general and paid out of the state treasury upon warrant of the state treasurer.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.208 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.208 Partition; sale of property; partition commissioner; minimum price; manner and conditions of sale.

Sec. 208. (1) If the court finds that the property of which partition is sought, or a portion thereof, is so situated that a partition of it among the persons interested in it cannot be made without prejudice to the owners, the court may order the fiduciary, if there is one, or some other suitable person, to sell the property which cannot be partitioned and any other part of the estate to be partitioned at private sale or at public auction sale to the highest bidder. Procedure for sale shall be as directed by the court.

(2) If the court finds that a partition must be made or that any portion of the estate cannot be partitioned without prejudice to the owners, the court may appoint a partition commissioner and direct him to partition and divide the parts or interests which can be divided and to set aside to be sold the portions which cannot be divided and these may be sold as provided in subsection (1).

(3) The court may fix and determine the minimum price at which any property may be sold and direct the manner and conditions of any sale.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.209 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.209 Partition of property or division of money; equities.

Sec. 209. When partitioning property or dividing the money received from a sale of property which cannot be partitioned, the court may take into consideration the equities of the situation, such as the value of the use of the premises by a party or the benefits which a party conferred upon the property.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.210 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.210 Partition or sale for partition; inchoate, contingent,
or vested right or estate; payment, investment, or other
securing of proceeds.

Sec. 210. In cases of partition or sales for partition purposes where it appears that a married woman has an inchoate right of dower in any lands divided or sold under sections 1 to 29 of chapter 66 of the revised statutes of 1846, as amended, or that a person has a vested or contingent future right or estate in the property, the court shall ascertain and settle the proportional value of the inchoate, contingent, or vested right or estate, according to the principles of law applicable to annuities and survivorships, and shall direct the proportion to be invested, secured, or paid over in the manner considered the best to secure the rights or interests of the parties. The payment, investment, or other securing of the proceeds of the sale shall be a bar to the right, estate, or claim.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 326, Imd. Eff. Dec. 17, 1980.

***** 700.211 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.211 Partition; revival or prosecution of claim otherwise
barred not authorized.

Sec. 211. The authority given by this article to partition does not authorize the revival or prosecution of any claim to property which otherwise would be barred by the statute of limitations or by the acquiescence of any party who had the claim.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.212 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.212 Partition; alteration or impairment of creditor's lien.

Sec. 212. The partition of property shall not alter or impair the lien of a creditor on the property in question, except that when the lien is on the undivided interest or estate of any of the parties, either in a portion or the whole of the property partitioned, the lien, if partition can be made, shall thereafter be transferred and be a charge only upon the property assigned to the party, and may be enforced against the same as though the lien had originally existed thereupon.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.213 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.213 Partition after assignment of residue; applicability to trust.

Sec. 213. The provisions concerning partition after assignment of residue in an estate of a deceased person shall be applicable to a testamentary or inter vivos trust where the trust terminated and is being distributed or was distributed. A petition for partition may be made by the trustee or an interested party in the trust assets to be partitioned.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.214 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.214 Partition; conclusiveness; recording of order; record as notice and evidence; necessary expenses; attorney fees.

Sec. 214. (1) The partition, when finally established, shall be conclusive upon all of the heirs, devisees, and persons claiming under them, and upon all interested parties. The court shall cause a duly authenticated copy of the order to be recorded in the office of the register of deeds for the county, and that record shall be notice of all matters contained in the order and shall be evidence of the order and matters contained in it.

(2) The necessary expense of the partition proceeding shall be paid out of the funds of the estate when it appears just and equitable to the court and not inconsistent with the intention of the testator. If there is not an estate or sufficient funds are not in the estate, the necessary expense shall be paid by all persons interested in the partition in proportion to their respective shares. If anyone neglects to pay the sum assessed on him by the court, an execution may issue for that sum against him by the court in favor of the persons entitled to the same. Attorney fees shall not be allowed as part of the expense of the partition proceeding unless authorized by the court before the performance of any legal services.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.215 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.215 "Pecuniary bequest" and "transfer in trust of a pecuniary amount" defined; intention of testator or grantor; valuation of assets.

Sec. 215. (1) As used in this section, "pecuniary bequest" and "transfer in trust of a pecuniary amount" mean a devise in a will

or a transfer under a trust agreement to, or for the benefit of, the testator's or grantor's spouse of a specific amount of money which amount is either expressly stated in the instrument or determinable by means of a formula which is stated in the instrument.

(2) Whether a devise or transfer in trust is pecuniary in character depends upon the intention of the testator or grantor.

(3) Where a will or a trust agreement authorizes the personal representative to satisfy wholly or partly in kind a pecuniary devise or transfer in trust of a pecuniary amount, unless the instrument otherwise expressly provides, the assets selected by the personal representative for that purpose shall be valued at their respective values on the date of their distribution.

(4) Where a will or a trust agreement authorizes the personal representative to satisfy wholly or partly in kind a pecuniary devise or transfer in trust of a pecuniary amount and the instrument requires the personal representative to value the assets selected by the personal representative for such distribution as of a date other than the date of their distribution, unless the instrument shall otherwise expressly provide, the assets selected by the personal representative for that purpose, together with any cash distributed, shall have an aggregate value on the date of their distribution amounting to not less than, and to the extent practicable to not more than, the amount of the devise or transfer in trust as stated in, or determined by, the formula stated in the instrument.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.216 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.216 Distribution in kind; conditions; "distribution in kind" defined; valuation; election; instrument or deed of distribution; proof; title of purchaser or lender; agreement.

Sec. 216. (1) Unless the will otherwise provides, when a testate or intestate estate or a testamentary trust is distributed, the assets of the estate or trust may be distributed in kind under either of the following circumstances:

(a) If all of the interested parties consent in writing in a supervised administration.

(b) If such a distribution is made in an independent probate proceeding, or pursuant to article 8, and an objection is not filed by any interested party.

(2) As used in this section, "distribution in kind" means the allocation of different kinds of property, or of disproportionate shares of property, or of undivided interests in property among

interested parties in a testate estate, an intestate estate or a testamentary trust. Unless the interested parties consent in writing or the will otherwise provides, the assets distributed in kind shall be valued as of the date of their distribution.

(3) Any distributee, who by the terms of the will is to receive land or other things to be purchased by the fiduciary, may, if he notifies the fiduciary before the thing is purchased, elect to take the purchase price or property of the estate which the fiduciary would otherwise sell to obtain the purchase price.

(4) If distribution in kind is made, the fiduciary shall execute an instrument or deed of distribution assigning, transferring, or releasing the assets to the distributee as evidence of the distributee's title to the property.

(5) Proof that a distributee received an instrument or deed of distribution of assets in kind, or payment in distribution, from a fiduciary is conclusive evidence that the distributee succeeded to the interest of the estate in the distributed assets, as against all persons interested in the estate, except that the fiduciary may recover the assets or their value if the distribution was improper.

(6) If property distributed in kind or a security interest therein is acquired by a purchaser, or lender, for value from a distributee who received an instrument or deed of distribution from the fiduciary, the purchaser or lender takes title free of any claim of the estate and does not incur personal liability to the estate, whether or not the distribution was proper. To be protected under this section, a purchaser or lender need not inquire whether a fiduciary acted properly in making the distribution in kind.

(7) Subject to the rights of creditors and taxing authorities, competent successors and fiduciaries of minors or incapacitated persons may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the will of the decedent or under the laws of intestacy, in any way that they provide in a written agreement executed by all who are affected by its provisions. The fiduciary shall abide by the terms of the agreement subject to his obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration, and to carry out the responsibilities of his office for the benefit of any successors of the decedent who are not parties.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.221 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.221 Wrongful death; settlement of claim; petition; hearing; approval or rejection of settlement; notice.

Sec. 221. If, for the purpose of settling a claim as to which an action is not pending in another court for damages for wrongful death or for a claim existing under the laws of this state relating to the survival of actions, the probate court is petitioned in writing by a personal representative asking leave to settle the claim, the court may conduct a hearing and approve or reject the settlement, after notice to all persons who may be entitled to damages under section 2922(3) of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2922 of the Michigan Compiled Laws, in the manner and method provided in the rules applicable to probate court proceedings.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1985, Act 92, Imd. Eff. July 10, 1985.

Compiler's note: Section 2 of Act 92 of 1985 provides: "This amendatory act applies to cases and matters pending on or filed after the effective date of this amendatory act."

***** 700.222 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.222 Wrongful death; proceeds of settlement; distribution.

Sec. 222. The proceeds of a probate court settlement of a cause of action for wrongful death shall be distributed as follows:

(a) The personal representative shall file with the court a petition for authority to distribute the proceeds. Upon the filing of the petition the court shall order a hearing.

(b) Unless waived, notice of the hearing shall be given to all persons who may be entitled to damages under section 2922(3) of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, as amended, being section 600.2922 of the Michigan Compiled Laws, in the manner and method provided in the rules applicable to probate court proceedings. The notice shall contain both of the following:

(i) The name and address of the personal representative and the personal representative's attorney.

(ii) A statement that to recover damages under this section the person who may be entitled to damages must present a claim for damages to the personal representative on or before the date set for hearing on the petition for distribution of the proceeds, and that failure to present a claim for damages within the time provided shall bar the person from making a claim to any of the proceeds.

(c) If any interested person is a minor, disappeared person, or legally incapacitated person for whom a fiduciary is not

appointed, a fiduciary or guardian ad litem shall be first appointed, and notice as provided in subdivision (b) shall be given to the fiduciary or guardian ad litem of the minor, disappeared person, or legally incapacitated person.

(d) After a hearing on the petition of the personal representative, the court shall order payment from the proceeds of the reasonable medical, hospital, funeral, and burial expenses of the decedent for which the estate is liable. The proceeds shall not be applied to the payment of any other charges against the estate of the decedent. The court shall then enter an order distributing the proceeds to those persons designated in section 2922(3) of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961 who suffered damages and to the estate of the deceased for compensation for conscious pain and suffering, if any, in the amount as the court considers fair and equitable considering the relative damages sustained by each of the persons and the estate of the deceased.

(e) If none of the persons entitled to the proceeds is a minor, disappeared person, or legally incapacitated person and all of the persons entitled to the proceeds execute a verified stipulation or agreement in writing in which the portion of the proceeds to be distributed to each of the persons is specified, the order of the court shall be entered in accordance with the stipulation or agreement.

(f) A person who may be entitled to damages under this section must present a claim for damages to the personal representative on or before the date set for hearing on the petition for distribution of the proceeds. The failure to present a claim for damages within the time provided shall bar the person from making a claim to any of the proceeds.

(g) If a claim for wrongful death is pending in another court, the procedures prescribed in section 2922 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, shall be applicable to the distribution of proceeds of any settlement or judgment.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1985, Act 92, Imd. Eff. July 10, 1985.

Compiler's note: Section 2 of Act 92 of 1985 provides: "This amendatory act applies to cases and matters pending on or filed after the effective date of this amendatory act."

***** 700.224 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.224 Certificate of death; life tenant, joint tenant, or tenant by entirety; recording.

Sec. 224. When a person has died or hereafter dies who was,

during his lifetime, entitled to an estate for life in any property in this state, or upon whose death an estate is limited, or when 1 joint tenant or tenant by the entirety in any property has died or hereafter dies leaving surviving his cotenant, the court of the county in which deceased was a resident or any of the real estate is situated shall, upon verified petition of any interested party in the property and due proof of the facts, issue under the seal of the court a certificate setting forth the fact of the death of the life tenant, joint tenant, or tenant by the entirety, and other facts essential to a determination of the rights of the interested person. The certificate or an authenticated copy thereof may be recorded in the office of the register of deeds of any county in which the deceased died or any of the property is situated, and shall be prima facie evidence of the facts recited in the certificate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.231 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.231 Definitions used in SS 700.231 to 700.238.

Sec. 231. As used in sections 231 to 238:

(a) "Local administration" means administration by a personal representative appointed in this state pursuant to this act.

(b) "Local personal representative" includes a temporary or general personal representative appointed in this state pursuant to the provisions of this act and excludes a foreign fiduciary who acquired the power of a local personal representative pursuant to section 236.

(c) "Foreign fiduciary" means a temporary or general administrator, conservator, executor, or person with like powers and duties, who was appointed in any other state of the United States in which the nonresident decedent was domiciled.

(d) "Resident creditor" means a person domiciled in, or doing business in this state, who is, or could be, a claimant against an estate of a nonresident decedent.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.232 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.232 Payment of debt or delivery of property to foreign fiduciary of nonresident decedent; proof of appointment; affidavit.

Sec. 232. After 60 days have expired from the date of death of a nonresident decedent, a person indebted to the estate of the

nonresident decedent or having possession or control of property or of an instrument evidencing a debt, obligation, stock, or chose in action belonging to the estate of the nonresident decedent may pay the debt, deliver the property or the instrument evidencing the debt, obligation, stock, or chose in action, to the foreign fiduciary of the nonresident decedent upon being presented with proof of his or her appointment and an affidavit made by or on behalf of the fiduciary stating all of the following:

(a) The date of death of the nonresident decedent.

(b) The state in which the nonresident decedent was domiciled.

(c) That local administration, or a petition for local administration, is not pending in this state.

(d) That the foreign fiduciary is entitled to payment or delivery.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.233 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.233 Payment or delivery; release.

Sec. 233. Payment or delivery made in good faith on the basis of the proof of authority and affidavit releases the debtor or person having possession of the property to the same extent as if payment or delivery were made to a local personal representative.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.234 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.234 Execution and delivery of deed by foreign fiduciary.

Sec. 234. After payment or delivery is made to a foreign fiduciary under sections 232 and 233, the foreign fiduciary may execute and deliver a deed pursuant to and in satisfaction of a land contract for the purchase of real estate located in this state, a discharge of a mortgage, a discharge of security interest or financing statement or both, and other instruments as required to reflect the payment or delivery.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.235 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.235 Foreign fiduciary; filing appointment and bond.

Sec. 235. If, after 30 days from the death of a nonresident decedent, a local administration or petition therefor is not pending in this state, a foreign fiduciary may file with the probate court in this state in a county in which property belonging to the decedent is located, authenticated copies of his appointment and of any official bond he has given.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.236 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.236 Foreign fiduciary; appointment; qualification; powers and duties; transfer of assets; condition.

Sec. 236. (1) A foreign fiduciary who complied with section 235 may be appointed and be qualified by filing a bond in the amount approved by the judge. Thereafter the foreign fiduciary, with regard to the property of the nonresident decedent in this state, shall have the same powers and be subject to the same duties as a local personal representative and may maintain actions and proceedings in this state subject to any conditions imposed upon nonresident parties generally.

(2) After payment of all claims allowed in this state and of all taxes and charges levied or incurred in this state, the moveable assets remaining on hand shall be transferred to the foreign fiduciary in the domiciliary jurisdiction unless the court shall order distribution in this state for a good cause shown. The court may as a condition of the transfer require evidence that an adequate bond has been filed in the domiciliary jurisdiction or impose other conditions deemed appropriate.

(3) Before the final disposition of the estate, on request and after written notice to interested persons, the court may transfer all or part of the assets from this state to the domiciliary jurisdiction for the purpose of administration and distribution.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.237 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.237 Foreign fiduciary; exercise and termination of power; changing position in reliance on powers; duties and obligations of local personal representative; substitution.

Sec. 237. The power of a foreign fiduciary under section 232 or 236 shall be exercised only if an administration or petition therefor is not pending in this state. A petition for local

administration of the estate terminates the power of the foreign fiduciary to act under section 236 but the court may allow the foreign fiduciary to exercise limited powers to preserve the estate. A person who, before receiving actual notice of a pending local administration, changed his position in reliance upon the powers of a foreign fiduciary shall not be prejudiced by reason of the petition for, or grant of, local administration. The local personal representative is subject to all duties and obligations which accrued by virtue of the exercise of the powers by the foreign fiduciary and may be substituted for him in any action or proceedings in this state.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.238 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.238 Foreign fiduciary; submission to jurisdiction; notice of proceedings.

Sec. 238. (1) A foreign fiduciary submits personally to the jurisdiction of the courts of this state by any of the following:

(a) Filing authenticated copies of his appointment as provided in section 235.

(b) Receiving payment of money or taking delivery of property under section 232. Jurisdiction under this subdivision is limited to the money or value of property collected.

(c) Doing any act as a fiduciary in this state which would give the state jurisdiction over him as an individual.

(2) Notice of any proceeding shall be delivered to the fiduciary, or mailed to him by first class mail at his address as listed in the application or petition for appointment or as thereafter reported to the court and to his address as then known to the petitioner.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.239 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.239 Foreign fiduciary; extent of jurisdiction.

Sec. 239. In addition to jurisdiction conferred by section 357 a foreign fiduciary is subject to the jurisdiction of the courts of this state to the same extent that his decedent was subject to jurisdiction immediately before death.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.240 THIS SECTION IS REPEALED BY ACT 386 OF 1998

EFFECTIVE APRIL 1, 2000 *****

700.240 Foreign fiduciary; service of process.

Sec. 240. Service of process shall be made upon a foreign fiduciary as provided by supreme court rule.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.251 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.251 Acquisition of property by killer or aider and abettor; damages or settlement in action for wrongful death; evidence; liability of purchaser or obligor.

Sec. 251. (1) A surviving spouse, heir, or devisee who feloniously and intentionally kills or aids and abets the killing of the decedent is not entitled to any benefits under the will or under intestate law, and the estate of the decedent passes as if that spouse, heir, or devisee predeceased the decedent. Property appointed by the will of the decedent to or for the benefit of the devisee passes as if the devisee predeceased the decedent.

(2) A joint tenant who feloniously and intentionally kills or aids and abets the killing of another joint tenant thereby effects a severance of the interest of the decedent so that the share of the decedent passes as his or her property and that joint tenant does not have rights by survivorship. This subsection applies to joint tenancies and tenancies by the entirety in property, joint accounts in banks, savings and loan associations, credit unions, and other financial institutions, and any other form of coownership with survivorship incidents.

(3) A named beneficiary of a bond, life insurance policy, or other contractual arrangement who feloniously and intentionally kills or aids and abets the killing of the principal obligee or the individual upon whose life the policy is issued is not entitled to any benefit under the bond, policy, or other contractual arrangement, and it becomes payable as though the beneficiary predeceased the decedent.

(4) A person who feloniously and intentionally kills or aids and abets the killing of the decedent is not entitled to any damages or proceeds in an action for wrongful death nor to any proceeds distributed in settlement of a cause of action for wrongful death.

(5) Any other acquisition of property or interest by the killer or by one who aids and abets the killer is treated in accordance with the principles of this section.

(6) A final judgment of conviction of felonious and intentional killing or aiding and abetting therein is conclusive for purposes

of this section. In the absence of a conviction of felonious and intentional killing or aiding and abetting the killing, the court may determine by a preponderance of evidence whether the killing or aiding and abetting the killing was felonious and intentional for purposes of this section.

(7) This section does not affect the rights of any person who, before rights under this section were adjudicated, purchases, from the killer or aider and abettor for value and without notice, property which the killer or aider and abettor would have acquired except for this section, but the killer or aider and abettor is liable for the amount of the proceeds or the value of the property. An insurance company, financial institution, or other obligor making payment according to the terms of its policy or obligation is not liable by reason of this section unless prior to payment it received written notice of a claim under this section at its home office, principal place of business, or other place of business at which the deceased transacted business with such obligor.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1985, Act 92, Imd. Eff. July 10, 1985.

Compiler's note: Section 2 of Act 92 of 1985 provides: "This amendatory act applies to cases and matters pending on or filed after the effective date of this amendatory act."

***** 700.255 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.255 Appointment of trustee; invalidity; accounting; bond; ratification and confirmation of payments.

Sec. 255. (1) If a testator omitted in his will to nominate a trustee, and if the appointment is necessary to carry into effect the provisions in the will, the court in any county in which the will is admitted to probate shall, after causing notice to be given to all interested parties in the manner provided by supreme court rule and after hearing, make such appointment on motion of any interested party or on its own motion, and shall fix the bond as provided by law; and upon the filing and approval thereof, if required, the court shall order delivery to the trustee in accordance with the terms of the will.

(2) When it becomes necessary or convenient in the settlement or distribution of the estate of a deceased person to appoint a trustee to take charge of or invest and distribute any portion of the estate, the court shall appoint such a trustee upon the application of an interested person in the estate.

(3) If an appointment of a trustee is invalid by reason of an irregularity, or for want of jurisdiction or authority in the court making the appointment, the person so appointed shall be held to account for all moneys, property or assets which came to

his hands as such trustee, or by reason of the appointment, in the same manner as if the appointment was regular and valid. Any bond given in pursuance of the appointment shall be valid and binding both on the principals and the sureties thereof. Payments to or by a person so appointed, if in other respects properly made, may, with the approval of the court, be ratified and confirmed by the trustee who may afterwards be legally appointed.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.256 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.256 Designating testamentary trust as beneficiary; designations to be in writing and signed by testator; conditions to which designations subject.

Sec. 256. A testamentary trust provided for in the will of a testator may be designated as the beneficiary of any benefit payable after the death of the testator for which the testator has a contractual right to designate a beneficiary. This includes, but is not limited to, life insurance, annuity, or endowment contracts, employment agreements, partnership agreements, and pension, profit sharing, retirement, and survivor benefit plans. Such designations shall be in writing and signed by the testator and need not be witnessed. They shall be subject to the following conditions:

(a) Payment of the benefits to the designated testamentary trust shall be made upon the appointment and qualification of the testamentary trustee. Letters of authority issued to the testamentary trustee by the probate court in which the will containing the testamentary trust is admitted to probate shall be conclusive proof of the appointment and qualification.

(b) If the will providing the testamentary trust and nominating the testamentary trustee in existence on the date of the designation is the will admitted to probate, and the trust is clearly identified, it shall be presumed that this constitutes the designated testamentary trust.

(c) If the testator's will as admitted to probate does not provide for a testamentary trust, or if the testamentary trust has not been clearly identified as the trust designated, or if the testamentary trustee is not appointed and qualified within 1 year after the death of the testator, the designated benefits shall be paid to the testator's estate or as directed in writing by the personal representative of the testator's estate.

(d) Benefits paid to a properly designated testamentary trust shall be inventoried and accounted for by the testamentary trustee and shall not be subject to the claims of creditors of the testator's estate under article 7 of this act. Nothing in this section shall limit the rights of creditors under other laws

of this state.

History: Add. 1982, Act 454, Eff. Mar. 30, 1983;--Am. 1984, Act 108, Imd. Eff. May 24, 1984.

***** 700.257 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.257 Assets of custodial IRA.

Sec. 257. (1) The assets of a custodial IRA shall pass on or after the death of the designator of the custodial IRA to the beneficiary or beneficiaries specified in the custodial IRA agreement signed by the designator or designated by the designator in writing pursuant to the custodial IRA agreement. Assets that pass to a beneficiary pursuant to this subsection shall not be considered part of the designator's estate except to the extent that the designator's estate is a beneficiary. The designation of a beneficiary shall not be considered testamentary and does not have to be witnessed.

(2) This section applies to a custodial IRA established and a beneficiary designation made prior to, on, or after the effective date of this section and shall be considered to be declarative of the law as it existed immediately before the enactment of this section.

(3) This section does not imply that assets or benefits that are payable upon the death of a person to a beneficiary or beneficiaries designated in or pursuant to a written arrangement not described in this section, other than a will, are part of the person's estate or that the arrangement is testamentary.

(4) As used in this section:

(a) "Custodial IRA" means an individual retirement account established and maintained under the federal internal revenue code, the assets of which are not held in trust.

(b) "Designator" means a person entitled to designate the beneficiary or beneficiaries of a custodial IRA.

History: Add. 1988, Act 238, Imd. Eff. July 11, 1988.

***** 700.281 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.281 Rights of surviving spouse generally.

Sec. 281. The surviving spouse, whether widow or widower, has upon the death of the other spouse the rights described by sections 282 to 291.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 326,

Imd. Eff. Dec. 17, 1980.

***** 700.282 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.282 Election by surviving spouse if decedent dies testate.

Sec. 282. (1) If a decedent who was domiciled in this state dies testate leaving a surviving spouse, the fiduciary appointed to represent the estate, before the date for presentment of claims, shall serve notice on the surviving spouse of the spouse's right to an election as provided by this section and to file with the court an election in writing that the spouse elects 1 of the following:

(a) That the spouse will abide by the terms of the will:

(b) That the spouse will take 1/2 of the sum or share that would have passed to the spouse had the testator died intestate, reduced by 1/2 of the value of all property derived by the spouse from the decedent by any means other than testate or intestate succession upon the decedent's death.

(c) If a widow, that the spouse will take her dower right under sections 1 to 29 of chapter 66 of the revised statutes of 1846, as amended.

(2) The surviving spouse shall be entitled to only 1 election choice under subsection (1) unless the contrary plainly appears by the will to be intended by the testator. The right of election of the surviving spouse may be exercised only during the lifetime of the surviving spouse. The election shall be made within 60 days after the date for presentment of claims, or within 60 days after filing proof of service of the inventory upon the surviving spouse, whichever is later.

(3) Notice of right of election shall be served upon the decedent's spouse, if any, and proof of that notice shall be filed with the court. An election as provided by this section may be filed in lieu of service of notice and filing of proof.

(4) In the case of a legally incapacitated person, the right of election may be exercised only by order of the court in which a proceeding as to that person's property is pending, after finding that exercise is necessary to provide adequate support for the legally incapacitated person during that person's life expectancy.

(5) The surviving spouse of a decedent who was not domiciled in this state shall be entitled only to election against the will as may be provided by the law of the place in which the decedent was domiciled at the time of death.

(6) As used in subsection (1), "property derived by the spouse

from the decedent," includes all of the following transfers:

(a) A transfer made within 2 years of decedent's death to the extent that the transfer is subject to federal gift or estate taxes.

(b) A transfer made before the date of death subject to a power retained by the decedent which would make the property, or a portion of the property, subject to federal estate tax.

(c) A transfer effectuated by the death of the decedent through joint ownership, tenancy by the entirety, insurance beneficiary, or similar means.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1980, Act 326, Imd. Eff. Dec. 17, 1980.

***** 700.282a THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.282a Election of surviving widow if decedent dies intestate.

Sec. 282a. (1) If a decedent who was domiciled in this state dies intestate leaving a surviving widow, she shall elect either of the following:

(a) That she will take her intestate share as prescribed in section 105.

(b) That she will take her dower right under sections 1 to 29 of chapter 66 of the Revised Statutes of 1846, as amended.

(2) The election under subsection (1) shall be made within the same period, on like notice, and in like manner as provided in section 282(1) and (2).

History: Add. 1980, Act 326, Imd. Eff. Dec. 17, 1980.

***** 700.283 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.283 Failure of surviving spouse to make election; presumption; conveyance of real estate by fiduciary; homestead allowance; set off; waiver; additional time.

Sec. 283. (1) When the surviving spouse fails to make an election within the time specified in section 282(2) or section 282(a), it is conclusively presumed that the spouse elects to abide by the terms of the will or, if it is an intestate estate, to take according to the provisions of sections 105 to 113, except in either of the following instances:

(a) If an election is not made, the principal administration is

closed, and thereafter it appears to the court that assets belonging to the estate are discovered and administration is granted, the election may be made out of the newly discovered assets only upon good cause shown at any time before that administration is closed.

(b) The court, before the estate is closed, upon petition of the spouse, after notice to all interested parties, may permit the spouse to make an election to which the spouse was entitled as though the spouse had done so within the 60 days, when on account of litigation connected with the estate or the establishment of further claims against the deceased or any other cause, the court deems it proper to do so. The court shall limit the time within which the spouse may make the election under this subdivision.

(2) If the fiduciary, after the expiration of the 60 days and before the order of the court permitting the spouse to make the delayed election under subsection (1), has sold and conveyed real estate of the deceased, the spouse's homestead allowance, if it is the spouse's election, shall be set off to the spouse out of the lands and other property remaining but to the amount and value to which the surviving spouse was entitled at the death of his spouse, if so much remains unsold.

(3) When proceedings are commenced in the court to sell real estate of the deceased, the spouse may appear and waive his right to the homestead allowance in the real estate and if the right is not waived, the spouse shall be served personally, at least 10 days before the hearing on the request to sell, a notice to appear and elect whether he will take his right to homestead allowance in the real estate sought to be sold. If the spouse does not then give notice of his intention to take his homestead allowance out of the real estate to be sold, the same is deemed waived by him and the spouse is thereafter barred from claiming any right to the homestead allowance in any real estate sold pursuant to this act. If the court deems it necessary for the spouse to have additional time in which to exercise a right of election, it may grant additional time as it deems proper.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 326, Imd. Eff. Dec. 17, 1980.

***** 700.284 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.284 Acts not preventing election to take against will.

Sec. 284. Filing of a petition to admit the will of a deceased spouse, failing to object or consenting to admission of the will to probate, or accepting appointment as a personal representative shall not prevent election of the surviving spouse to take against the will.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.285 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.285 Homestead allowance.

Sec. 285. (1) The surviving spouse of a decedent who was domiciled in this state is entitled to receive a homestead allowance of \$10,000.00. If there is no surviving spouse, each minor child of the decedent is entitled to receive a homestead allowance equal to \$10,000.00 divided by the number of minor children of the decedent.

(2) The homestead allowance is exempt from and has priority against the estate as provided in section 192. The homestead allowance is charged against any benefit or share passing to the surviving spouse or minor child by the will of the decedent, by intestate succession, or as otherwise provided in sections 126, 127, 282, and 282a, but the homestead allowance shall not be diminished if it is greater than the benefit or share.

(3) The value of any right in real property of the decedent protected under the state constitution of 1963 to the benefit of the surviving spouse and minor children as homestead shall be deducted from the homestead allowance described in this section if not waived. Effective waiver of the right to occupy specific homestead real estate or to enjoy a right equivalent to occupancy of some limited amount thereof, is not a waiver of the right to a general homestead allowance under this section.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.286 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.286 Exempt property.

Sec. 286. The surviving spouse of a decedent who was domiciled in this state is entitled to receive from the estate, in addition to the homestead allowance, value not exceeding \$3,500.00, in excess of any security interest, in household furniture, furnishings, appliances, and personal effects. If there is no surviving spouse, the minor children of the decedent are entitled, jointly, to receive the same value. If encumbered chattels are selected and if other exempt property is worth less than \$3,500.00, or if there is not \$3,500.00 worth of exempt property in the estate, the spouse or children are entitled to receive other assets of the estate, if any, to the extent necessary to make up the \$3,500.00 value. Rights to exempt property and assets used to make up deficiencies in the property are exempt from and have priority over all claims against the estate. The value of these rights is not charged against any

benefit or share passing to the surviving spouse or minor children by the will of the decedent, by intestate succession, or as otherwise provided in sections 126, 127, 282, and 282a, except to the extent that the exempt property is specifically devised to the spouse or child and is not renounced or disclaimed.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.287 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.287 Family allowance.

Sec. 287. (1) In addition to the right to homestead allowance and exempt property, the surviving spouse of a decedent who was domiciled in this state and minor children of a decedent whom the decedent is legally obliged to support are entitled to a reasonable family allowance out of the estate for their maintenance during the progress of the settlement of the estate according to their circumstances but never for a longer period than until their shares to the estate shall be assigned to them nor for more than 1 year after the death of the decedent in an insolvent estate. On showing of necessity, the allowances may be continued from time to time in a solvent estate beyond the year, but the allowances beyond the year shall be charged as advancements from the estate against the interest of the spouse or against the interests of the minor children, as the case may be. The allowance shall be granted upon petition to the court and after notice as provided by supreme court rule. The allowance is payable to the surviving spouse for the use of the surviving spouse and minor children; otherwise to the minor children, their fiduciaries, or other persons having their care and custody. If a minor child is not living with the surviving spouse, the allowance may be made to the minor child or to the fiduciary or other person having care and custody of the minor child, as his or her needs may appear. The family allowance paid for the 1 year is exempt from and has priority over all claims and is not charged against any benefit or share passing to the surviving spouse or minor children by the will of the decedent, by intestate succession, or otherwise.

(2) Notice of hearing on a petition for allowance for the support of a spouse or minor children shall be personally served upon the personal representative of the estate of the decedent at least 5 days before the hearing on the petition, unless the personal representative appears in court or in writing waives the notice. If the spouse is the personal representative, notice of hearing on the petition shall be given to interested parties as provided by supreme court rule.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.288 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.288 Right of occupancy.

Sec. 288. In addition to the right to homestead allowance, exempt property, family allowance, and election, the surviving spouse may remain in the dwelling house of the decedent 1 year after the death of the decedent or until the share of the surviving spouse is assigned to him, whichever occurs earlier; and the surviving spouse shall not be chargeable with rent, taxes, water bills, repairs except those repairs resulting from the acts, omissions or negligence of the surviving spouse, insurance premiums, or mortgage or land contract interest or principal payments, but shall be chargeable with public utility bills and, if possession of the dwelling by the decedent had been as a tenant, shall be chargeable with the rent. The right of occupancy in this section is exempt from and has priority over all claims against the estate of the decedent.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.289 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.289 Satisfying right to homestead allowance and exempt property; selecting and establishing ownership in property; termination of rights; aggrieved persons.

Sec. 289. So far as possible, property specifically devised to the surviving spouse by will of the decedent shall be used to satisfy the right of the surviving spouse to homestead allowance and exempt property, and property devised to minor children shall be used to satisfy any right they may have to homestead allowance and exempt property. If the estate is otherwise sufficient, property specifically devised to others shall not be used for these purposes. Under these restrictions, the surviving spouse or the representatives of the minor children may select property of the estate as homestead allowance and exempt property to which they may be entitled. The personal representative may make those selections if the surviving spouse or representative of the minor children are unable or fail to do so within a reasonable time. The personal representative may execute an instrument, deed, or instrument of distribution to establish the ownership of property taken as homestead allowance or exempt property. The death of all persons, or the remarriage of the spouse, entitled to the family allowance terminates the right to further payments due after the death or the remarriage. The fiduciary or an interested person aggrieved by the selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.290 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.290 Actions depriving surviving spouse of rights; minimum benefits.

Sec. 290. (1) A surviving spouse does not have a right of election against the will of the deceased spouse or a right under sections 285 to 288 if the surviving spouse did any of the following for 1 year or more previous to the death of the deceased spouse:

(a) Was wilfully absent from the decedent spouse.

(b) Deserted the decedent spouse.

(c) Wilfully neglected or refused to provide support for the decedent spouse if so required by law.

(2) A surviving spouse who is under subsection (1) shall only have those benefits, and only in minimum amounts, as provided in the state constitution of 1963.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.291 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.291 Waiver of rights by contract, agreement, or waiver.

Sec. 291. The rights of the surviving spouse to an estate or to dower under sections 1 to 29 of chapter 66 of the Revised Statutes of 1846, as amended, being sections 558.1 to 558.29 of the Michigan Compiled Laws, homestead allowance, election, exempt property, and family allowance, and the right to remain in the dwelling house of the decedent as provided in section 288 or any of them, may be waived, wholly or partially, before or after marriage, by a written contract, agreement, or waiver signed by the party waiving after fair disclosure. Unless it provides to the contrary, a waiver of "all rights" in the property or estate of a present or prospective spouse or a complete property settlement entered into after or in anticipation of separate maintenance is a waiver by the female spouse of all rights to dower under sections 1 to 29 of chapter 66 of the Revised Statutes of 1846, as amended; a waiver of all rights to homestead allowance, election, exempt property, and family allowance by each spouse in the property of the other; a waiver of the right to remain in the dwelling house of the decedent as provided in section 288; and an irrevocable renunciation by each spouse of all benefits which would otherwise pass to the spouse from the other by intestate succession or by virtue of the provisions of any will executed before the waiver or property settlement.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 326, Imd. Eff. Dec. 17, 1980;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.292 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.292 Construction of SS 700.281 to 700.291.

Sec. 292. Sections 281 to 291 shall not be construed as creating any inchoate or choate right to the rights described in those sections in the property of a spouse before the death of a spouse.

History: Add. 1980, Act 326, Imd. Eff. Dec. 17, 1980.

ARTICLE 3

***** 700.301 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.301 Independent probate.

Sec. 301. (1) Independent probate shall be governed by this article and other provisions as required by law.

(2) A provision in this act or other law which requires supervision of the court or a judicial proceeding shall not apply to independent probate, except as provided in this article and in article 7.

(3) Independent probate, as provided in this article, shall not be subject to the following sections which require a petition or proceeding before the court:

- (a) Section 115.
- (b) Section 145.
- (c) Section 154.
- (d) Section 164.
- (e) Section 174.
- (f) Section 181.
- (g) Section 563.
- (h) Section 564.
- (i) Section 632.
- (j) Section 634.

- (k) Section 635.
- (l) Section 637.
- (m) Section 638.
- (n) Section 643.
- (o) Section 644.
- (p) Section 646.
- (q) Section 647.
- (r) Section 653.
- (s) Section 665.
- (t) Section 667.
- (u) Section 671.

(4) Independent probate, as provided for in this article, shall not be subject to the following sections requiring a bond of a personal representative:

- (a) Section 507.
- (b) Section 645.
- (c) Section 648.

(5) Independent probate, as provided for in this article, shall not be subject to the following sections which are inconsistent with the powers of an independent personal representative:

- (a) Section 116.
- (b) Section 147.
- (c) Section 152.
- (d) Section 165.
- (e) Section 605.
- (f) Section 641.

(6) This section shall not prevent the independent personal representative from utilizing any provision of law which can assist the personal representative in the efficient and proper administration of an estate.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1985, Act 92,

Imd. Eff. July 10, 1985;--Am. 1988, Act 222, Eff. Jan. 1, 1989.

Compiler's note: Section 2 of Act 92 of 1985 provides: "This amendatory act applies to cases and matters pending on or filed after the effective date of this amendatory act."

***** 700.303 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.303 "Register" defined.

Sec. 303. As used in this article, "register" means a probate register or deputy register, or if the county does not have a probate register, the probate judge.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.304 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.304 Legal advice or legal counsel by court personnel prohibited.

Sec. 304. Personnel of the court shall not provide or offer to provide legal advice or legal counsel to an independent personal representative or an interested person and shall not prepare any forms, petitions, or documents for an independent personal representative or interested person. This section shall not prohibit the court from providing blank forms and routine information concerning preparation of any form provided by the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.306 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.306 Petition for independent probate and appointment of independent personal representative.

Sec. 306. (1) The following may petition the register for independent probate and appointment of an independent personal representative:

(a) In a testate estate, a personal representative named in the will, devisee named in the will, or any other interested party.

(b) In an intestate estate, an heir of the decedent or any other interested party.

(2) The petition shall contain the information required by supreme court rule.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.307 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.307 Conditions for independent probate; determination by register; necessity for supervised administration.

Sec. 307. (1) Upon the filing of a petition for independent probate of either a testate or intestate estate and for appointment of an independent personal representative, the register shall determine whether all of the following conditions exist:

(a) The petition is complete and verified.

(b) The petitioner appears from the petition to be a person qualified to file a petition as provided in section 306.

(c) Venue is proper on the basis of the statements in the petition.

(d) In the event of a testate estate, an original, duly executed, and apparently unrevoked will, or an authenticated copy of a will probated in another state, is in the register's possession, which will does not expressly prohibit independent probate.

(e) The petition is not within section 309(1).

(f) It appears that a supervised probate proceeding has not been initiated.

(2) If the decedent's will directs supervised administration, it shall be ordered unless the judge finds that circumstances bearing on the need for supervised administration have changed since the execution of the will and that there is no necessity for supervised administration.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.308 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.308 Admitting will to independent probate; proof.

Sec. 308. (1) Subject to section 307(d), a will which appears to have the required signatures and which contains an attestation clause showing that requirements of execution under this act were satisfied shall be admitted to independent probate without further proof. In other cases, the register may assume valid execution if the will appears to have been properly executed, or may accept a verified statement or affidavit of a person having knowledge of the circumstances of execution, whether or not the person was a witness to the will.

(2) Independent probate of a will which was previously admitted to probate in another state may be granted upon petition by an interested party and upon deposit of an authenticated copy of the will and of the statement or order of the court admitting that will to probate from the office or court where it was first probated.

(3) A will from a place which does not provide for probate of a will after death and which is not eligible for probate under subsection (1), may be admitted to independent probate in this state upon receipt by the register of a duly authenticated copy of the will and duly verified certificate of its legal custodian that the copy filed is a true copy and that the will has become operative under the law of the other place.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.309 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.309 Denial of petition for independent probate; statement of reasons; appointment of temporary personal representative; effect of denial.

Sec. 309. (1) The petition for independent probate shall be denied if any of the following circumstances exist:

(a) The petition indicates that a personal representative was appointed in another county of this state.

(b) It appears that this or another will of the decedent was the subject of a previous probate order, except as provided in subsection (4).

(c) The petitioner is a nonresident foreign national, or someone acting in the name or on behalf of a nonresident foreign national, claiming to be an interested party, and the nonresident foreign national does not appear in person with sufficient legally admissible proof of identity and relationship to the decedent.

(d) All heirs at law are nonresident foreign nationals.

(e) If it appears that the decedent was not survived by any known heirs at law and notice has not been given to the attorney general prior to appointment of a personal representative or hearing of the petition for probate of will.

(2) The register may deny a petition for independent probate for failure to meet the requirements of this article or for just cause.

(3) If a petition is denied, the register shall clearly state

the reason in writing for the benefit of the petitioner.

(4) If the register denies a petition for independent probate, the register, upon petition of an interested party, may appoint a temporary personal representative with powers as may be necessary to preserve, conserve, and protect the assets of the estate pending appointment of an independent personal representative.

(5) If the register denies a petition for independent probate pursuant to this section, for failure to meet the requirements of section 307 or 308 or for any other reason, the denial is not a final determination and does not preclude subsequent supervised administration or independent probate proceedings.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.311 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.311 Order of priority for appointment of independent personal representative; designee of person having priority; appointing person without priority.

Sec. 311. (1) A person who is a resident of the United States shall have priority for appointment as the independent personal representative in a testate estate in the following order:

- (a) A person named as personal representative in the will.
- (b) The decedent's surviving spouse who is a devisee in the will.
- (c) An heir of the decedent who is a devisee in the will, by degree of kinship.
- (d) Other devisees of the decedent.
- (e) Heirs at law not otherwise designated as devisees.
- (f) The county public administrator.

(2) A person who is a resident of the United States shall have priority for appointment as the independent personal representative in an intestate estate in the following order:

- (a) The surviving spouse of the decedent.
- (b) Other heirs of the decedent, by degree of kinship.
- (c) The county public administrator.

(3) A designee of a person having priority shall have that person's priority in the appointment of an independent personal

representative, if the designee is a resident of the United States.

(4) Appointment of a person who does not have priority under this section, including priority resulting from renunciation or nomination, may be made only in a supervised probate proceeding. Before appointing a person without priority, the court shall determine that those having priority, although given notice of the proceedings, have failed to request appointment or to nominate another for appointment, and that probate is necessary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.312 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.312 Letters of authority; issuance; immediate effect of order making appointment.

Sec. 312. (1) Upon making the findings required by sections 307 and 308, the register shall immediately issue letters of authority under the following circumstances:

(a) To the person having the highest priority under section 311, if another person does not have a higher or equal priority.

(b) To a person having a lesser priority than or equal priority with 1 or more persons under section 311, upon filing of the written consent of all persons having a higher or equal priority.

(2) An order making an appointment under this section shall have immediate effect.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.313 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.313 Bond.

Sec. 313. A bond shall not be required by the court for an independent personal representative unless required by will. Upon petition of an interested person, the court may require a bond or higher bond. A person having an apparent interest or right in the estate worth less than \$2,500.00 may not make a demand for a bond.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.314 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.314 Independent personal representative; jurisdiction of person.

Sec. 314. Upon accepting the appointment, the independent personal representative submits personally to the jurisdiction of the court in any proceeding relating to the estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.315 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.315 Notice of appointment to interested parties; waiver.

Sec. 315. Within 10 days after the date a person is appointed pursuant to section 312, the person shall give notice of the appointment, a copy of the petition for independent probate, and a copy of the will, if any, to each interested party that has not executed a written waiver of notice. An heir or devisee may waive notice of appointment by a simple writing which needs neither witness nor acknowledgment.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.316 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.316 Notice to attorney general; rights of attorney general.

Sec. 316. (1) The independent personal representative shall give notice pursuant to section 317 to the attorney general, public administration division, when any of the following occur:

(a) A petition for appointment of an independent personal representative of the estate of a deceased person has been filed with the register and it appears from the petition that the deceased died intestate without leaving any known heirs.

(b) It appears during the administration of an intestate estate that the decedent did not leave any known heirs.

(c) In the administration of a testate estate it appears that devisees of the purported will would not be entitled to share in the estate but for the terms of the will and that the decedent died without leaving any known heirs.

(2) If notice is given to the attorney general as prescribed in subsection (1), the attorney general, representing the state, shall have all the rights of an heir to be heard and to contest the validity of any claim, the appointment of an independent personal representative, an action of the independent personal representative, any order, any appointment, or any instrument purporting to be a contract or will of the decedent, and shall have all the rights granted or accruing to an heir, representative, or creditor by laws relating to the settlement of testate or intestate estates in court or by way of rehearing or

appeal.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.317 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.317 Notice of appointment; approval; contents.

Sec. 317. The notice required under section 315 shall be approved by the supreme court and shall include the following information:

(a) That the court will not supervise the independent personal representative.

(b) That unless a person files a written objection to the appointment of the person named as personal representative in the notice or a demand that bond or higher bond be posted, the person named in the notice is the independent personal representative without bond, or with bond in the amount shown in the notice.

(c) The name and address of the person named as independent personal representative of the estate.

(d) That during the course of administering the estate the personal representative shall provide all interested parties with:

(i) A copy of the petition for appointment of the independent personal representative and a copy of the will, if any, with the notice.

(ii) A copy of the inventory, within 90 days of the appointment of the independent personal representative.

(iii) A copy of the closing statement.

(e) That an interested party may petition the court for supervision of the estate by the court or for a hearing by the court on any matter at any time during the administration of the estate.

(f) That federal estate and Michigan inheritance taxes, if any, must be paid within 9 months of the date of the decedent's death to avoid penalties.

(g) The probate court where papers relating to the estate are on file.

(h) That the estate may not be closed earlier than 5 months after the date of the original appointment and should be closed within 15 months.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.318 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.318 Objection to admission of will, appointment, or demand for bond.

Sec. 318. An objection to the admission of the will to probate or to an appointment or a demand for bond may be made only by filing a petition pursuant to section 351. If a proceeding is filed contesting an appointment, an affidavit of any other person entitled to appointment, consenting to the appointment of the persons objected to, provides a prima facie case for the validity of the appointment as against the person executing the affidavit.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.321 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.321 Informing interested parties about estate; statement.

Sec. 321. The independent personal representative shall keep the interested parties reasonably informed about the estate and its administration and, upon request, shall provide each interested party with a statement of the condition of the estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.322 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.322 Inventory of estate; submission of documents and information to court.

Sec. 322. (1) Within 90 days after the appointment, an independent personal representative shall prepare and send to all interested parties an inventory of the estate listing the assets of the estate with reasonable detail and setting forth as to each item its fair market value as of the date of the decedent's death. The inventory shall contain the information required by supreme court rule. The personal representative may file a copy of the inventory with the court.

(2) The independent personal representative shall timely submit to the court for review, but not for filing, the documents and information necessary to compute those court fees and inheritance taxes required by law to be determined by the court.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.325 THIS SECTION IS REPEALED BY ACT 386 OF 1998

EFFECTIVE APRIL 1, 2000 *****

700.325 Immediate disbursement and distribution of estate.

Sec. 325. If it appears from the inventory that the value of the entire estate, less liens and encumbrances, does not exceed homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, the independent personal representative, without giving notice to creditors, may immediately disburse and distribute the estate to persons entitled thereto and immediately file a closing statement with the court pursuant to section 326.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.326 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.326 Closing estate administered under S 700.325.

Sec. 326. Unless prohibited by order of the judge, an independent personal representative may close an estate administered under the summary procedures of section 325 by filing with the court a verified closing statement stating that all of the following have occurred:

(a) To the best knowledge of the personal representative, the value of the entire estate, less liens and encumbrances, did not exceed homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable, necessary medical and hospital expenses of the last illness of the decedent.

(b) The personal representative has fully administered the estate by disbursing and distributing it to the persons entitled thereto.

(c) The personal representative has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom he or she is aware whose claims are neither paid nor barred and has furnished a full account in writing of the administration to the distributees whose interests are affected.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.328 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.328 Claims against decedent's estate.

Sec. 328. For claims against a decedent's estate, article 7

shall govern in independent probate.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.331 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.331 Independent personal representative; power over title to property; exercise of power.

Sec. 331. Until termination of his or her appointment, unless earlier restricted by order of the court, an independent personal representative shall have the same power over the title to property of the estate that an absolute owner would have, in trust, however, for the benefit of interested persons. The power may be exercised without notice, hearing, or order of the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.332 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.332 Independent personal representative; commencement and relation back of duties and powers; ratification.

Sec. 332. The duties and powers of an independent personal representative commence upon appointment. The powers of an independent personal representative relate back in time to give acts by the person appointed which are beneficial to the estate occurring before the appointment the same effect as those occurring thereafter. Before the appointment, a person named personal representative in a will may carry out written instructions of the decedent relating to the decedent's body, funeral, and burial arrangements. An independent personal representative may ratify and accept acts on behalf of the estate done by others where the acts would have been proper for a personal representative.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.333 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.333 Exclusive authority of person to whom letters of independent administration first issued.

Sec. 333. A person to whom letters of independent administration are first issued has exclusive authority under the letters of authority until the appointment is superseded, restrained, terminated, or modified. If, through error, letters of authority are afterwards issued to another, the first appointed representative may recover any property of the estate in the hands of the representative subsequently appointed, but

the acts of the person subsequently appointed done in good faith before notice of the first letters of authority are not void for want of validity of appointment.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.334 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.334 Independent personal representative; powers generally.

Sec. 334. Except as restricted or otherwise provided by the will or by an order in a supervised proceeding, an independent personal representative acting reasonably for the benefit of the interested persons, may properly do any of the following:

(a) Retain assets owned by the decedent pending distribution or liquidation, including assets in which the representative is personally interested or which are otherwise improper for trust investment.

(b) Receive assets from a fiduciary, or other sources.

(c) Perform, compromise, or refuse performance of the decedent's contracts that continue as obligations of the estate, as the personal representative may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease land, the personal representative may do any of the following:

(i) Execute and deliver a deed of conveyance for cash payment of sums remaining due or the purchaser's note for the sum remaining due secured by a mortgage on the land.

(ii) Deliver a deed in escrow with direction that the proceeds, when paid pursuant to the escrow agreement, be paid to the distributees of the decedent, as designated in the escrow agreement.

(d) Satisfy written charitable pledges of the decedent whether or not the pledges constituted binding obligations of the decedent or were properly presented as claims, if, in the judgment of the personal representative the decedent would have wanted the pledges completed under the circumstances.

(e) If funds are not needed to meet debts and expenses currently payable and the funds are not immediately distributable, deposit or invest liquid assets of the estate, including money received from the sale of other assets, in federally insured interest-bearing accounts, readily marketable secured loan arrangements, or other prudent investments which would be reasonable for use by a trustee generally.

(f) Acquire or dispose of an asset, including land in this or

another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset.

(g) Make ordinary or extraordinary repairs of alterations in buildings or other structures, demolish improvements, raze existing, or erect new party walls or buildings.

(h) Subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; or adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate easements to public use without consideration.

(i) Enter into a lease as lessor or lessee, with or without an option to purchase or renew, for a term within or extending beyond the period of administration.

(j) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources, or enter into a pooling or unitization agreement.

(k) Abandon property when, in the opinion of the personal representative, it is valueless, or is so encumbered, or is in condition that it is of no benefit to the estate.

(l) Vote stocks or other securities in person or by general or limited proxy.

(m) Pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by this act relating to claims.

(n) Hold a security in the name of a nominee or in other form without disclosure of the interest of the estate. The personal representative is liable for an act of the nominee in connection with the security held in this manner.

(o) Insure the assets of the estate against damage, loss, and liability, and insure himself or herself against liability as to third persons.

(p) Borrow money with or without security to be repaid from the estate assets or otherwise; and advance money for the protection of the estate.

(q) Effect a fair and reasonable compromise with a debtor or obligor, or extend, renew, or modify the terms of an obligation owed to the estate. If the personal representative holds a mortgage, pledge, or other lien upon property of another person, the personal representative, in lieu of foreclosure, may accept a conveyance or transfer of encumbered assets from the owner of the property in satisfaction of the indebtedness secured by lien.

(r) Pay taxes, assessments, reasonable compensation of the personal representative, and other expenses incident to the administration of the estate.

(s) Sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.

(t) Allocate items of income or expense to either estate income or principal, as allowed or required by law.

(u) Employ persons, including attorneys, auditors, investment advisors, or agents, in their particular professional specialty, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of the personal representative's administrative duties; act without independent investigation upon their recommendations; and instead of acting personally, employ 1 or more agents to perform an act of administration, whether or not discretionary.

(v) Prosecute or defend claims, or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the successful defense of the personal representative's performance of duties.

(w) Sell, mortgage, or lease real or personal property of the estate or any interest in property of the estate for cash, credit, or for part cash and part credit, without security for unpaid balances unless the amount of the unpaid balance exceeds \$500.00.

(x) Continue an unincorporated business or venture in which the decedent was engaged at the time of the decedent's death in the same business form for a period of not more than 4 months from the date of appointment of an independent personal representative if the continuation is a reasonable means of preserving the value of the business including good will, in the same business form for an additional period of time that may be approved by order of the court in a supervised proceeding to which the interested persons are parties, or throughout the period of administration, if the business is incorporated by the independent personal representative and if none of the probable distributees of the business who are competent adults object to its incorporation and retention in the estate.

(y) Incorporate a business or venture in which the decedent was engaged at the time of the decedent's death.

(z) Provide for exoneration of the personal representative from personal liability in a contract entered into on behalf of the estate.

(aa) Satisfy and settle claims and distribute the estate as

provided by law.

(bb) Partition the estate pursuant to agreement between distributees, provided that the terms of the agreement are in writing and do not impair the rights of an interested person.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.335 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.335 Successor independent personal representative; powers and duties.

Sec. 335. A successor independent personal representative has the same powers and duties as the original independent personal representative to complete the administration and distribution of the estate, but the independent personal representative shall not exercise a power expressly made personal to the personal representative named in the will.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.341 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.341 Independent personal representative as fiduciary; standard of care; duty; use of authority for best interests of estate and interested parties.

Sec. 341. (1) An independent personal representative is a fiduciary who shall observe the standard of care of a prudent person acting for the purposes of a trust from the time of appointment until final distribution of the assets of the estate.

(2) An independent personal representative is under a duty to settle and distribute the estate of the decedent pursuant to law and the terms of any probated and effective will, including payment of any tax which is or may become a charge against the estate, and as expeditiously and efficiently as is consistent with the best interests of the estate.

(3) An independent personal representative shall use the authority conferred by this act, the terms of the will, if any, and any order in proceedings to which the independent personal representative is a party for the best interests of the estate and the interested parties.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.343 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.343 Independent personal representative; surcharge; authority; duty to administer and distribute estate; standing to sue.

Sec. 343. (1) An independent personal representative shall not be surcharged for any good faith act of administration or distribution if the act in question was authorized at the time.

(2) Subject to other obligations of administration, independent probate of a will is authority to administer and distribute the estate pursuant to the terms of the will. An order of appointment of an independent personal representative is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the independent personal representative is not aware of a pending testacy proceeding, a supervised probate proceeding, or any other judicial or independent proceeding pending with respect to the estate.

(3) Subsection (2) shall not affect the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants, the surviving spouse, any minor and dependent children, and any pretermitted child of the decedent as those rights are described elsewhere in this act.

(4) Except as to proceedings which do not survive the death of the decedent, an independent personal representative of a decedent domiciled in this state at death has the same standing to sue and be sued in the courts of this state and the courts of any other jurisdiction as the decedent had immediately before death.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.345 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.345 Independent personal representative; transactions affected by conflict of interest voidable.

Sec. 345. A sale or encumbrance to the independent personal representative, the personal representative's spouse, agent or attorney, or a corporation or trust in which the personal representative has a substantial beneficial interest, or a transaction which is affected by a substantial conflict of interest on the part of the independent personal representative, is voidable by a person interested in the estate except one who has consented after fair disclosure, unless either of the following is true:

(a) The will or a contract entered into by the decedent expressly authorized the transaction.

(b) The transaction is approved by the judge after notice to

interested persons.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.346 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.346 Independent personal representative; breach of fiduciary duty; liability.

Sec. 346. If an independent personal representative improperly exercises a power concerning the estate, the independent personal representative is liable to an interested person for damage or loss resulting from breach of the personal representative's fiduciary duty to the same extent as a trustee of an express trust.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.347 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.347 Independent personal representative; acts resulting in liability to interested party for loss to estate.

Sec. 347. An independent personal representative is liable to an interested party for any loss to the estate as a result of any of the following acts:

- (a) Embezzlement.
- (b) Commingling of assets of the estate with personal representative's own assets.
- (c) Negligence in the handling of an estate.
- (d) Wanton and wilful mishandling of assets of the estate.
- (e) Self dealing.
- (f) Failure to account for or terminate the estate when it is ready for termination and an extension of time is not granted by the court.
- (g) Misfeasance, malfeasance, or nonfeasance.
- (h) Other breach of duty.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.349 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.349 Protection of person assisting or dealing with independent personal representative.

Sec. 349. (1) A person who, in good faith, assists an independent personal representative or deals with an independent personal representative for value is protected as if the independent personal representative properly exercised a power. The fact that a person knowingly deals with an independent personal representative does not alone require the person to inquire into the existence of a power or the propriety of the exercise of the power. Except for restrictions on powers of an independent personal representative as indorsed on the letters of authority, a provision in a will or order of a judge purporting to limit the power of a personal representative is effective only as to persons with actual knowledge of the provision. A person is not bound to see to the proper application of estate assets paid or delivered to an independent personal representative.

(2) The protection provided in subsection (1) is not a substitute for protection provided by a comparable provision of law relating to commercial transactions or any law simplifying the transfer of a security by a fiduciary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.351 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.351 Petition for supervision; filing; notice; request; proceedings.

Sec. 351. (1) At any time in an independent probate proceeding, a petition for supervision may be filed with the court by an interested person or by an independent personal representative. Notice shall be given as prescribed by supreme court rule. The petition may request supervision of the entire estate until final distribution, or may request supervision of any part of the administration of the estate. A petition which requests supervision of part of the administration of the estate does not authorize the court to supervise any other part, or the whole, of the estate.

(2) If a petition goes to the validity of the will, the proceeding shall be limited to a determination of whether a decedent left a valid will.

(3) If a petition is limited to a part of the administration of an estate, the proceeding shall be limited to the disposition of the subject matter of the petition and independent probate shall proceed subject to the order of the judge on the petition.

(4) A petition for supervision of the entire estate initiates a single in rem proceeding to secure the complete administration and settlement of a decedent's estate under the continuing

authority of the court. If the petition is granted, independent probate is terminated and the estate shall proceed under supervised administration. If the petition is not granted, independent probate shall proceed with, or without, limitations as ordered by the judge.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.352 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.352 Ordering supervised administration.

Sec. 352. (1) If a petition is filed pursuant to section 351 and if the decedent's will directs independent probate, supervised administration shall be ordered only upon a finding by the judge that it is necessary for protection of persons interested in the estate.

(2) In other cases, where a petition is filed pursuant to section 351, the judge may order supervised administration of a decedent's estate upon a finding by the judge that supervised administration is necessary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.353 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.353 Powers of judge pending hearing; order; hearing for instructions; construction of section.

Sec. 353. (1) Upon the filing of a petition of an interested person pursuant to section 351 and pending a hearing on the petition, the judge may do any of the following:

(a) Suspend the powers and authority of an independent personal representative and appoint a temporary personal representative with those powers necessary to preserve, conserve, and protect the assets of the estate if the appointment is necessary to prevent waste or misconduct on the part of the independent personal representative. The appointment shall continue until it is apparent that the estate is no longer imperiled, until the suspended personal representative is reinstated, or until another personal representative is appointed.

(b) Make an order to secure proper performance of an independent personal representative's duty or restrain or enjoin an independent personal representative from performing specific acts of administration, exercising powers, or discharging any duties of the office, if it appears to the judge that the personal representative otherwise may take some action which would unreasonably jeopardize an interest of the petitioner or another interested person.

(2) After a hearing on a petition filed pursuant to section 351, and subject to the limitations of section 351, the judge may issue any appropriate order pursuant to section 361.

(3) The independent personal representative or an interested person may petition for a hearing for instructions from the judge on any matter relative to independent probate.

(4) Unless specifically ordered by the judge in an authorized proceeding, this section shall not be construed to mean that an independent personal representative is prohibited from administering the estate under independent probate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.354 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.354 Enjoining conduct presenting risk of waste, dissipation of assets, or jeopardy to interests; procedure.

Sec. 354. (1) Upon reliable information received from an interested person, county or state official, or other informed source, and pursuant to the ordinary principles of equity, the judge may enjoin any person subject to its jurisdiction from conduct which presents an immediate risk of waste, or unnecessary dissipation of an estate's assets, or of jeopardy to an interest of an interested person. An enjoined person may be heard within 5 days to show cause why the order should be terminated.

(2) If an interested person who may be injured by the conduct of an enjoined person files a petition pursuant to section 351, the order of the judge under this section shall terminate.

(3) An order under this section shall not continue for more than 20 days after the date of issuance and may not be renewed for the same act.

(4) In conjunction with any order under subsection (1), the court may do either or both of the following:

(a) Notify any interested person of that person's right to petition for supervision of the estate and to any other remedy.

(b) Require the appearance of any interested person to determine if that person wishes to have supervision or to pursue a remedy for any misconduct.

(5) A judge acting under this section shall make the cause for an order a matter of record.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.357 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.357 Settlement and distribution of estate in independent probate; proceedings; report of continuing pendency; hearing; notice; determination; supervision of estate by court; closing statement; objections; termination of appointment.

Sec. 357. (1) The settlement and distribution of an estate in independent probate shall proceed as expeditiously as possible, free of judicial intervention and without order, approval, or other action of the court, subject to the jurisdiction of the court as invoked in appropriate proceedings under this article. The court shall not require proof of performance of any duty of the independent personal representative or hold any hearing or judicial proceeding when the independent personal representative files a verified closing statement with the court as to that performance, unless an objection is filed as provided in subsection (4).

(2) If an estate in independent probate is not settled within 14 months, an independent personal representative shall file with the court, not later than 30 days after the fourteenth month, a detailed report of the estate's continuing pendency, and reasons for the delay in its closing and distribution. If the court then has good cause to believe that the continuing pendency of the estate is not reasonable under the circumstances, the court shall set a hearing, require notice to all interested persons, and determine if independent probate shall continue for the estate. If evidence at the hearing shows by its preponderance that no good reason exists for the continuing pendency of the estate, the court shall assume supervision of the estate and take any necessary steps to complete the administration.

(3) Unless prohibited by order of the court, an independent personal representative shall close an estate by filing with the court, not earlier than 5 months after the date of original appointment of an independent personal representative for the estate, a verified closing statement that a personal representative has performed all of the following:

(a) Published notice to creditors as provided by this article and supreme court rules and that the first publication occurred more than 4 months before the date of the closing statement.

(b) Fully administered the estate of the decedent by making payment, settlement, or other disposition of claims which were presented, expenses of administration, and estate, inheritance, and other taxes, except as specified in the closing statement, and distributed the assets of the estate to the persons entitled. If a claim remains undischarged, the closing statement shall state whether the independent personal representative distributed the estate subject to possible liability with the agreement of the distributees or shall state in detail other arrangements

which were made to accommodate outstanding liabilities.

(c) Sent a copy of the verified closing statement to all interested parties and to all creditors or other claimants whose claims are neither paid nor barred.

(4) If an interested person objects to the inventory, account, or distribution as set forth in the closing statement, the register shall schedule a hearing and cause notice of hearing to be served on all interested persons. After hearing, the judge may enter an order approving or modifying the inventory, account, or distribution, or may enter any other order as justice requires.

(5) If a proceeding involving the independent personal representative is not pending in the court 1 year after the closing statement is filed, the appointment of the personal representative terminates.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.358 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.358 Independent probate conclusive; rights and claims barred; action for fraud; limitations; proceeding to contest will.

Sec. 358. (1) Independent probate is conclusive as to all persons unless a supervised proceeding is initiated within the appropriate statute of limitations.

(2) Unless previously barred by adjudication and except as provided in the closing statement, the rights of interested parties and of creditors whose claims have not otherwise been barred against the independent personal representative for breach of fiduciary duty are barred unless a proceeding to assert the claim is commenced within 6 months after the filing of the closing statement. The rights barred do not include rights to recover from an independent personal representative for fraud, misrepresentation, or inadequate disclosure related to the administration of the decedent's estate.

(3) Unless previously determined in a supervised proceeding settling the accounts of an independent personal representative or otherwise barred, the claim of a claimant to recover from a distributee who is liable to pay the claim, and the right of an heir or devisee, or of a successor personal representative acting on behalf of an heir or devisee, to recover property improperly distributed or the value of the property from any distributee, is forever barred at the later of 3 years after the decedent's death or 1 year after the time of distribution. When fraud is perpetrated in connection with any probate court proceeding or filing relating to a decedent's estate is induced by fraud to refrain from initiating or participating in a probate court

proceeding or from disclosing facts of relevance to a succession, a person who is deprived of an opportunity to establish his or her interest in a succession may recover damages or obtain any other appropriate relief in an action against the perpetrator of the fraud, or may obtain restitution from any person, other than a bona fide purchaser, benefiting from the fraud whether innocent or not, by an action commenced within 2 years from the discovery of the fraud; but an action may not be brought against any innocent party later than 5 years after the time of commission of the fraud or the death of the decedent whose estate is in question, whichever occurs later.

(4) Unless previously determined in a supervised proceeding or otherwise barred, a proceeding to contest a will admitted to independent probate will be barred 90 days after giving notice of appointment to interested parties pursuant to section 315.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.359 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.359 Certificate.

Sec. 359. If an objection is not filed within 30 days after the filing of the closing statement, the independent personal representative, the sureties of an independent personal representative, or a successor of either, is entitled to receive a certificate from the court that the independent personal representative appears to have fully administered the estate. The certificate evidences discharge of any bond or surety, but does not preclude action against the independent personal representative or the surety.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.361 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.361 Powers of judge in independent probate.

Sec. 361. If the assistance or supervision of a judge is sought by petition pursuant to the terms of this article, the judge shall have the same powers to hear and determine a matter raised in the petition and to make any proper order to fully effectuate the court's jurisdiction and decisions as a probate judge would have under supervised administration with respect to the same matter.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.362 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.362 Purchaser or lender; taking title free of rights of interested person in estate.

Sec. 362. If property distributed in kind or a security interest in property distributed in kind is acquired in good faith and for value by a purchaser from, or lender to, a distributee who has received an instrument or deed of distribution from the independent personal representative, or is so acquired by a purchaser from, or lender to, a transferee from such distributee, then the purchaser or lender shall take title free of the rights of any interested person in the estate, and shall not incur any personal liability to the estate or to any interested person, whether or not the distribution was proper or supported by court order. This section shall apply to a good faith purchaser for value from, or lender to, a distributee who, as independent personal representative, has executed a deed of distribution to himself or herself, as well as to a good faith purchaser for value from, or lender to, any other distributee or transferee of a distributee. To be protected under this section, a purchaser or lender need not inquire whether an independent personal representative acted properly in making the distribution in kind, even if the independent personal representative and the distributee are the same person.

History: Add. 1984, Act 377, Eff. Mar. 29, 1985.

ARTICLE 4

***** 700.401 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.401 Guardianship and protective proceedings; jurisdiction; consolidation; testimony of spouse for or against other spouse permitted.

Sec. 401. (1) The court has jurisdiction over protective proceedings and guardianship proceedings.

(2) When both guardianship and protective proceedings as to the same person are commenced or pending in the same court, the proceedings may be consolidated.

(3) In proceedings under this article, a spouse may testify for or against the other spouse.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 396, Imd. Eff. Jan. 8, 1981.

***** 700.403 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.403 Payment or delivery of money or personal property to minor; application of money; preservation of excess sums;

responsibility.

Sec. 403. A person under a duty to pay or deliver money or personal property to a minor may perform this duty, in amounts not exceeding \$5,000.00 per annum, by paying or delivering the money or property to the minor, if the minor is married; a parent or a person having the care and custody of the minor under a court order and with whom the minor resides; or a guardian of the minor. This section does not apply if the person making payment or delivery has actual knowledge that a conservator is appointed or if proceedings for appointment of a conservator of the estate of the minor are pending. The persons, other than the married minor receiving money or property for a minor, are obligated to apply the money to the support and education of the minor, but may not pay themselves except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the minor's support. Any excess sums shall be preserved for future support of the minor and any balance not so used and any property received for the minor shall be turned over to the minor when the minor attains majority. A person who pays or delivers pursuant to this section is not responsible for the proper application of the sums.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.405 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.405 Delegating powers of parent or guardian; exceptions.

Sec. 405. A parent, guardian of a minor, or guardian of a legally incapacitated person, by a properly executed power of attorney, may delegate to another person for a period not exceeding 6 months, any of the parent's or guardian's powers regarding care, custody, or property of the minor child or ward, except the power to consent to marriage or adoption of a minor ward and the power to release a minor ward for adoption.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1988, Act 398, Eff. Mar. 30, 1989.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.407 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.407 Donation of kidney for transplantation; jurisdiction of probate judge; petition; appointment of guardian ad litem; hearing; notice; order.

Sec. 407. A judge of probate shall have jurisdiction of the matters described in this section. A person of 14 years of age or more may give 1 of his or her 2 kidneys to a father, mother, son, daughter, brother, or sister for a transplantation needed by the intended donee, when authorized by order of the court which has jurisdiction of the prospective donor. The petition for an order may be made by the guardian, parent, spouse, child, or other next of kin of the prospective donor other than the intended donee. If the prospective donor does not have a guardian, the court shall appoint a guardian ad litem to protect the prospective donor's interests. The court shall hold a hearing on the petition and cause notice of the hearing to be given. The prospective donor shall be present at the hearing and shall be examined by the petitioner, or the court, or both. If the court determines that the prospective donor is sufficiently sound of mind to understand the needs and probable consequences of the gift to both the donor and donee and agrees to the gift, the court may enter an order authorizing the making of the gift.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.408 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.408 Application of insurance proceeds to cost of funeral and burial.

Sec. 408. If a conservator of the estate of a minor or legally incapacitated person received as beneficiary the proceeds of a policy of insurance upon the life of a decedent, and if either there is not an estate of the decedent or the decedent's estate is insufficient to pay the decedent's reasonable funeral and burial expenses, the court, upon petition of the conservator, may direct payment out of the proceeds, not exceeding \$1,000.00, to apply to the cost of the funeral and burial.

History: Add. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.421 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.421 Guardian of minor; acceptance of appointment; continuation of status.

Sec. 421. A person becomes a guardian of a minor by acceptance of a testamentary appointment or upon appointment by the court. The guardianship status continues until terminated, without regard to the location from time to time of the guardian and minor ward.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.422 THIS SECTION IS REPEALED BY ACT 386 OF 1998

EFFECTIVE APRIL 1, 2000 *****

700.422 Guardian of unmarried minor; testamentary appointment by parent.

Sec. 422. The parent of a minor may appoint by will a guardian of an unmarried minor. Subject to the right of the minor under section 423, a testamentary appointment becomes effective upon filing the guardian's acceptance in the court in which the will is probated, if before acceptance both parents are dead or the surviving parent is adjudged legally incapacitated. If both parents are dead, an effective appointment by the parent who died later has priority. This state recognizes a testamentary appointment effected by filing the guardian's acceptance under a will probated in another state which is the testator's domicile.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.423 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.423 Preventing or terminating appointment of testamentary guardian; objection by minor.

Sec. 423. A minor of 14 years of age or older may prevent an appointment of a testamentary guardian from becoming effective, or may cause a previously accepted appointment to terminate, by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within 30 days after its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the testamentary nominee, or any other suitable person.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.424 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.424 Petition for appointment of guardian of minor; investigation; report; court appointment of guardian for unmarried minor; petition by limited guardian; priority of testamentary guardian; support, parenting time, and contact by parents.

Sec. 424. (1) A person interested in the welfare of a minor, or a minor if he or she is 14 years of age or older, may petition for the appointment of a guardian of the minor. The court may order the family independence agency or an employee or agent of the court to conduct an investigation of the proposed guardianship and file a written report of the investigation.

(2) The court may appoint a guardian for an unmarried minor if 1 or more of the following circumstances exist:

(a) The parental rights of both parents or of the surviving parent have been terminated or suspended by prior court order, by judgment of divorce or separate maintenance, by death, by judicial determination of mental incompetency, by disappearance, or by confinement in a place of detention.

(b) The parent or parents have permitted the minor to reside with another person and have not provided the other person with legal authority for the care and maintenance of the minor, and the minor is not residing with his or her parent or parents when the petition is filed.

(c) All of the following:

(i) The minor's biological parents have never been married to one another.

(ii) The minor's parent who has custody of the minor dies or is missing and the other parent has not been granted legal custody under court order.

(iii) The person whom the petition asks to be appointed guardian is related to the minor within the fifth degree by marriage, blood, or adoption.

(3) A limited guardian of a minor may petition to be appointed a guardian for that minor, except that the petition shall not be based upon suspension of parental rights by the order that appointed that person the limited guardian of that minor.

(4) A guardian appointed by will as provided in section 422 whose appointment is not prevented or nullified under section 423 has priority over a guardian who may be appointed by the court. The court may proceed with an appointment upon a finding that the testamentary guardian has failed to accept the testamentary appointment within 30 days after notice of the guardianship proceeding.

(5) For the welfare of the minor ward, the court may at any time order reasonable support and reasonable parenting time and contact of the minor ward by his or her parents.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 396, Imd. Eff. Jan. 8, 1981;--Am. 1990, Act 313, Imd. Eff. Dec. 20, 1990;--Am. 1994, Act 159, Imd. Eff. June 13, 1994;--Am. 1996, Act 8, Eff. June 1, 1996;--Am. 1998, Act 494, Eff. Mar. 1, 1999.

***** 700.424a THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.424a Appointment of limited guardian for unmarried minor; requirements; limited guardianship placement plan; suspension of parental rights; powers and duties of limited guardian.

Sec. 424a. (1) Beginning December 20, 1990, the court may appoint a limited guardian for an unmarried minor under this section upon the petition of the parent or parents if all of the following requirements are met:

(a) The parents with custody of the minor consent or, in the case of only 1 parent having custody of the minor, the sole parent consents to the appointment of a limited guardian.

(b) The parent or parents voluntarily consent to the suspension of their parental rights.

(c) The court approves a limited guardianship placement plan agreed to by both of the following parties:

(i) The parents with custody of the minor or, in the case of only 1 parent having custody of the minor, the sole parent who has custody of the minor.

(ii) The person or persons who the court will appoint as limited guardian of the minor.

(2) The parent or parents of a minor who desire to have the court appoint a limited guardian for that minor and the person or persons who desire to be appointed limited guardian for that minor shall develop a limited guardianship placement plan. The parties shall use a limited guardianship placement plan form prescribed by the state court administrator. A limited guardianship placement plan form shall include a notice that informs a parent who is a party to the plan that substantial failure to comply with the plan without good cause may result in the termination of the parent's parental rights under chapter XIIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.31 of the Michigan Compiled Laws. The proposed limited guardianship placement plan shall be attached to the petition requesting the court to appoint a limited guardian. The limited guardianship placement plan shall include provisions concerning all of the following:

(a) The reason why the parent or parents are requesting the court to appoint a limited guardian for the minor.

(b) Parenting time and contact with the minor by his or her parent or parents sufficient to maintain a parent and child relationship.

(c) The duration of the limited guardianship.

(d) Financial support for the minor.

(e) Any other provisions that the parties agree to include in the plan.

(3) The court shall review a proposed limited guardianship placement plan filed with the court pursuant to this section and shall do 1 of the following:

(a) Approve the proposed plan.

(b) Disapprove the proposed plan.

(c) On its own motion, modify a proposed plan and approve it as modified, if the parties agree to the modification. The modified plan shall be filed with the court.

(4) A limited guardianship placement plan that has been approved by the court may be modified upon agreement of the parties and approval of the court. A modified limited guardianship placement plan shall be filed with the court.

(5) The suspension of parental rights under this section does not prevent the parent or parents from filing a petition to terminate the limited guardianship at any time under section 424c. Appointment of a limited guardian under this section shall be a continuing appointment.

(6) A limited guardian appointed under this section shall have all of the powers and duties enumerated in section 431, except that a limited guardian may not consent to the adoption of the minor or release of the minor for adoption nor may a limited guardian consent to the marriage of a minor ward.

History: Add. 1980, Act 396, Imd. Eff. Jan. 8, 1981;--Am. 1990, Act 313, Imd. Eff. Dec. 20, 1990;--Am. 1996, Act 8, Eff. June 1, 1996.

***** 700.424b THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.424b Review of guardianship for minor; factors; investigation; report; action by court.

Sec. 424b. (1) The court may review a guardianship for a minor as it considers necessary and shall review a guardianship annually if the minor is under 6 years of age. In conducting the review, the court shall consider all of the following factors:

(a) The parent's and guardian's compliance with either of the following, as applicable:

(i) A limited guardianship placement plan.

(ii) A court-structured plan under subsection (3)(b)(ii)(B) or section 424c(4)(b)(ii).

(b) Whether the guardian has adequately provided for the welfare of the minor.

(c) The necessity of continuing the guardianship.

(d) The willingness and ability of the guardian to continue to provide for the welfare of the minor.

(e) The effect upon the welfare of the minor if the guardianship is continued.

(f) Any other factor that the court considers relevant to the welfare of the minor.

(2) The court may order the department of social services or an employee or agent of the court to conduct an investigation and file a written report of the investigation regarding factors described in subsection (1).

(3) Upon completion of a review of a guardianship, the court may do either of the following:

(a) Continue the guardianship.

(b) Schedule and conduct a hearing on the status of the guardianship and do any of the following:

(i) If the guardianship is a limited guardianship, do either of the following:

(A) Continue the limited guardianship.

(B) Order the parties to modify the limited guardianship placement plan as a condition to continuing the limited guardianship.

(ii) If the guardianship was established under section 424, do either of the following:

(A) Continue the guardianship.

(B) Order the parties to follow a court-structured plan designed to resolve the conditions identified at the review hearing.

(iii) Take any of the actions described in section 424c(4).

History: Add. 1990, Act 313, Imd. Eff. Dec. 20, 1990;--Am. 1994, Act 159, Imd. Eff. June 13, 1994.

***** 700.424c THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.424c Termination of guardianship for minor.

Sec. 424c. (1) The parent or parents of a minor may petition

the court to terminate a guardianship for the minor, as follows:

(a) If the guardianship is a limited guardianship, the parents or the sole parent with a right to custody of the minor.

(b) If the guardianship was established under section 424, the parent or parents of the minor.

(2) If a petition has been filed to terminate a guardianship under this section, the court may do 1 or more of the following:

(a) Order the family independence agency or an employee or agent of the court to conduct an investigation and file a written report of the investigation regarding the best interests of the minor or give testimony concerning the investigation.

(b) Utilize the community resources in behavioral sciences and other professions in the investigation and study of the best interests of the minor and consider their recommendations for the disposition of the petition.

(c) Appoint a guardian ad litem or attorney to represent the minor.

(d) Take any other action considered necessary in a particular case.

(3) After notice and hearing on a petition to terminate a limited guardianship, the court shall terminate the limited guardianship if it determines that the parent or parents of the minor have substantially complied with the limited guardianship placement plan. The court may enter orders to facilitate the reintegration of the minor into the home of the parent or parents for a period of up to 6 months prior to the termination.

(4) For all petitions to terminate a guardianship in which subsection (3) does not apply, the court, after notice and hearing, may do any of the following:

(a) Terminate the guardianship if the court determines that it is in the best interests of the minor, and may do any of the following:

(i) Enter orders to facilitate the reintegration of the minor into the home of the parent for a period of up to 6 months prior to the termination.

(ii) Order the family independence agency to supervise the transition period when the minor is being reintegrated into the home of his or her parent.

(iii) Order the family independence agency to provide services to facilitate the reintegration of the minor into the home of his or her parent.

(b) Continue the guardianship for not more than 1 year from the date of the hearing if the court determines that it is in the best interests of the minor, and do any of the following:

(i) If the guardianship is a limited guardianship, order the parent or parents to comply with 1 of the following:

(A) The limited guardianship placement plan.

(B) A court-modified limited guardianship placement plan.

(C) If the limited guardianship was established before December 20, 1990, a court-structured plan that enables the child to return to the home of his or her parent or parents.

(ii) If the guardianship was ordered under section 424, order the parent or parents to follow a court-structured plan that enables the child to return to the home of his or her parent or parents.

(iii) If a guardianship is continued pursuant to subparagraph (i) or (ii), schedule and conduct a hearing to review the guardianship before the expiration of the period of time that the guardianship is continued and either terminate the guardianship or limited guardianship, or proceed under subdivision (c) or (d).

(c) If the minor has resided with the guardian or limited guardian for not less than 1 year and if the court finds that the parent or parents of the minor have failed to provide the minor with parental care, love, guidance, and attention appropriate to the child's age and individual needs resulting in a substantial disruption of the parent-child relationship, continue the guardianship if it is established by clear and convincing evidence that the continuation would serve the best interests of the minor.

(d) Appoint an attorney to represent the minor or refer the matter to the family independence agency. The attorney or the family independence agency may file a complaint on behalf of the minor requesting the family division of circuit court to take jurisdiction of the minor under section 2(b) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws.

(5) As used in this section, "best interests of the minor" means the sum total of the following factors to be considered, evaluated, and determined by the court:

(a) The love, affection, and other emotional ties existing between the parties involved and the child.

(b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and continuation of

the educating and raising of the child in its religion or creed, if any.

(c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.

(d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(e) The permanence, as a family unit, of the existing or proposed custodial home.

(f) The moral fitness of the parties involved.

(g) The mental and physical health of the parties involved.

(h) The home, school, and community record of the child.

(i) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.

(j) The willingness and ability of the guardian to facilitate and encourage a close and continuing parent-child relationship between the child and his or her parent or parents.

(k) Any other factor considered by the court to be relevant to a particular dispute regarding termination of a guardianship, removal of a guardian, or parenting time.

(6) This section applies to all guardianships established before, on, or after the effective date of this section.

History: Add. 1990, Act 313, Imd. Eff. Dec. 20, 1990;--Am. 1994, Act 159, Imd. Eff. June 13, 1994;--Am. 1996, Act 8, Eff. June 1, 1996;--Am. 1996, Act 408, Eff. Jan. 1, 1998.

***** 700.424d THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.424d Termination of guardianship for minor; receipt of judgment or order of disposition.

Sec. 424d. Upon receipt of a copy of a judgment or an order of disposition in a child custody action regarding a minor that is sent to the court pursuant to section 6b(4) of the child custody act of 1970, Act No. 91 of the Public Acts of 1970, being section 722.26b of the Michigan Compiled Laws, the court shall terminate the guardianship or limited guardianship for that minor.

History: Add. 1990, Act 313, Imd. Eff. Dec. 20, 1990.

***** 700.425 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.425 Venue for guardianship proceedings for minor.

Sec. 425. The venue for guardianship proceedings for a minor is in the place where the minor resides or is present.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.426 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.426 Appointment to serve welfare of minor.

Sec. 426. The court may appoint as guardian a person whose appointment would serve the welfare of the minor. The court shall appoint a person nominated by the minor, if the minor is 14 years of age or older, unless the court finds the appointment contrary to the welfare of the minor.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1990, Act 313, Imd. Eff. Dec. 20, 1990.

***** 700.427 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.427 Notice of hearing for appointment of guardian of minor; appointment of guardian, temporary guardian, or lawyer-guardian ad litem.

Sec. 427. (1) The petitioner shall give notice of the time and place of hearing of a petition for the appointment of a guardian of a minor to each of the following:

(a) The minor, if 14 years of age or older.

(b) The person who had the principal care and custody of the minor during the 60 days preceding the date of the petition.

(c) Each living parent of the minor or, if neither of them is living, the adult nearest of kin to the minor.

(2) Upon hearing of a petition to appoint a guardian, if the court finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of section 424 or 424a are satisfied, and the minor's welfare will be served by the requested appointment, the court shall make the appointment. In other cases, the court may dismiss the proceedings or make any other disposition of the matter that will serve the minor's welfare.

(3) If necessary, the court may appoint a temporary guardian

with the status of an ordinary guardian of a minor, but the temporary guardian's authority shall not exceed 6 months.

(4) If, at any time in the proceeding, the court determines that the minor's interests are inadequately represented, the court may appoint a lawyer-guardian ad litem to represent the minor, giving consideration to the minor's preference if the minor is 14 years of age or older. In addition to any other powers and duties, a lawyer-guardian ad litem's powers and duties include those prescribed in section 427a.

(5) To assist the court in determining a child's best interests, the court may appoint a guardian ad litem for a child involved in a proceeding under this section.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 396, Imd. Eff. Jan. 8, 1981;--Am. 1990, Act 313, Imd. Eff. Dec. 20, 1990;--Am. 1998, Act 481, Eff. Mar. 1, 1999.

***** 700.427a THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.427a Lawyer-guardian ad litem; powers and duties; report and recommendation; costs and fees.

Sec. 427a. (1) A lawyer-guardian ad litem represents the child and has powers and duties in relation to that representation as set forth in section 17d of chapter XIIA of 1939 PA 288, MCL 712A.17d. All provisions of section 17d of chapter XIIA of 1939 PA 288, MCL 712A.17d, apply to a lawyer-guardian ad litem appointed under this act.

(2) In a proceeding in which a lawyer-guardian ad litem represents a child, he or she may file a written report and recommendation. The court may read the report and recommendation. The court shall not, however, admit the report and recommendation into evidence unless all parties stipulate the admission. The parties may make use of the report and recommendation for purposes of a settlement conference.

(3) After a determination of ability to pay, the court may assess all or part of the costs and reasonable fees of a lawyer-guardian ad litem against 1 or more of the parties involved in the proceedings or against the money allocated from marriage license fees for family counseling services under section 3 of 1887 PA 128, MCL 551.103. A lawyer-guardian ad litem shall not be paid a fee unless the court first receives and approves the fee.

History: Add. 1998, Act 481, Eff. Mar. 1, 1999.

***** 700.428 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.428 Guardian of minor; submitting personally to jurisdiction; notice of proceedings; letter of guardianship.

Sec. 428. By accepting a testamentary or court appointment as guardian, a guardian submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by an interested person. Notice of a proceeding shall be delivered to the guardian, or mailed to the guardian by first class mail as the guardian's address as listed in the court records and to the guardian's address as then known to the petitioner. Letters of guardianship shall indicate whether the guardian was appointed by will or by court order.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.431 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.431 Guardian of minor; powers and duties; death of minor under guardianship.

Sec. 431. (1) A guardian of a minor has the powers and responsibilities of a parent who is not deprived of custody of the parent's minor and unemancipated child, except that a guardian is not legally obligated to provide from the guardian's own funds for the ward and is not liable to third persons by reason of the parental relationship for acts of the ward. A guardian has the following powers and duties:

(a) The guardian shall take reasonable care of a ward's personal effects and commence protective proceedings if necessary to protect other property of the ward.

(b) The guardian may receive money payable for the support of the ward to the ward's parent, guardian, or custodian under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, conservatorship, or custodianship. The guardian may receive money or property of the ward paid or delivered pursuant to section 403. A sum so received shall be applied to the ward's current needs for support, care, and education. The guardian shall exercise due care to conserve any excess for the ward's future needs unless a conservator is appointed for the estate of the ward, in which case excess shall be paid over at least annually to the conservator. A sum so received by the guardian is not to be used for compensation for the guardian's services except as approved by order of the court or as determined by a duly appointed conservator other than the guardian. A guardian may institute proceedings to compel the performance by a person of a duty to support the ward or to pay sums for the welfare of the ward.

(c) The guardian shall facilitate the ward's education and social or other activities, and shall authorize medical or other professional care, treatment, or advice. A guardian is not liable

by reason of this consent for injury to the ward resulting from the negligence or acts of third persons unless it would be illegal for a parent to have consented. A guardian may consent to the marriage of a minor ward. Subject to the conditions and restrictions of chapter X of Act No. 288 of the Public Acts of 1939, as amended, being sections 710.21 to 710.70 of the Michigan Compiled Laws, a guardian may consent to the adoption of a minor ward or release a minor ward for adoption.

(d) A guardian shall report the condition of the ward and of the ward's estate which is subject to the guardian's possession or control, as ordered by court on petition of any person interested in the minor's welfare or as required by court rule. The report shall detail the condition of the ward, any medical or sanitary treatment or care to which the ward was subjected, and what reason, if any, exists for the continuation of the guardianship.

(2) If a minor dies while under guardianship, and a conservator has not been appointed for the estate of the minor, and if the guardian has possession of any money of the deceased minor, the court may, upon petition of the guardian and with or without notice, hear a claim for burial expenses or any other claim as the court considers advisable. Upon hearing the claim, the court may enter an order allowing or disallowing the claim or any part of it and provide in the order of allowance that the claim or any part of it be paid immediately if the payment can be made without injury or serious inconvenience to the minor's estate.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.433 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.433 Termination of guardian's authority and responsibility; liability for prior acts; accountability; resignation of guardian.

Sec. 433. A guardian's authority and responsibility terminates upon the death, resignation, or removal of the guardian or upon the minor's death, adoption, marriage, or attainment of majority but termination does not affect the guardian's liability for prior acts nor the guardian's obligation to account for funds and assets of a ward. Resignation of a guardian does not terminate the guardianship until it is approved by the court. A testamentary appointment under an informally probated will terminates if the will is later denied probate in a formal proceeding.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.435 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.435 Concurrent jurisdiction over guardianship proceedings; notice to other court; order accepting resignation or removing guardian; final report; copies; closing guardianship without notice.

Sec. 435. (1) The court in the county where the ward resides has concurrent jurisdiction with the court which appointed the guardian or in which acceptance of a testamentary appointment was filed over resignation, removal, accounting, and other proceedings relating to the guardianship.

(2) If the court in the county where the ward resides is not the court in which acceptance of appointment is filed, the court in which proceedings subsequent to appointment are commenced, in all appropriate cases, shall notify the other court, in this or another state, and after consultation with that court, shall determine whether to retain jurisdiction or transfer the proceedings to the other court, whichever will serve the welfare of the ward. After this determination has been made, the court accepting a resignation or removing a guardian shall direct this fiduciary to prepare and submit a final report to both courts. A copy of an order accepting a resignation or removing a guardian and a copy of the final report shall be sent to the court in which acceptance of appointment is filed. The court entering this order may permit closing of the guardianship in the court in which acceptance of appointment is filed, without notice to interested persons.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 396, Imd. Eff. Jan. 8, 1981;--Am. 1990, Act 313, Imd. Eff. Dec. 20, 1990.

***** 700.437 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.437 Petition for removal of guardian; petition by guardian for permission to resign; request for appointment of successor guardian; notice and hearing; order; appointment of lawyer-guardian ad litem to represent minor.

Sec. 437. (1) A person interested in a ward's welfare or the ward, if 14 or more years of age, may petition for a guardian's removal on the ground that removal would serve the ward's welfare. A guardian may petition for permission to resign. A petition for removal or for permission to resign may include a request for a successor guardian's appointment.

(2) After notice and hearing on a petition for removal or for permission to resign, the court may terminate the guardianship and make any further order that may be appropriate.

(3) If, at any time in the proceeding, the court determines that the ward's interests are, or may be, inadequately

represented, the court shall appoint a lawyer-guardian ad litem to represent the minor, giving consideration to the minor's preference if the minor is 14 or more years of age.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1990, Act 313, Imd. Eff. Dec. 20, 1990;--Am. 1998, Act 481, Eff. Mar. 1, 1999.

***** 700.441 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.441 Successor guardian of legally incapacitated person; testamentary appointment by parent or spouse; appointment effective on filing acceptance; recognizing testamentary appointment under will probated in another state; termination of appointment; objection.

Sec. 441. (1) If serving as guardian, the parent of a legally incapacitated person may appoint a successor guardian of the legally incapacitated person by will. A testamentary appointment by a parent becomes effective when, after having given 5 days' prior written notice of the intention to do so to the legally incapacitated person and to the person having the legally incapacitated person's care or to his or her nearest adult relative, the successor guardian files acceptance of appointment in the court in which the will is probated.

(2) If serving as guardian, the spouse of a married legally incapacitated person may appoint a successor guardian of the incapacitated person by will. The appointment becomes effective when, after having given 5 days' prior written notice of the intention to do so to the legally incapacitated person and to the person having the person's care or to the person's nearest adult relative, the successor guardian files acceptance of appointment in the court in which the will is probated.

(3) This state shall recognize a testamentary appointment effected by filing acceptance under a will probated at the testator's domicile in another state.

(4) On the filing with the court in which the will was probated of written objection to the appointment by the person for whom a testamentary appointment of guardian is made, the appointment is terminated. An objection shall not prevent appointment by the court of the testamentary nominee or any other suitable person in proceedings under sections 441 to 457.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1988, Act 398, Eff. Mar. 30, 1989.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.442 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.442 Venue for guardianship proceedings for legally incapacitated person.

Sec. 442. The venue for guardianship proceedings for a legally incapacitated person is in the place where the legally incapacitated person resides or is present. If the legally incapacitated person is admitted to an institution pursuant to order of a court of competent jurisdiction, venue is also in the county in which that court is located.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.443 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.443 Petition for finding of incapacity and appointment of guardian; contents; hearing; appointment of guardian ad litem; examination by physician or mental health professional; report; independent evaluation; rights of allegedly incapacitated person; closed hearing.

Sec. 443. (1) A person in his or her own behalf, or any person interested in the person's welfare, may petition for a finding of incapacity and appointment of a guardian. The petition shall contain specific facts about the person's condition and specific examples of the person's recent conduct that demonstrate the need for the appointment of a guardian.

(2) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity and unless the allegedly incapacitated person has legal counsel of his or her own choice, the court shall appoint a guardian ad litem to represent the person in the proceeding.

(3) If necessary, the court may order that a person alleged to be legally incapacitated be examined by a physician or mental health professional appointed by the court who shall submit a report in writing to the court at least 5 days before the hearing. A report prepared pursuant to this subsection shall not be made a part of the public record of the proceeding, but shall be available to the court or an appellate court to which the proceedings are subject to review, to the alleged legally incapacitated person, the petitioner, their legal counsels, and to other persons as the court directs, and may be used pursuant to the Michigan rules of evidence.

(4) The alleged legally incapacitated person has the right, at his or her own expense, or if indigent, at the expense of the state, to secure an independent evaluation. Compensation for an independent evaluation at public expense shall be in an amount that, based upon time and expense, the court approves as

reasonable.

(5) A report prepared pursuant to this section shall contain all of the following:

(a) A detailed description of the physical or psychological infirmities of the person.

(b) An explanation of how and to what extent any infirmities interfere with the ability of the person to receive or evaluate information in making decisions.

(c) A listing of all medications the person is receiving, the dosage of the medications, and a description of the effects each medication has upon the person's behavior.

(d) A prognosis for improvement in the person's condition and a recommendation for the most appropriate rehabilitation plan.

(e) The signatures of all persons who performed the evaluations upon which the report is based.

(6) The person alleged to be legally incapacitated is entitled to be present at the hearing in person and to see or hear all evidence bearing upon the person's condition. If the person wishes to be present at the hearing, all practical steps shall be taken to ensure his or her presence, including, if necessary, moving the site of the hearing.

(7) The person is entitled to be represented by legal counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician or mental health professional and the visitor, and to trial by jury.

(8) The issue may be determined at a closed hearing without a jury if requested by the person alleged to be legally incapacitated or that person's legal counsel.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1988, Act 398, Eff. Mar. 30, 1989.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.443a THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.443a Duties of guardian ad litem; appointment of legal counsel; termination of appointment of guardian ad litem.

Sec. 443a. (1) The duties of a guardian ad litem shall include all of the following:

(a) Personally visiting the person alleged to be legally incapacitated.

(b) Explaining to the person alleged to be legally incapacitated the nature, purpose, and legal effects of the appointment of a guardian.

(c) Explaining to the person alleged to be legally incapacitated the hearing procedure and the person's rights in the hearing procedure, including, but not limited to, the right to contest the petition, to request limits on the guardian's powers, to object to a particular person being appointed guardian, to be present at the hearing, to be represented by legal counsel, and that legal counsel will be appointed for the person if he or she is unable to afford legal counsel.

(d) Informing the person alleged to be legally incapacitated of the name of any person known to be seeking appointment as guardian.

(e) Making determinations, and informing the court of those determinations, on all of the following:

(i) Whether the person alleged to be legally incapacitated wishes to be present at the hearing.

(ii) Whether the person alleged to be legally incapacitated wishes to contest the petition.

(iii) Whether the person alleged to be legally incapacitated wishes limits placed on the guardian's powers.

(iv) Whether the person alleged to be legally incapacitated objects to a particular person being appointed guardian.

(2) If the person alleged to be legally incapacitated wishes to contest the petition, to have limits placed on the guardian's powers, or to object to a particular person being appointed guardian, the court shall appoint legal counsel, if legal counsel has not been secured, to represent the person alleged to be legally incapacitated. If the person alleged to be legally incapacitated is indigent, the state shall bear the expense of legal counsel.

(3) If the person alleged to be legally incapacitated requests legal counsel, or if the guardian ad litem determines it is in the best interest of the person to have legal counsel, and if legal counsel has not been secured, the court shall appoint legal counsel. If the person alleged to be legally incapacitated is indigent, the state shall bear the expense of legal counsel.

(4) If the person alleged to be legally incapacitated has legal counsel appointed pursuant to subsection (2) or (3), the

appointment of a guardian ad litem shall terminate.

History: Add. 1988, Act 398, Eff. Mar. 30, 1989.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.444 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.444 Appointment of guardian or dismissal of proceeding; powers and term of guardian; limitations; appointment of limited guardian; appointment of full guardian.

Sec. 444. (1) The court may appoint a guardian if it is satisfied by clear and convincing evidence that the person for whom a guardian is sought is a legally incapacitated person, and that the appointment is necessary as a means of providing continuing care and supervision of the person of the legally incapacitated person. Alternately, the court may dismiss the proceeding, or may enter any other appropriate order.

(2) A guardian shall be granted only those powers and only for that period of time as is necessary to provide for the demonstrated need of the legally incapacitated person, and the guardianship shall be designed to encourage the development of maximum self-reliance and independence in the person. A court order establishing a guardianship shall specify any limitations on the guardian's powers and any time limits on the guardianship.

(3) If it is found by clear and convincing evidence that the person is legally incapacitated and lacks the capacity to do some, but not all, of the tasks necessary to care for himself or herself, the court may appoint a limited guardian to provide guardianship services to the person, but the court shall not appoint a full guardian.

(4) If it is found by clear and convincing evidence that the person is legally incapacitated and is totally without capacity to care for himself or herself, the court shall specify that finding of fact in any order and may appoint a full guardian.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1988, Act 398, Eff. Mar. 30, 1989.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.444a THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.444a Finding person legally incapacitated; entering or removing order from Law Enforcement Information Network.

Sec. 444a. (1) Upon entry of an order finding that a person is legally incapacitated, the court shall immediately order the department of state police to enter the order into the law enforcement information network.

(2) Upon entry of an order finding that a person is no longer legally incapacitated, the court shall immediately order the department of state police to remove from the law enforcement information network the court order entered into the law enforcement information network under subsection (1) that found that the person was legally incapacitated.

(3) The department of state police shall immediately enter an order into the law enforcement information network or shall immediately remove an order from the law enforcement information network as ordered by the court under this section.

History: Add. 1994, Act 340, Eff. Apr. 1, 1996.

***** 700.445 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.445 Guardian or legally incapacitated person; submitting personally to jurisdiction; notice of proceeding.

Sec. 445. By accepting appointment, a guardian personally submits to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person. Notice of any proceeding shall be delivered to the guardian or mailed to the guardian by first class mail at the guardian's address as listed in the court records and to his or her address as then known to the petitioner.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.446 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.446 Terminating guardianship of legally incapacitated person.

Sec. 446. The authority and responsibility of a guardian for a legally incapacitated person terminates upon the death of the guardian or ward, the determination of incapacity of the guardian, or upon removal or resignation as provided in section 447. Testamentary appointment under a will probated pursuant to article 3 terminates if the will is later denied probate under a supervised probate proceeding.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.446a THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.446a Judicial review of guardianship.

Sec. 446a. The court shall review a guardianship not later than 1 year after the appointment of the guardian and not later than every 3 years thereafter.

History: Add. 1988, Act 398, Eff. Mar. 30, 1989.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.447 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.447 Accepting resignation of guardian; order removing guardian, appointing successor guardian, modifying terms of guardianship, or terminating guardianship; petition or request; interference with request as contempt; special leave of court; observations and report of visitor.

Sec. 447. (1) On petition of the guardian and subject to the filing and approval of a report prepared pursuant to section 455(1)(e), the court shall accept the guardian's resignation and make any other order which may be appropriate.

(2) The ward or a person interested in the ward's welfare may petition for an order removing the guardian, appointing a successor guardian, modifying the terms of the guardianship, or terminating the guardianship. A request for this order may be made by informal letter to the court or judge. A person who knowingly interferes with transmission of this kind of request to the court or judge is subject to a finding of contempt of court. Except as otherwise provided in the order finding legal incapacity, upon receiving a petition or request, the court shall set a date for a hearing to be held within 28 days after the receipt of the petition or request. An order finding legal incapacity may specify a minimum period, not exceeding 180 days, during which a petition or request for a finding that a ward is no longer legally incapacitated or an order removing the guardian, modifying the terms of the guardianship, or terminating the guardianship, may not be filed without special leave of the court.

(3) Before removing a guardian, appointing a successor guardian, modifying the terms of the guardianship, or terminating a guardianship, the court, following the same procedures to safeguard the rights of the ward as apply to a petition for appointment of a guardian, may send a visitor to the residence of

the present guardian and to the place where the ward resides or is detained, to observe conditions and report in writing to the court.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1988, Act 398, Eff. Mar. 30, 1989.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.449 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.449 Visitor; qualifications.

Sec. 449. A visitor is, with respect to guardianship proceedings, a person who is trained in law, nursing, or social work and is an officer, employee, or special appointee of the court and has no personal interest in the proceedings.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.451 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.451 Proceeding for appointment or removal of guardian; notice of hearing; service; waiver; notice requirements in proceeding under S 700.443.

Sec. 451. (1) In a proceeding for the appointment or removal of a guardian of a legally incapacitated person other than the appointment of a temporary guardian or temporary suspension of a guardian, notice of hearing shall be given to each of the following:

(a) The ward or the person alleged to be legally incapacitated and that person's spouse, parents, and adult children.

(b) A person who is serving as the guardian, conservator, or who has the person's care and custody.

(c) If known, a person named as attorney in fact under a durable power of attorney.

(d) In case no other person is notified under subdivision (a), at least 1 of the person's closest adult relatives, if any can be found.

(2) Notice shall be served personally on the alleged legally incapacitated person. Notice to all other persons shall be given as prescribed by court rule. Waiver of notice by the person alleged to be incapacitated is not effective unless the person

attends the hearing or a waiver of notice is confirmed in an interview with the visitor.

(3) In a proceeding for the appointment of a guardian under section 443, a copy of the petition shall be attached to the notice of hearing, and the notice to the alleged incapacitated person shall contain the following information:

(a) The nature, purpose, and legal effects of the appointment of a guardian.

(b) The rights of the alleged incapacitated person in the proceeding, including the right to appointed legal counsel.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1988, Act 398, Eff. Mar. 30, 1989.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.453 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.453 Circumstances requiring court to provide notice and hold hearing; court as guardian; appointment of temporary guardian; period; authority; removal; reports.

Sec. 453. (1) If a person does not have a guardian, an emergency exists, and no other person appears to have authority to act in the circumstances, the court shall provide notice to the person alleged to be legally incapacitated and shall hold a hearing. Upon a showing that the person is legally incapacitated, the court may exercise the power of a guardian, or appoint a temporary guardian with only such powers and for such period of time as may be ordered by the court. A hearing with notice as provided in section 451 shall be held within 28 days after the court has acted pursuant to this subsection.

(2) If an appointed guardian is not effectively performing his or her duties and the court further finds that the welfare of the legally incapacitated person requires immediate action, it may appoint, with or without notice, a temporary guardian for the legally incapacitated person for a specified period not to exceed 6 months.

(3) A temporary guardian is entitled to the care and custody of the ward and the authority of any permanent guardian previously appointed by the court is suspended as long as a temporary guardian has authority. A temporary guardian may be removed at any time. A temporary guardian shall make reports as required by the court. In other respects the provisions of this act concerning guardians apply to temporary guardians.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1988, Act 398, Eff. Mar. 30, 1989.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.454 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.454 Appointment of competent person as guardian of legally incapacitated person; prohibited appointments; order of preference.

Sec. 454. (1) Any competent person may be appointed guardian of a legally incapacitated person. The court shall not appoint as guardian any agency, public or private, which financially benefits from directly providing housing, medical, or social services to the legally incapacitated person.

(2) In appointing a guardian under this section, the court shall appoint a person, if suitable and willing to serve, designated by the person who is the subject of the petition. If a specific designation is not made or a person designated is not suitable or willing to serve, the court may appoint as guardian a person named as attorney in fact through a durable power of attorney.

(3) If a person is not designated under subsection (2) or a person designated under subsection (2) is not suitable or willing to serve, the court may appoint as a guardian a person who is related to the subject of the petition, in the following order of preference:

(a) The spouse of the legally incapacitated person, including a person nominated by will or other writing signed by a deceased spouse.

(b) An adult child of the legally incapacitated person.

(c) A parent of the legally incapacitated person, including a person nominated by will or other writing signed by a deceased parent.

(d) A relative of the legally incapacitated person with whom the person has resided for more than 6 months before the filing of the petition.

(e) A person nominated by the person who is caring for the person or paying benefits to the person.

(4) If none of the persons listed in subsection (3) is suitable

or willing to serve, the court may appoint any competent person who is suitable and willing to serve.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1980, Act 396, Imd. Eff. Jan. 8, 1981;--Am. 1988, Act 398, Eff. Mar. 30, 1989.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.455 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.455 Guardian of legally incapacitated person; responsibility; liability; powers and duties; payment for services and for room and board; death of ward under guardianship.

Sec. 455. (1) Except as limited under section 444(3), a guardian of a legally incapacitated person is responsible for the care, custody, and control of the ward, but is not liable to third persons by reason of that responsibility for acts of the ward. In particular, and without qualifying the foregoing, a guardian has the following powers and duties, except as modified by order of the court:

(a) To the extent that it is consistent with the terms of an order by a court of competent jurisdiction relating to detention or commitment of the ward, the guardian is entitled to custody of the person of his or her ward and may establish the ward's place of residence within or without this state. The guardian shall notify the court within 14 days of any change in the ward's place of residence.

(b) If entitled to custody of the ward the guardian shall make provision for the care, comfort, and maintenance of the ward and, when appropriate, arrange for the ward's training and education. The guardian shall have the responsibility of securing services to restore the ward to the best possible state of mental and physical well-being so that the ward can return to self-management at the earliest possible time. Without regard to custodial rights of the ward's person, the guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.

(c) A guardian may give any consent or approval that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service.

(d) If a conservator for the estate of the ward is not appointed, a guardian may:

(i) Institute proceedings to compel a person under a duty to support the ward or to pay sums for the welfare of the ward to perform that duty.

(ii) Receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward. The guardian may not use funds from the ward's estate for room and board which the guardian or the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least 1 of the next of kin of the incompetent ward, if notice is possible. The guardian shall exercise care to conserve any excess for the ward's needs.

(e) To report the condition of the ward and of the estate which is subject to the guardian's possession or control, as required by the court, but not less often than annually. A report shall contain all of the following:

(i) The ward's current mental, physical, and social condition.

(ii) Any improvement or deterioration in the ward's mental, physical, and social condition that has occurred during the past year.

(iii) The ward's present living arrangement and any changes in his or her living arrangement that have occurred during the past year.

(iv) Whether the guardian recommends a more suitable living arrangement for the ward.

(v) Any medical treatment received by the ward.

(vi) Services received by the ward.

(vii) A list of the guardian's visits with, and activities on behalf of, the ward.

(viii) A recommendation as to the need for continued guardianship.

(f) If a conservator is appointed, the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward shall be paid to the conservator for management as provided in this act, and the guardian shall account to the conservator for funds expended.

(2) A guardian of a person for whom a conservator also is appointed shall control the custody and care of the ward and is entitled to receive reasonable sums for his or her services and for room and board furnished to the ward as agreed upon between

the guardian and the conservator if the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

(3) If a ward dies while under guardianship, and a conservator has not been appointed for the estate of the ward, and if the guardian has possession of any money of the deceased ward, the court may, upon petition of the guardian and with or without notice, hear a claim for burial expense or any other claim as the court considers advisable. Upon hearing the claim, the court may enter an order allowing or disallowing the claim or any part of it and provide in the order of allowance that the claim or any part of it be paid immediately if the payment can be made without injury or serious inconvenience to the ward's estate.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985;--Am. 1988, Act 398, Eff. Mar. 30, 1989.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.456 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.456 Authorizing legally incapacitated person to handle money or other property without consent or supervision of guardian.

Sec. 456. To encourage self-reliance and independence in a legally incapacitated person, the court may authorize the individual to function without the consent or supervision of the person's guardian or conservator in the handling of part of his or her money or other property, including the maintenance of a savings or checking account in a bank or other institution, and to the extent authorized any person may deal with that individual as though the individual were mentally competent.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1988, Act 398, Eff. Mar. 30, 1989.

Compiler's note: Section 2 of Act 398 of 1988 provides: "This amendatory act shall apply to petitions for the appointment of a guardian or conservator or for a protective order filed on and after April 1, 1989."

***** 700.457 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.457 Concurrent jurisdiction over guardianship proceedings; notice to other court; order accepting resignation or removing guardian; final report; copies; closing guardianship without notice.

Sec. 457. (1) The court in the county where the ward resides has concurrent jurisdiction with the court which appointed the guardian or in which acceptance of a testamentary appointment was filed, over resignation, removal, accounting, and other proceedings relating to the guardianship.

(2) If the court in the county where the ward resides is not the court in which the acceptance of appointment is filed, the court in which proceedings subsequent to appointment are commenced in appropriate cases shall notify the other court, in this or another state, and after consultation with that court shall determine whether to retain jurisdiction or transfer the proceedings to the other court, whichever is in the best interests of the ward. After this determination has been made, the court accepting a resignation or removing a guardian shall direct this fiduciary to prepare and submit a final report to both courts. A copy of an order accepting a resignation or removing a guardian and a copy of the final report shall be sent to the court in which acceptance of appointment is filed. The court entering this order may permit closing of the guardianship in the court in which acceptance of appointment is filed, without notice to interested persons.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 396, Imd. Eff. Jan. 8, 1981.

***** 700.461 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.461 Appointment of conservator; protective order.

Sec. 461. Upon petition and after notice and hearing in accordance with sections 461 to 491, the court may appoint a conservator or make other protective order for cause as follows:

(a) Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a minor if the court determines that the minor owns money or property that requires management or protection which cannot otherwise be provided, has or may have business affairs which may be jeopardized or prevented by the person's minority, or that funds are needed for the person's support and education and that protection is necessary or desirable to obtain, retain, or provide funds.

(b) Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a person if the court determines that the person is unable to manage his or her property and affairs effectively for reasons such as mental illness, mental incompetency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance; and the person has property which will be wasted or dissipated unless proper

management is provided, or that funds are needed for the support, care, and welfare of the person or those entitled to be supported by the person and that protection is necessary or desirable to obtain or provide funds.

(c) Appointment of a conservator may be made in relation to the estate and affairs of a person who is mentally competent, but due to age or physical infirmity is unable to manage his or her property and affairs effectively and who, recognizing this disability, requests appointment of a conservator.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 396, Imd. Eff. Jan. 8, 1981.

***** 700.462 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.462 Exclusive and concurrent jurisdiction of court in proceeding seeking appointment of conservator or other protective order.

Sec. 462. After the service of notice in a proceeding seeking the appointment of a conservator or other protective order and until termination of the proceeding, the court in which the petition is filed has:

(a) Exclusive jurisdiction to determine the need for a conservator or other protective order until the proceedings are terminated.

(b) Exclusive jurisdiction to determine how the estate of the protected person which is subject to the laws of this state shall be managed, expended, or distributed to or for the use of the protected person or any of the protected person's dependents.

(c) Concurrent jurisdiction to determine the validity of claims against the person or estate of the protected person and his or her title to any property or claim.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.463 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.463 Venue for proceedings under SS 700.461 to 700.491.

Sec. 463. Venue for proceedings under sections 461 to 491 is:

(a) In the place in this state where the person to be protected resides whether or not a guardian is appointed in another place.

(b) If the person to be protected does not reside in this state, in any place where the person has property.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.464 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.464 Petition for appointment of conservator or for other protective order; contents.

Sec. 464. (1) The person to be protected, a person who is interested in that person's estate, affairs, or welfare including his or her parent, guardian, or custodian or a person who would be adversely affected by lack of effective management of the property and affairs of the person to be protected may petition for the appointment of a conservator or for other appropriate protective order. However, if the person to be protected is mentally competent but due to age or physical infirmity desires the appointment of a conservator to assist in the management of his or her property and affairs, only that person may petition for the appointment of a conservator.

(2) The petition shall set forth to the extent known, the interest of the petitioner; the name, age, residence, and address of the person to be protected; the name and address of his or her guardian; the name and address of his or her nearest relative known to the petitioner; a general statement of his or her property with an estimate of the value of the property, including any compensation, insurance, pension, or allowance to which the person is entitled; and the reason why appointment of a conservator or other protective order is necessary. If the appointment of a conservator is requested, the petition shall set forth the name and address of the person whose appointment is sought and the basis of that person's priority for appointment.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 396, Imd. Eff. Jan. 8, 1981.

***** 700.465 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.465 Petition for appointment of conservator or for other protective order; notice; waiver.

Sec. 465. On a petition for appointment of a conservator or other protective order, the person to be protected and the person's spouse or, if none, the person's parents, shall be served personally with notice of the proceeding at least 10 days before the date of hearing if they can be found within the state, or, if they cannot be found within the state, they shall be given notice as required by court rule. Waiver by the person to be protected is not effective unless the person attends the hearing, or, if minority is not the reason for the proceeding, unless waiver is confirmed in an interview with a visitor or guardian ad litem.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 396, Imd. Eff. Jan. 8, 1981.

700.466 Repealed. 1980, Act 396, Imd. Eff. Jan. 8, 1981.

Compiler's note: The repealed section pertained to notice of order made in protective proceeding.

***** 700.467 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.467 Hearing; appointing attorney or guardian ad litem; examination by physician; visitor; making appointment or other protective order.

Sec. 467. (1) Upon receipt of a petition for appointment of a conservator or other protective order because of minority, the court shall set a date for hearing on the matters alleged in the petition. If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the choice of the minor if 14 years of age or older. An attorney appointed by the court to represent a minor has the powers and duties of a guardian ad litem.

(2) Upon receipt of a petition for appointment of a conservator or other protective order for reasons other than minority, the court shall set a date for hearing. Unless the person to be protected has private counsel, or unless the person to be protected is mentally competent but aged or physically infirm, the court shall appoint a guardian ad litem to represent the person. If the alleged disability is mental illness, mental incompetency, physical illness or disability, chronic use of drugs, or chronic intoxication, the court may direct that the person to be protected be examined by a physician designated by the court, preferably a physician who is not connected with an institution in which the person is a patient or is detained. The court may send a visitor to interview the person to be protected. The visitor may be a guardian ad litem or an officer or employee of the court.

(3) After hearing, upon finding that a basis for the appointment of a conservator or other protective order is established, the court shall make an appointment or other appropriate protective order.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 396, Imd. Eff. Jan. 8, 1981.

***** 700.468 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.468 Powers of court in respect to estate and affairs of

protected person; effect of order on capacity of protected person; authorizing protected person to function without consent or supervision of conservator.

Sec. 468. (1) The court has the following powers which may be exercised directly or through a conservator with respect to the estate and affairs of protected persons:

(a) While a petition for appointment of a conservator or other protective order is pending and after preliminary hearing and without notice to others, the court may preserve and apply the property of the person to be protected as may be required for the person's benefit or the benefit of the person's dependents.

(b) After a hearing, and upon determining that a basis for an appointment or other protective order exists with respect to a minor without other disability, the court has all those powers over the estate and affairs of the minor which are or may be necessary for the best interests of the minor, the minor's family, and members of the minor's household.

(c) After a hearing, and upon determining that a basis for an appointment or other protective order exists with respect to a person for reasons other than minority, the court, for the benefit of the person and members of the person's household, has all the powers over the person's estate and affairs which the person could exercise if present and not under disability, except the power to make a will. These powers include the power to make gifts, to convey or release contingent and expectant interests in property including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety, to exercise or release powers as trustee, personal representative, custodian for minors, conservator, or donee of a power of appointment, to enter into contracts, to create revocable or irrevocable trusts of property of the estate which may extend beyond disability or life, to exercise options of the disabled person to purchase securities or other property, to exercise rights to elect options and change beneficiaries under insurance and annuity policies and to surrender the policies for their cash value, to exercise the right to an elective share in the estate of a deceased spouse, and to renounce any interest by testate or intestate succession or by inter vivos transfer.

(d) The court may exercise, or direct the exercise of, its authority to exercise or release powers of appointment of which the protected person is donee, to renounce interests, to make gifts in trust or otherwise exceeding 20% of any year's income of the estate, or to change beneficiaries under insurance and annuity policies, only if satisfied, after notice and hearing, that it is in the best interests of the protected person, and that the person is incapable of consenting or has consented to the proposed exercise of power.

(2) An order made pursuant to this section determining that a

basis for appointment of a conservator or other protective order exists, does not affect the capacity of the protected person.

(3) To encourage the self-reliance and independence of a protected person, the court may authorize the individual to function without the consent or supervision of the person's conservator in the handling of part of his or her money or property, including the maintenance of a savings or checking account in a bank or other institution, and, to the extent authorized, any person may deal with that individual as though the individual were mentally competent.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1980, Act 396, Imd. Eff. Jan. 8, 1981.

***** 700.469 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.469 Protective arrangement or other transaction; approval by court; special conservator.

Sec. 469. (1) If it is established in a proper proceeding that a basis exists as described in section 461 for affecting the property and affairs of a person the court, without appointing a conservator, may authorize, direct, or ratify any transaction necessary or desirable to achieve any security, service, or care arrangement meeting the foreseeable needs of the protected person. Protective arrangements include payment, delivery, deposit, or retention of funds or property, sale, mortgage, lease or other transfer of property, entry into an annuity contract, a contract for life care, a deposit contract, a contract for training and education, or addition to or establishment of a suitable trust.

(2) When it is established in a proper proceeding that a basis exists as described in section 461 for affecting the property and affairs of a person the court, without appointing a conservator, may authorize, direct, or ratify any contract, trust, or other transaction relating to the protected person's financial affairs or involving the person's estate if the court determines that the transaction is in the best interests of the protected person.

(3) Before approving a protective arrangement or other transaction under this section, the court shall consider the interests of creditors and dependents of the protected person and, in view of the person's disability, whether the protected person needs the continuing protection of a conservator. The court may appoint a special conservator to assist in the accomplishment of any protective arrangement or other transaction authorized under this section who shall have the authority conferred by the order and serve until discharged by order after report to the court of all matters done pursuant to the order of appointment.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.470 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.470 Conservator; appointment by court; priority.

Sec. 470. (1) The court may appoint an individual, or a corporation with general power to serve as trustee, as conservator of the estate of a protected person. The following are entitled to consideration for appointment in the order listed:

(a) A conservator, guardian of property, or other like fiduciary appointed or recognized by the appropriate court of another jurisdiction in which the protected person resides.

(b) An individual or corporation nominated by the protected person if the person is 14 years of age or older and, in the opinion of the court, has sufficient mental capacity to make an intelligent choice.

(c) The spouse of the protected person.

(d) An adult child of the protected person.

(e) A parent of the protected person, or a person nominated by the will of a deceased parent.

(f) A relative of the protected person with whom the person has resided for more than 6 months before the filing of the petition.

(g) A person nominated by the person who is caring for the protected person or paying benefits to the protected person.

(h) Any other person determined by the court to be suitable and qualified.

(2) A person in a priority pursuant to subdivisions (a) or (c) to (f) may nominate in writing a person to serve in the person's stead. With respect to persons having equal priority, the court shall select the person best qualified of those willing to serve. The court, for good cause, may pass over a person having priority and appoint a person having less priority or no priority.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.471 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.471 Bond of conservator; condition; sureties; amount; security in lieu of sureties.

Sec. 471. The court may require a conservator to furnish a bond conditioned upon faithful discharge of all duties of the trust according to law, with sureties as it shall specify. Unless otherwise directed, the bond shall be in the amount of the aggregate capital value of the property of the estate in the person's control plus 1 year's estimated income minus the value of securities deposited under arrangements requiring an order of the court of their removal and the value of any land which the fiduciary, by express limitation of power, lacks power to sell or convey without court authorization. The court in lieu of sureties on a bond, may accept other security for the performance of the bond, including a pledge of securities or a mortgage of land.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.472 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.472 Bond of conservator; applicable provisions; proceeding against surety.

Sec. 472. (1) The following apply to any bond required under section 471:

(a) Unless otherwise provided by the terms of the approved bond, sureties are jointly and severally liable with the conservator and with each other.

(b) By executing an approved bond of a conservator, the surety consents to the jurisdiction of the court which issued letters to the primary obligor in any proceeding pertaining to the fiduciary duties of the conservator and naming the surety as a party defendant. Notice of any proceeding shall be delivered to the surety or mailed to the surety by registered or certified mail at the surety's address as listed with the court where the bond is filed and to the surety's address as then known to the petitioner.

(c) On petition of a successor conservator or an interested person, a proceeding may be initiated against a surety for breach of the obligation of the bond of the conservator.

(d) The bond of the conservator is not void after the first recovery but may be proceeded against from time to time until the entire penalty is exhausted.

(2) A proceeding may not be commenced against the surety on any matter as to which an action or proceeding against the primary obligor is barred by adjudication or limitation.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.473 THIS SECTION IS REPEALED BY ACT 386 OF 1998

EFFECTIVE APRIL 1, 2000 *****

700.473 Conservator; submitting personally to jurisdiction of court; notice of proceeding.

Sec. 473. By accepting appointment, a conservator submits personally to the jurisdiction of the court in any proceeding relating to the estate that may be instituted by an interested person. Notice of any proceeding shall be delivered to the conservator, or mailed to him by registered or certified mail at the conservator's address as listed in the petition for appointment or as thereafter reported to the court and to the conservator's address as then known to the petitioner.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.474 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.474 Appointee in protective proceeding; compensation.

Sec. 474. If not otherwise compensated for services rendered, a guardian ad litem, visitor, attorney, physician, conservator, or special conservator appointed in a protective proceeding is entitled to reasonable compensation from the estate.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 396, Imd. Eff. Jan. 8, 1981.

***** 700.475 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.475 Death, resignation, or removal of conservator; appointment of successor conservator.

Sec. 475. The court may remove a conservator for good cause, upon notice and hearing or accept the resignation of a conservator. After the conservator's death, resignation or removal, the court may appoint another conservator. A conservator so appointed succeeds to the title and powers of his or her predecessor.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.476 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.476 Petition for order by person interested in welfare of person for whom conservator appointed; petition by conservator for instructions; notice and hearing; giving instructions or making order.

Sec. 476. (1) A person interested in the welfare of a person for whom a conservator is appointed may file a petition in the

appointing court for an order:

(a) Requiring bond or security or additional bond or security, or reducing bond.

(b) Requiring an accounting for the administration of the trust.

(c) Directing distribution.

(d) Removing the conservator and appointing a temporary or successor conservator.

(e) Granting other appropriate relief.

(2) A conservator may petition the appointing court for instructions concerning his or her fiduciary responsibility.

(3) Upon notice and hearing, the court may give appropriate instructions or make any appropriate order.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.477 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.477 Conservator as fiduciary; standards of care.

Sec. 477. In the exercise of his or her powers, a conservator is to act as a fiduciary and shall observe the standards of care applicable to fiduciaries as described by article 5.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.478 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.478 Conservator; preparing and filing inventory; oath or affirmation; copy of inventory to protected person, parent, or guardian; records of administration.

Sec. 478. Within 60 days after his or her appointment, a conservator shall prepare and file with the appointing court a complete inventory of the estate of the protected person together with an oath or affirmation that it is complete and accurate so far as the conservator is informed. The conservator shall provide a copy of the inventory to the protected person if the person can be located, has attained the age of 14 years, and has sufficient mental capacity to understand these matters and to any parent or guardian with whom the protected person resides. The conservator shall keep suitable records of the administration and exhibit the records on request of an interested person.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.479 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.479 Conservator; accounting for administration of trust;
order allowing intermediate or final account as adjudication or
liabilities; physical check of estate.

Sec. 479. A conservator shall account to the court for the administration of the trust upon resignation or removal and at other times as the court may direct. On termination of the protected person's minority or disability, a conservator may account to the court, or may account to the former protected person or the person's personal representative. Subject to appeal or vacation within the time permitted, an order, made upon notice and hearing, allowing an intermediate account of a conservator, adjudicates as to the conservator's liabilities concerning the matters considered in connection therewith; and an order, made upon notice and hearing, allowing a final account adjudicates as to all previously unsettled liabilities of the conservator to the protected person or the person's successors relating to the conservatorship. In connection with an account, the court may require a conservator to submit to a physical check of the estate in the conservator's control, to be made in any manner specified by the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.480 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.480 Title vested in conservator or trustee; appointment of
conservator as transfer or alienation of rights or interest.

Sec. 480. The appointment of a conservator vests in the conservator title as trustee to all property of the protected person, presently held or thereafter acquired, including title to any property theretofore held for the protected person by custodians or attorneys in fact. The appointment of a conservator is not a transfer or alienation within the meaning of general provisions of any federal or state statute or rule, insurance policy, pension plan, contract, will or trust instrument, imposing restrictions upon or penalties for transfer or alienation by the protected person of the person's rights or interest, but this section does not restrict the ability of persons to make specific provision by contract or depositive instrument relating to a conservator.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.481 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.481 Letters of conservatorship and orders terminating

conservatorship; evidence of transfer of assets; filing or recording.

Sec. 481. Letters of conservatorship are evidence of transfer of all assets of a protected person to the conservator. An order terminating a conservatorship is evidence of transfer of all assets of the estate from the conservator to the protected person, or the person's successors. Subject to the requirements of law governing the filing or recordation of documents of title to land or other property, letters of conservatorship, and orders terminating conservatorships, may be filed or recorded to give record notice of title as between the conservator and the protected person.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.482 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.482 Conservator; transactions affected by conflict of interest voidable.

Sec. 482. A sale or encumbrance to a conservator, the conservator's spouse, agent, or attorney, or any corporation or trust in which the conservator has a substantial beneficial interest, or any transaction which is affected by a substantial conflict of interest is voidable unless the transaction is approved by the court after notice to interested persons and others as directed by the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.483 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.483 Protection of person assisting or dealing with conservator.

Sec. 483. A person who in good faith assists a conservator or deals with a conservator for value in any transaction other than those requiring a court order as provided in section 468, is protected as if the conservator properly exercised the power. The fact that a person knowingly deals with a conservator does not alone require the person to inquire into the existence of a power or the propriety of its exercise, except that restrictions on powers of conservators which are indorsed on letters as provided in section 485 are effective as to third persons. A person is not bound to see to the proper application of estate assets paid or delivered to a conservator. The protection here expressed extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters. The protection here expressed is not by substitution for that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying

transfers of securities by fiduciaries.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.484 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.484 Conservator; powers and duties generally.

Sec. 484. (1) A conservator has all of the powers conferred in this section. In addition, a conservator of the estate of an unmarried minor as to whom no person has parental rights, has the duties and powers of a guardian of a minor described in section 431 until the minor marries but the parental rights so conferred on a conservator do not preclude appointment of a guardian as provided by sections 421 to 437.

(2) A conservator without court authorization or confirmation, may invest and reinvest funds of the estate as would a trustee.

(3) A conservator, acting reasonably in efforts to accomplish the purpose for which he or she was appointed, may act without court authorization or confirmation to:

(a) Collect, hold, and retain assets of the estate including land in another state, until in the conservator's judgment, disposition of the assets should be made which assets may be retained even though they include an asset in which the conservator is personally interested.

(b) Receive additions to the estate.

(c) Continue or participate in the operation of a business or other enterprise.

(d) Acquire an undivided interest in an estate asset in which the conservator, in any fiduciary capacity, holds an undivided interest.

(e) Invest and reinvest estate assets pursuant to subsection (2).

(f) Deposit estate funds in a bank including a bank operated by the conservator.

(g) Acquire or dispose of an estate asset including land in another state for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset.

(h) Make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, and to raze existing or erect new party walls or buildings.

(i) Subdivide, develop, or dedicate land to public use; to make or obtain the vacation of plats and adjust boundaries; to adjust differences in valuation on exchange, or to partition by giving or receiving consideration; and to dedicate easements to public use without consideration.

(j) Enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the conservatorship.

(k) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources, or enter into a pooling or unitization agreement.

(l) Grant an option involving disposition of an estate asset or to take an option for the acquisition of any asset.

(m) Vote a security, in person or by general or limited proxy.

(n) Pay calls, assessments, and any other sums chargeable or accruing against or on account of securities.

(o) Sell or exercise stock subscription or conversion rights; to consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.

(p) Hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery. The conservator is liable for any act of the nominee in connection with the stock so held.

(q) Insure the assets of the estate against damage or loss, and the conservator against liability with respect to third persons.

(r) Borrow money to be repaid from estate assets or otherwise; to advance money for the protection of the estate or the protected person and for all expenses, losses, and liability sustained in the administration of the estate or because of the holding or ownership of any estate assets. The conservator has a lien on the estate as against the protected person for advances made under this subdivision.

(s) Pay or contest a claim; to settle a claim by or against the estate or the protected person by compromise, arbitration, or otherwise; and to release, in whole or in part, a claim belonging to the estate to the extent that the claim is uncollectible.

(t) Pay taxes, assessments, reasonable compensation of the conservator, and other expenses incurred in the collection, care, administration, and protection of the estate.

(u) Allocate items of income or expense to estate income or principal, as provided by law, including creation of reserves out

of income for depreciation, obsolescence or amortization, or for depletion in mineral or timber properties.

(v) Pay any sum distributable to a protected person or that person's dependent without liability to the conservator, by paying the sum to the distributee or by paying the sum for the use of the distributee to his or her guardian or if none, to a relative or other person with custody of his or her person.

(w) Employ persons, including attorneys, auditors, investment advisors, or agents, even though they are associated with the conservator, to advise or assist the conservator in the performance of his or her administrative duties; to act upon their recommendation without independent investigation; and instead of acting personally, to employ 1 or more agents to perform any act of administration, whether or not discretionary.

(x) Prosecute or defend actions, claims, or proceedings in any jurisdiction for the protection of estate assets and of the conservator in the performance of his or her duties.

(y) Execute and deliver any instrument which will accomplish or facilitate the exercise of the powers vested in the conservator.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.485 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.485 Conservator; expenditure or distribution of income or principal; gifts; minor attaining majority; cessation of disability; death of protected person.

Sec. 485. (1) A conservator may expend or distribute income or principal of the estate without court authorization or confirmation for the support, education, care, or benefit of the protected person and that person's dependents pursuant to the following principles:

(a) The conservator shall consider recommendations relating to the appropriate standard of support, education, and benefit for the protected person made by a parent or guardian. The conservator may not be surcharged for sums paid to persons or organizations actually furnishing support, education, or care to the protected person pursuant to the recommendations of a parent or guardian of the protected person unless the conservator knows that the parent or guardian is deriving personal financial benefit therefrom, including relief from any personal duty of support, or unless the recommendations are clearly not in the best interests of the protected person.

(b) The conservator shall expend or distribute sums reasonably necessary for the support, education, care, or benefit of the

protected person with due regard to the size of the estate, the probable duration of the conservatorship and the likelihood that the protected person, at some future time, may be fully able to manage his or her affairs and the estate which is conserved for the person; the accustomed standard of living of the protected person and members of the person's household; and other funds or sources used for the support of the protected person.

(c) The conservator may expend funds of the estate for the support of persons legally dependent on the protected person and others who are members of the protected person's household who are unable to support themselves, and who are in need of support.

(d) Funds expended under this subsection may be paid by the conservator to any person, including the protected person, to reimburse for expenditures which the conservator might have made, or in advance for services to be rendered to the protected person when it is reasonable to expect that they will be performed and where advance payments are customary or reasonably necessary under the circumstances.

(2) If the estate is ample to provide for the purposes implicit in the distributions authorized by the preceding subsections, a conservator for a protected person other than a minor may make gifts to charity and other objects as the protected person might have been expected to make, in amounts which do not exceed in total for any year 20% of the income from the estate.

(3) When a minor who is not adjudged disabled under section 461(b) attains majority, the conservator, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible.

(4) When the conservator is satisfied that a protected person's disability other than minority has ceased, the conservator, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible.

(5) If a protected person dies, the conservator shall do all of the following:

(a) Deliver to the court for safekeeping any will of the deceased protected person which may have come into the conservator's possession.

(b) Inform the executor, an heir at law or if there is not a known heir, the attorney general, or a beneficiary named in the will that he or she has done so.

(c) Retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled thereto.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.486 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.486 Conservator; additional powers; limitation.

Sec. 486. Subject to the restrictions in section 468(1)(d), the court may confer on a conservator at the time of appointment or later, in addition to the powers conferred by sections 484 and 485, any power which the court itself could exercise under section 468(1)(b) and (c). The court may, at the time of appointment or later, limit the powers of a conservator otherwise conferred by sections 484 and 485, or previously conferred by the court, and may at any time relieve the conservator of any limitation. If the court limits any power conferred on the conservator by sections 484 or 485, the limitation shall be indorsed upon the letters of appointment.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.487 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.487 Investing estate, selecting estate assets for distribution, and utilizing powers of revocation or withdrawal; estate plan of protected person; examination of will.

Sec. 487. In investing the estate, and in selecting assets of the estate for distribution under subsections (1) and (2) of section 485, in utilizing powers of revocation or withdrawal available for the support of the protected person, and exercisable by the conservator or the court, the conservator and the court should take into account any known estate plan of the protected person, including the person's will, any revocable trust of which he or she is settlor, and any contract, transfer, or joint ownership arrangement with provisions for payment or transfer of benefits or interests at his death to another or others which he may have originated. The conservator may examine the will of the protected person.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.488 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.488 Paying or securing claims against estate or protected person; presentation and allowance of claim; determination of claim; order for allowance, payment, or security from estate; notice; distribution of estate if estate in conservatorship likely to be exhausted; preference; mortgage or other security on conservatorship estate; death of protected person under

conservatorship.

Sec. 488. (1) A conservator may pay or secure from the estate claims against the estate or against the protected person arising before or after the conservatorship upon their presentation and allowance and in accordance with the priorities listed in subsection (4). A claim may be presented by either of the following methods:

(a) The claimant may deliver or mail to the conservator a written statement of the claim indicating its basis, the name and mailing address of the claimant, and the amount claimed.

(b) The claimant may file a written statement of the claim, in the form prescribed by supreme court rule, with the court and deliver or mail a copy of the statement to the conservator.

(2) A claim shall be considered presented on receipt of the written statement of claim by the conservator or on the filing of the claim with the court, whichever occurs first. A presented claim shall be allowed if it is not disallowed by written statement mailed by the conservator to the claimant within 63 days after its presentation. The presentation of a claim tolls any statute of limitation relating to the claim until 28 days after its disallowance.

(3) A claimant whose claim is not paid may petition the court for determination of the claim at any time before it is barred by the applicable statute of limitation and, upon due proof, procure an order for its allowance, payment, or security from the estate. If a proceeding is pending against a protected person at the time of appointment of a conservator or is initiated against the protected person thereafter, the moving party shall give notice of the proceeding to the conservator if the proceeding may result in creating a claim against the estate.

(4) If it appears that the estate in conservatorship is likely to be exhausted before all existing claims are paid, the conservator shall distribute the estate in money or in kind in payment of claims in the following order of priority:

(a) Costs and expenses of administration.

(b) Claims of the federal or state government having priority under law.

(c) Claims incurred by the conservator for care, maintenance, and education previously provided to the protected person or the protected person's dependents.

(d) Claims arising prior to the conservatorship.

(e) All other claims.

(5) Preference shall not be given in the payment of a claim over another claim of the same class, and a claim due and payable shall not be entitled to a preference over a claim not due. If it appears that the assets of the conservatorship are adequate to meet all existing claims, the court, acting in the best interest of the protected person, may order the conservator to give a mortgage or other security on the conservatorship estate to secure payment at some future date of any or all claims under subsection (4)(e).

(6) If a protected person dies while under conservatorship, the court may, upon petition of the conservator and with or without notice, hear a claim for burial expense or any other claim as the court considers advisable. Upon hearing the claim, the court may enter an order allowing or disallowing the claim or any part of it and provide in the order of allowance that the claim or any part of it shall be paid immediately if payment can be made without injury or serious inconvenience to the protected person's estate.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985;--Am. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.489 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.489 Liability of conservator on contracts entered into in fiduciary capacity, for obligations arising from ownership or control of estate, or for torts committed in course of administration; assertion of claims; determining question of liability between estate and conservator individually.

Sec. 489. (1) Unless otherwise provided in the contract, a conservator is not individually liable on a contract properly entered into in a fiduciary capacity in the course of administration of the estate unless the conservator fails to reveal his or her representative capacity and identify the estate in the contract.

(2) The conservator is individually liable for obligations arising from ownership or control of property of the estate or for torts committed in the course of administration of the estate only if the conservator is personally at fault.

(3) Claims based on contracts entered into by a conservator in a fiduciary capacity, on obligations arising from ownership or control of the estate, or on torts committed in the course of administration of the estate may be asserted against the estate by proceeding against the conservator in his or her fiduciary capacity, whether or not the conservator is individually liable therefor.

(4) Any question of liability between the estate and the conservator individually may be determined in a proceeding for

accounting, surcharge, or indemnification, or other appropriate proceeding or action.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.490 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.490 Termination of conservatorship; petition; rights and procedures of protected person; notice and hearing; passing title to assets of estate to protected person or successor.

Sec. 490. The protected person, the protected person's personal representative, the conservator or any other interested person may petition the court to terminate the conservatorship. A protected person seeking termination is entitled to the same rights and procedures as in an original proceeding for a protective order. The court, upon determining after notice and hearing that the minority or disability of the protected person has ceased, may terminate the conservatorship. Upon termination, title to assets of the estate passes to the former protected person or to his or her successors subject to provision in the order for expenses of administration or to conveyances from the conservator to the former protected persons or his successors, to evidence the transfer.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.491 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.491 Debtor or possessor of property of protected person; payment or delivery; proof of appointment and affidavit; discharge of debtor or possessor.

Sec. 491. A person indebted to a protected person or having possession of property or of an instrument evidencing a debt, stock, or chose in action belonging to a protected person may pay or deliver to a conservator, guardian of the estate, or other like fiduciary appointed by a court of the state of residence of the protected person, upon being presented with proof of his or her appointment and an affidavit made by the person or on the person's behalf stating that a protective proceeding relating to the protected person is not pending in this state; and that the foreign conservator is entitled to payment or to receive delivery. If the person to whom the affidavit is presented is not aware of any protective proceeding pending in this state, payment or delivery in response to the demand and affidavit discharges the debtor or possessor.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.492 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.492 Property of disappeared person subject to act; venue; petition; notice of hearing; disposition of property; surety bond; conclusive presumption; appointment and bond of temporary personal representative; certificate of death; disappearance of person qualified to petition.

Sec. 492. (1) The property of a disappeared person is subject to this act.

(2) The court in the county where the disappeared person resided or where any of that person's property is located has venue of the proceedings in this section.

(3) A disappeared person's estate shall be administered as though the disappeared person were dead, and administration shall be initiated by petition for appointment of a personal representative or for probate of the will of the disappeared person. The petition shall include as allegations the definitional statements set forth in section 4(4)(a) to (c).

(4) Notice of hearing of the petition for appointment of a personal representative or probate of a will shall be published in a newspaper of general circulation in the county where the court has taken venue once each calendar month for 4 months before the month containing the date of hearing. Within 30 days after the date of the first publication, copies of the notice shall be given as provided by supreme court rule to each person named in the petition as heirs and devisees.

(5) Except for the purpose of paying administration expenses, taxes, special assessments, liens, insurance premiums, allowed claims for debts contracted by the disappeared person before disappearance, necessary expenses for the support of the disappeared person's spouse and minor children as approved by the court, to prevent great depreciation on account of neglect, or to specifically fulfill contracts made by the disappeared person before disappearance, the personal representative of the estate shall not sell, mortgage, or otherwise dispose of the property of the disappeared person until the lapse of 3 years after the qualification of the personal representative unless the distributee executes and delivers to the personal representative a surety bond. The bond shall be in an amount not less than the value of the property distributed, and for any additional amount as the court prescribes. The bond shall be conditioned to return the property or its value to the personal representative if the disappeared person is adjudged to be living since the commencement period of 7 years and conditioned to save the personal representative from damages and expenses of actions and proceedings brought by the disappeared person or anyone succeeding to that person's rights by reason of the distribution having been made during the period of 3 years. The bond shall be subject to approval by the court.

(6) If, during the period of 3 years after the qualification of the personal representative, a person does not establish a claim either to be the disappeared person or to have succeeded to the rights of the disappeared person since the commencement of the period of 7 years by reason of the death of the disappeared person, a conclusive presumption shall arise that the disappeared person died before the filing of the petition for appointment of the personal representative or the probate of the will and the date of death shall be presumed to be 7 years after the date the disappearance began, unless a different date is determined by the court. The estate shall then be distributable accordingly, and the court shall order the estate closed, the liability of the personal representative to claimants and distributees ended, and all bonds canceled.

(7) If a person is missing or absent from his or her usual place of residence in this state, the person's whereabouts are unknown for 3 months or more, and the person leaves property which is going to waste or is in danger of being destroyed or lost for want of a custodian, the court in the county in which the missing or absent person resided or has property, upon petition of the spouse, other presumptive heirs, creditors, or the state public administrator, after notice and hearing, may appoint a temporary personal representative of the estate of the missing or absent person to act until the fact of the person's death or survival can be established, or until further order of the court. The temporary personal representative shall give bond as directed by the court and shall have those powers which the court authorizes.

(8) If a certificate of death was issued in a manner provided by law, the disappeared person shall be presumed dead and that person's estate may be administered in accordance with the regular procedure concerning estates of deceased persons and distributable as such.

(9) If a person dies testate or intestate and the only person apparently qualified to petition for the appointment of a personal representative has disappeared, the petition may be made by any person who would be qualified to petition if the disappeared person had predeceased the decedent.

History: Add. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.492a THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.492a Accident or disaster where remains of individual have disappeared or are unidentifiable; individuals authorized to file petition for determination of cause and date of death; jurisdiction; time for filing petition; contents of petition; time, place, and notice of hearing; jury; evidence; contents of court order; certificate of death; registering death;

forwarding copy of registered death record to local registrar.

Sec. 492a. (1) If an accident or disaster occurs and, as a result, it appears that an individual has died but his or her remains have disappeared or are unidentifiable, any of the following individuals may file a petition in probate court asking that the court determine the cause and date of death of the individual:

(a) The medical examiner, sheriff, or prosecutor of a county described in subsection (2).

(b) The spouse, next of kin, heir-at-law, legatee, devisee, personal representative, or executor named in a will, or a creditor or debtor of the individual presumed to be deceased.

(2) The probate court of the county in which the accident or disaster or any part of the accident or disaster occurs, or if the accident or disaster occurs upon or within the Great Lakes or their connecting waters, then of the county or counties adjacent to the scene of the accident or disaster, has jurisdiction of matters under this section. If the accident or disaster occurs outside of this state, the probate court of the individual's county of residence has jurisdiction of matters under this section.

(3) A petition to determine the cause and date of death as provided in this section shall not be filed less than 60 days or more than 7 years following the occurrence of the accident or disaster.

(4) A petition under this section shall set forth the facts and circumstances concerning the accident or disaster, the reasons for the belief that the individual died in the accident or disaster, that the individual is unidentifiable or has disappeared, and the names and addresses of all persons known or believed to be heirs-at-law of the individual.

(5) Upon the filing of the petition, the probate court shall fix the time and place for a hearing. The petitioner shall give or cause to be given notice of the hearing, as provided by the rules of the supreme court.

(6) At the hearing upon the petition, the court upon its own motion may, or upon motion of any interested party shall, impanel a jury as provided by law for probate courts. If it is established by a preponderance of the evidence presented at the hearing that an accident or disaster occurred in which the individual named in the petition was killed or may be presumed to have died, the court shall enter an order establishing the location of the accident or disaster; the date of death; if possible, the time of death; and that the individual is dead.

(7) A certified copy of an order under this section shall be

sufficient when presented to the medical examiner for the preparation of a certificate of death. The medical examiner shall forward the completed certificate of death to the state registrar. The state registrar shall register the death pursuant to section 2845 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.2845 of the Michigan Compiled Laws. The state registrar shall forward a copy of the registered death record to the local registrar of the place where the death occurred as established under this section.

History: Add. 1982, Act 452, Eff. Mar. 30, 1983;--Am. 1995, Act 101, Imd. Eff. June 23, 1995.

Compiler's note: Section 2 of Act 101 of 1995 provides: "The legislature intends that this amendatory act apply to a disappearance resulting from an accident or disaster that occurred before, on, or after the effective date of this amendatory act."

***** 700.493 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.493 Disappearance of heir or devisee; distribution of estate.

Sec. 493. (1) If a person dies testate or intestate leaving property in this state to be administered, and if 1 or more of the apparent heirs or devisees of the person's estate has disappeared, the distribution of that portion of the estate that would be distributed to the disappeared heir or devisee, if alive, shall not be made until the lapse of 18 months after the death of the decedent.

(2) Before the distribution of the portion in question, the personal representative of the estate shall cause to be published, at the expense of the persons ultimately receiving the portion, a notice signed by the representative and addressed to the disappeared heir or devisee by name and to the disappeared heir's or devisee's unknown presumptive heirs and devisees. The notice shall state that unless cause to the contrary is shown, on a specified date after the lapse of the period of 18 months, an order of distribution will be made by the court for the portion in question as though the disappeared heir or devisee predeceased the decedent.

(3) The notice required under subsection (2) shall be published in a newspaper of general circulation in the county once each calendar month for 4 months before the month containing the day certain when the order is to be made. Within 30 days after the date of the first publication, copies of the notice shall be given as provided by supreme court rule to each person named in the notice and to others who would be entitled to receive the portion if the disappeared heir or devisee were dead.

(4) If a person does not make a claim on or before the date specified in subsection (2), on that date the portion of the estate that would be distributed to the disappeared heir or devisee, if alive, less expenses, shall be distributed by order of the court to each person who would be entitled to the portion if the disappeared heir or devisee predeceased the decedent, and the disappeared heir or devisee and the disappeared heir's or devisee's unknown heirs and devisees are forever barred from all claim or right to the portion.

(5) An heir or devisee is considered to have disappeared under this section if the heir or devisee meets all of the following:

(a) The heir or devisee has been absent from his or her last known place of abode for at least 5 continuous years.

(b) The heir's or devisee's whereabouts were unknown by those individuals most likely to know of his or her whereabouts during the time required by subdivision (a).

(c) The heir or devisee has not communicated with any of those individuals most likely to receive communication from him or her during the time required by subdivision (a).

History: Add. 1979, Act 51, Imd. Eff. July 7, 1979;--Am. 1995, Act 184, Imd. Eff. Oct. 23, 1995.

***** 700.494 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.494 Missing, interned, or captured serviceman or merchant seaman; petition; appointment by conservator; notice of hearing; bond; accounts; power of conservator; accounting; transfer of property.

Sec. 494. (1) If a person, while serving in or with the armed forces of the United States of America or while serving as a merchant seaman, is reported or listed as missing or missing in action; interned in a neutral country; or beleaguered, besieged, or captured by an enemy, and the person has property in this state and has not provided an adequate power of attorney authorizing another to act on his or her behalf in regard to the property, the court in the county of the absentee's residence, or if the person is a nonresident of Michigan, the court where the property is situated, upon petition alleging the facts described in this subsection and showing the necessity for providing care of the property made by a person who would have an interest in the property were the absentee deceased, may appoint a suitable person as conservator to take charge of the absentee's property. However, the appointment shall only be made after a notice of hearing has been given to the absentee's presumptive heirs, as provided by supreme court rule.

(2) The court may require the conservator appointed under

subsection (1) to post bond and to file accounts, as the court requires. The conservator appointed under subsection (1) shall have the powers as authorized by the court.

(3) Upon petition by the absentee or the absentee's fiduciary, or upon petition of an attorney in fact acting under an adequate power of attorney granted by the absentee, the court shall direct that an accounting be made, order the termination of the conservatorship, and order the transfer of all property to the absentee, to the attorney in fact, or to the fiduciary.

(4) After appointment of a conservator, if it appears that the absentee died and a personal representative was appointed for his or her estate, the court shall direct transfer of all property of the deceased absentee to the personal representative.

History: Add. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.495 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.495 Attorney in fact or agent; designation by principal; authority; acts effective and binding on principal; accounting to conservator; revocation of power of attorney or agency.

Sec. 495. When a principal designates another as the principal's attorney in fact or agent by a power of attorney in writing and the writing contains the words "This power of attorney shall not be affected by disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding his disability, the authority of the attorney in fact or agent is exercisable by him as provided in the power on behalf of the principal notwithstanding later disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive. An act done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive have the same effect and inure to the benefit of and bind the principal or his heirs, devisees, and personal representative as if the principal were alive, competent, and not disabled. If a conservator thereafter is appointed for the principal, the attorney in fact or agent, during the continuance of the appointment, shall account to the conservator rather than the principal. The conservator has the same power the principal would have had if he were not protected to revoke the power of attorney or agency.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.496 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.496 Designation of person to exercise powers concerning care, custody, and medical treatment; designation and statement as part of medical record; execution of designation; witnesses; successor patient advocate; copy of designation; contents of acceptance; exercise of authority; dispute; petition; hearing; determination; authority, rights, responsibilities, and limitations of patient advocate; suspension or revocation of designation; affidavit denying knowledge of revocation; effect of patient's current desire; liability; sound medical practice and instructions binding; pregnant patient; prohibited conduct by health care provider and life or health insurer; suicide or homicide; applicability of section; objections on religious grounds; validity of prior designation.

Sec. 496. (1) A person 18 years of age or older who is of sound mind at the time a designation is made may designate in writing a person who is 18 years of age or older to exercise powers concerning care, custody, and medical treatment decisions for the person who made the designation. For purposes of this section, a person who is named in a designation to exercise powers concerning care, custody, and medical treatment decisions shall be known as a patient advocate and a person who makes a designation shall be known as a patient.

(2) A designation shall be in writing, signed, witnessed pursuant to subsection (3), dated, executed voluntarily, and before its implementation shall be made part of the patient's medical record with the patient's attending physician and, if applicable, with the facility where the patient is located. The designation shall include a statement that the authority conferred under this section shall be exercisable only when the patient is unable to participate in medical treatment decisions.

(3) A designation shall be executed in the presence of and signed by 2 witnesses. The witnesses shall not be the patient's spouse, parent, child, grandchild, sibling, presumptive heir, known devisee at the time of the witnessing, physician, patient advocate, an employee of a life or health insurance provider for the patient, an employee of a health facility that is treating the patient, or an employee of a home for the aged as defined in section 20106 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.20106 of the Michigan Compiled Laws, where the patient resides. A witness shall not sign the designation unless the patient appears to be of sound mind and under no duress, fraud, or undue influence.

(4) A designation may include a statement of the patient's desires on care, custody, and medical treatment. The patient may authorize the patient advocate to exercise 1 or more powers concerning the patient's care, custody, and medical treatment, that the patient could have exercised on his or her own behalf.

(5) A patient may designate in the designation a successor individual as a patient advocate who may exercise powers

concerning care, custody, and medical treatment decisions for the patient if the first individual named as patient advocate does not accept, is incapacitated, resigns, or is removed.

(6) Before its implementation a copy of the designation shall be given to the proposed patient advocate and shall be given to a successor patient advocate prior to the successor acting as patient advocate. Before acting as a patient advocate, the proposed patient advocate shall sign an acceptance to the designation.

(7) The acceptance to a designation as a patient advocate shall contain the following:

"(a) This designation shall not become effective unless the patient is unable to participate in medical treatment decisions.

(b) A patient advocate shall not exercise powers concerning the patient's care, custody, and medical treatment that the patient, if the patient were able to participate in the decision, could not have exercised on his or her own behalf.

(c) This designation cannot be used to make a medical treatment decision to withhold or withdraw treatment from a patient who is pregnant that would result in the pregnant patient's death.

(d) A patient advocate may make a decision to withhold or withdraw treatment which would allow a patient to die only if the patient has expressed in a clear and convincing manner that the patient advocate is authorized to make such a decision, and that the patient acknowledges that such a decision could or would allow the patient's death.

(e) A patient advocate shall not receive compensation for the performance of his or her authority, rights, and responsibilities, but a patient advocate may be reimbursed for actual and necessary expenses incurred in the performance of his or her authority, rights, and responsibilities.

(f) A patient advocate shall act in accordance with the standards of care applicable to fiduciaries when acting for the patient and shall act consistent with the patient's best interests. The known desires of the patient expressed or evidenced while the patient is able to participate in medical treatment decisions are presumed to be in the patient's best interests.

(g) A patient may revoke his or her designation at any time and in any manner sufficient to communicate an intent to revoke.

(h) A patient advocate may revoke his or her acceptance to the designation at any time and in any manner sufficient to communicate an intent to revoke.

(i) A patient admitted to a health facility or agency has the rights enumerated in section 20201 of the Public health code, Act No. 368 of the Public Acts of 1978, being section 333.20201 of the Michigan Compiled Laws."

(8) The authority under a designation executed under this section shall be exercisable by a patient advocate only when the patient is unable to participate in medical treatment decisions. The patient's attending physician and another physician or licensed psychologist shall determine upon examination of the patient when the patient is unable to participate in medical treatment decisions, shall put the determination in writing, shall make the determination part of the patient's medical record, and shall review the determination not less than annually. If the patient's religious beliefs prohibit an examination and this is stated in the designation, the patient shall indicate in the designation how it shall be determined when the patient advocate shall exercise powers concerning decisions on behalf of the patient. If a dispute arises as to whether the patient is unable to participate in medical treatment decisions, a petition may be filed with the probate court in the county in which the patient resides or is found requesting the court's determination as to whether the patient is unable to participate in medical treatment decisions. If a petition is filed under this subsection, the court shall appoint a guardian ad litem to represent the patient for the purposes of this subsection. The court shall conduct a hearing on a petition under this subsection as soon as possible and within 7 days of the court's receipt of the petition. As soon as possible and within 7 days after the hearing, the court shall determine whether or not the patient is able to participate in medical treatment decisions. If the court determines that the patient is unable to participate in medical treatment decisions, the patient advocate's authority, rights, and responsibilities shall become effective. If the court determines that the patient is able to participate in medical treatment decisions, the patient advocate's authority, rights, and responsibilities shall not become effective.

(9) An individual designated as a patient advocate under this section shall have the following authority, rights, responsibilities, and limitations:

(a) A patient advocate shall act in accordance with the standards of care applicable to fiduciaries in exercising his or her powers.

(b) A patient advocate shall take reasonable steps to follow the desires, instructions, or guidelines given by the patient while the patient was able to participate in care, custody, or medical treatment decisions, whether given orally or as written in the designation.

(c) A patient advocate shall not exercise powers concerning the patient's care, custody, and medical treatment that the patient,

if the patient were able to participate in the decision, could not have exercised on his or her own behalf.

(d) This designation cannot be used to make a medical treatment decision to withhold or withdraw treatment from a patient who is pregnant that would result in the pregnant patient's death.

(e) A patient advocate may make a decision to withhold or withdraw treatment which would allow a patient to die only if the patient has expressed in a clear and convincing manner that the patient advocate is authorized to make such a decision, and that the patient acknowledges that such a decision could or would allow the patient's death.

(f) A patient advocate under this section shall not delegate his or her powers to another individual without prior authorization by the patient.

(10) A designation executed under this section is suspended when the patient regains the ability to participate in medical treatment decisions. The suspension is effective as long as the patient is able to participate in medical treatment decisions. If the patient subsequently is determined under subsection (8) to be unable to participate in medical treatment decisions, the patient advocate's authority, rights, responsibilities, and limitations shall again become effective.

(11) A designation executed under this section is revoked by any of the following:

(a) The death of the patient.

(b) An order of dissolution by the probate court under subsection (16).

(c) Resignation of the patient advocate or removal of the patient advocate by the probate court, unless a successor patient advocate has been designated.

(d) Revocation of the designation by the patient. Even if the patient is unable to participate in medical treatment decisions, a patient may revoke a designation at any time and in any manner by which he or she is able to communicate an intent to revoke the designation. If there is a dispute as to the intent of the patient to revoke the designation, the probate court may make a determination on the intent of the patient to revoke the designation. If the revocation is not in writing, a person who witnesses a revocation of a designation shall describe in writing the circumstances of the revocation, shall sign the writing, and shall notify, if possible, the patient advocate of the revocation. If the patient's physician or health facility has notice of the patient's revocation of a designation, the physician or health facility shall note the revocation in the patient's medical records and bedside chart, and shall notify the

patient advocate.

(e) A subsequent designation that revokes the prior designation either expressly or by inconsistency.

(f) The occurrence of a provision for revocation contained in the designation.

(g) If a designation is executed during a patient's marriage naming the patient's spouse as the patient advocate, the designation shall be suspended during the pendency of an action for separate maintenance, annulment, or divorce and shall be revoked upon the entry of a judgment of separate maintenance, annulment, or divorce, unless the patient has named a successor individual to serve as a patient advocate. If a successor patient advocate is named, that individual shall act as the patient advocate.

(12) The revocation of a designation of a patient advocate under subsection (11) does not revoke or terminate the agency as to the patient advocate or other person who acts in good faith under the designation and without actual knowledge of the revocation. An action taken without knowledge of the revocation, unless the action is otherwise invalid or unenforceable, binds the patient and his or her heirs, devisees, and personal representatives. An affidavit executed by the patient advocate stating that he or she did not have at the time of doing an act pursuant to the designation actual knowledge of the revocation of the designation is, in the absence of fraud, conclusive proof that the patient advocate did not have actual knowledge of the revocation at that time of the revocation.

(13) A current desire by a patient, irrespective of a previous expressed or evidenced desire, to have provided, and not withheld or withdrawn, a specific life extending care, custody, or medical treatment shall be binding on the patient advocate, if known by the patient advocate, regardless of the then ability or inability of the patient to participate in care, custody, or medical treatment decisions or the competency of the patient.

(14) A person providing, performing, withholding, or withdrawing care, custody, or medical treatment as a result of the decision of an individual who is reasonably believed to be a patient advocate and who is reasonably believed to be acting within the authority granted by the designation, is liable in the same manner and to the same extent as if the patient had made the decision on his or her own behalf.

(15) A person providing care, custody, or medical treatment to a patient is bound by sound medical practice and by the instructions of a patient advocate if the patient advocate complies with this section, and is not bound by the instructions of a patient advocate if the patient advocate does not comply with this section.

(16) If a dispute arises as to whether a patient advocate is acting consistent with the patient's best interests, or is otherwise not complying with this section, a petition may be filed with the probate court in the county in which the patient resides or is found requesting the court's determination as to the continuation of the designation or the removal of the patient advocate.

(17) A patient advocate cannot make a medical treatment decision under the authority of or under the process created by this section to withhold or withdraw treatment from a pregnant patient that would result in the pregnant patient's death.

(18) A health care provider shall not require a designation to be executed as a condition of providing, withholding, or withdrawing care, custody, or medical treatment.

(19) A life or health insurer shall not do any of the following because of the execution or implementation of a designation or because of the failure or refusal to execute or implement a designation:

(a) Refuse to provide or continue coverage to the patient.

(b) Limit the amount of coverage available to a patient.

(c) Charge a patient a different rate.

(d) Consider the terms of an existing policy of life or health insurance to have been breached or modified.

(e) Invoke a suicide or intentional death exemption or exclusion in a policy covering the patient.

(20) A designation executed under this section shall not be construed to condone, allow, permit, authorize, or approve suicide or homicide.

(21) Except as provided in subsections (18) and (19), this section shall only apply to or affect a person who has executed a designation. This section shall only apply to or affect a person acting for or on behalf of another person who has executed a designation.

(22) Nothing in this section shall be considered to authorize or compel care, custody, or medical treatment decisions for a patient who objects on religious grounds.

(23) A designation executed before the effective date of this section with the intent of accomplishing a similar purpose as this section is valid but shall be subject to subsection (1) and subsections (4) through (23), shall be in writing, signed, witnessed or notarized, dated, executed voluntarily, and before

its implementation shall be made part of the patient's medical record.

History: Add. 1990, Act 312, Imd. Eff. Dec. 19, 1990.

***** 700.497 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.497 Death, disability, or incompetence of principal; revocation or termination of agency; affidavit by attorney in fact or agent; recording; construction of section.

Sec. 497. (1) The death of a principal who has executed a power of attorney in writing, durable or otherwise, does not revoke or terminate the agency of the attorney in fact, agent, or other person who, without actual knowledge of the death, acts in good faith under the power of attorney or agency. An action so taken, unless otherwise invalid or unenforceable, binds the principal and the principal's heirs, devisees, and personal representatives. The disability or incompetence of a principal who has executed a power of attorney in writing does not revoke or terminate the agency of the attorney in fact, agent, or other person who, without actual knowledge of the disability or incompetence, acts in good faith under the power of attorney or agency. An action so taken, unless otherwise invalid or unenforceable, binds the principal and the principal's heirs, devisees, and personal representatives. This subsection does not apply to a power of attorney described in section 495.

(2) In the absence of fraud, an affidavit executed by the attorney in fact or agent stating that he or she did not have, at the time of doing an act pursuant to the power of attorney, actual knowledge of the revocation or termination of the power of attorney by death, disability, or incompetence is conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power requires execution and delivery of any instrument that is recordable, the affidavit when authenticated for record is likewise recordable.

(3) This section shall not be construed to alter or affect a provision for revocation or termination contained in the power of attorney.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1996, Act 130, Eff. June 1, 1996.

***** 700.499 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.499 Conflicting provisions.

Sec. 499. If this article conflicts with the provisions of Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, that act

shall control.

History: 1978, Act 642, Eff. July 1, 1979.

ARTICLE 5

***** 700.501 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.501 Fiduciary to stand in position of confidence and trust;
disclosure of facts or knowledge pertaining to property or
affairs; consent; nonapplicability of disclosure restriction.

Sec. 501. A fiduciary shall stand in a position of confidence and trust with respect to his cestuis que trust, heirs, devisees, beneficiaries, or his wards, as the case may be. Except in response to any legal process, in cases expressly required by law or in the necessary or proper administration of the estate, facts or knowledge pertaining to their property in his hands or to their affairs shall not be disclosed by a fiduciary in any manner without the consent of the cestui, heir, devisee, beneficiary or ward. The consent may be given by the fiduciary of a minor or an incapacitated person, in behalf of that person. The restriction on disclosure shall not apply in an action or proceeding in which the fiduciary and the cestui, heir, devisee, beneficiary, or ward, as the case may be, are parties adverse to each other once the identity and relationship is determined and established.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.501a THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.501a Appointment of nonprofit corporation as guardian or conservator.

Sec. 501a. (1) Subject to subsections (2) and (3), the court may appoint or approve as a guardian, limited or temporary guardian, or conservator under this act, or as a plenary or partial guardian as those terms are defined in section 600 of the mental health code, Act No. 258 of the Public Acts of 1974, being section 330.1600 of the Michigan Compiled Laws, a nonprofit corporation incorporated under the nonprofit incorporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws, which corporation's primary function is to provide fiduciary services in the same manner as other fiduciaries under this act. This section shall not be construed to make a person that is not a nonprofit corporation described in this subsection ineligible to be appointed or approved as a fiduciary.

(2) The court shall only appoint a corporation as authorized under subsection (1) if the court finds on the record both of the following:

(a) The appointment of the nonprofit corporation is in the ward's or developmentally disabled person's best interests.

(b) Another qualified, suitable person has not come before the court and expressed a willingness to serve in that fiduciary capacity.

(3) The court shall not appoint a corporation as authorized under subsection (1) unless the corporation files a bond in an amount and with the conditions as determined by the court. The court shall not appoint a corporation described in subsection (1) as a personal representative or trustee.

(4) A corporation appointed under this section shall not receive as a result of that appointment a benefit beyond compensation specifically authorized for that type of fiduciary by this act or the mental health code, Act No. 258 of the Public Acts of 1974, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

History: Add. 1994, Act 327, Imd. Eff. Oct. 12, 1994.

***** 700.502 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.502 Bond of fiduciary; designation of judge as obligee; surety; continuance of bond; conditions; amount; qualification without bond or with nominal bond; appointment of temporary fiduciary as general fiduciary; restrictions; filing acceptance of trust; disapproval of bond; personal representative as residuary devisee.

Sec. 502. (1) If a fiduciary is required to file a bond to qualify, the fiduciary shall give a bond, as provided in section 507, before he enters upon the execution of his trust and before letters of authority are granted to him. The bond shall designate the judge as obligee for the benefit of the persons interested in the estate in such reasonable amount as the court directs with such surety or sureties as the court directs and approves. A bond of \$1,000.00 or less shall not require a surety. The court may approve the bond given by a surety company authorized to do business in this state for not more than 5 years and at the end of that period for which the bond, whether having a corporate or personal surety, was approved, may after reexamination of the then condition of the estate and the solvency of the surety or sureties, authorize the continuance of the bond for not more than 5 years. The conditions of a bond shall be as follows:

(a) To collect, care for, manage and preserve all the property of the estate and to make and return to the court, within 60 days, a true and perfect inventory of all the goods, chattels, rights, credits and property of the estate or trust, which shall come to his possession or knowledge, or the possession of any

other person for him.

(b) To administer the estate according to law, and out of the estate to pay and discharge all debts and charges, chargeable on the estate, or the dividends thereon, as may be ordered by the court.

(c) To render a true and just account of his administration to the court within 1 year, and at any other time when required by law or by the court; and the surety by execution of the bond guarantees that if the principal does not render an account, the surety will render it for him and on the principal's behalf.

(d) To perform all orders and decrees of the court, by the fiduciary to be performed, and to pay over the residue of the estate or trust to the proper parties as ordered by the court.

(2) The factors to be considered in determining the amount of bond shall include the amount and nature of the assets, requests to waive bond by the testator, assumption of liability for defalcation and to save harmless by interested parties, limitations in the letters of authority, estimated tax liabilities, the extent of the expected distribution to the fiduciary in a decreased or trust estate, and such further factors as the court deems relevant.

(3) In estates of decedents and testamentary trusts, regardless of the amount and nature of the assets, if the testator directs or all parties in interest consent that the fiduciary qualifies without a bond or with a nominal bond, the court may follow such direction. A court that does not follow the direction, shall state in its order the basis for setting a bond or a higher bond. Unless otherwise provided by the testator or the interested parties, a nominal bond shall mean a personal bond of \$1,000.00 or less.

(4) If a temporary fiduciary is subsequently appointed as a general fiduciary, the bond, if any, of the temporary fiduciary may be continued in force as to the general fiduciary, if the surety or sureties on the original bond consent in writing to the continuation of the bond. A temporary fiduciary may qualify under this subsection as a general fiduciary by filing an acceptance of trust.

(5) If restrictions on the powers of the fiduciary are placed in the letters of authority, the fiduciary shall be bound by the restrictions. Expiration or suspension of letters shall not affect the continuing liability of the fiduciary or sureties unless and until they are discharged by order of the court.

(6) If satisfactory to the court, a fiduciary directed by the court to give bond in the penal sum of \$1,000.00 or less, may qualify instead by filing an acceptance of trust.

(7) If the bond is not approved, the fiduciary shall have an additional 10 days from the date of the rejection of the bond in which to file a bond with surety or sureties satisfactory to the court. If a fiduciary does not file as required by this subsection, the court may appoint another person as fiduciary in his place, who shall furnish the bond required.

(8) If a personal representative named in a last will and testament, or duly appointed, is a residuary devisee, he may give a bond in such sum and with such sureties as the court directs, with a condition only to pay all the debts, charges and devises of the testator instead of the bond prescribed in subsections (1) to (7).

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.504 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.504 Oath of personal surety.

Sec. 504. A personal surety shall make oath that he owns property, exclusive of homestead property, subject to execution, of a value over and above encumbrances equal to the amount of the bond.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.505 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.505 Jurisdiction over surety; enforcement of liability.

Sec. 505. The court has jurisdiction over a surety who executes a bond of a fiduciary, and liability of the surety on the bond may be enforced in the court as provided in this act without the necessity of an independent action.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.506 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.506 Joint or separate bonds.

Sec. 506. When 2 or more persons are appointed fiduciaries of an estate, the court may take joint or separate bonds.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.507 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.507 Filing bond or collateral; substitution and deposit of

collateral; written acceptance of trust by bank.

Sec. 507. A fiduciary shall file his bond within 15 days after the order appointing him as the fiduciary. Subject to the approval of the court, the fiduciary may, in lieu of sureties, turn over to, and file with, the court collateral in an amount and nature satisfactory to the court to cover the amount of the bond, which shall be immediately deposited by the court with the county treasurer, who shall be liable for the safekeeping thereof and shall pay the same out only on the order of the court. Other sufficient collateral may be substituted at any time pursuant to the order of the court. If the fiduciary is a bank doing business in this state under Act No. 319 of the Public Acts of 1969, as amended, being sections 487.301 to 487.598 of the Michigan Compiled Laws, the deposit made by the bank with the state treasurer as provided in section 184 of Act No. 319 of the Public Acts of 1969, being section 487.484 of the Michigan Compiled Laws, shall be accepted in lieu of requiring a bond or deposit of collateral with the court, if the bank files a written acceptance of the trust with the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.508 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.508 Bonds; amount, sureties, and purpose; running to judge or adverse party.

Sec. 508. Bonds required by law or by order of the court to be taken in shall be in such amount and with such sureties as provided in this article, except when the law otherwise prescribes; and the bonds shall be for the security and benefit of all persons interested, and shall run to the judge except where the bonds are required by law to run to the adverse party.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.509 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.509 Bonds; examination and approval by court.

Sec. 509. A bond required by law to be filed with the court shall not be deemed sufficient, unless it is examined and approved thereon in writing by the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.511 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.511 Bonds; surety represented by judge, probate register, or other employee.

Sec. 511. A bond, the surety upon which is represented by the judge, probate register or other employee in the probate office in any capacity, shall not be approved by the court for filing in an estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.512 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.512 Bonds; record of approval dates.

Sec. 512. The court shall keep a record of the dates upon which the bond of each fiduciary was approved by the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.513 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.513 New bond; liability of sureties in prior bond.

Sec. 513. When a new bond is required, the sureties in the prior bond shall be liable for all breaches of the condition committed before the new bond is approved by the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.514 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.514 Personal representative refusing to accept trust or neglecting to give bond; granting letters of authority to other named personal representatives; committing administration to beneficiaries or person entitled to appointment; granting letters of authority to heir or other suitable person.

Sec. 514. (1) If a person named personal representative in a will, or appointed personal representative refuses to accept the trust, or neglects to give bond as required by law for 15 days after the admission of the will to probate, the court may, without notice, grant letters of authority to the other named personal representatives, if there be any who are capable and willing to accept the trust. If another personal representative is not named who will give bond, the court may commit administration of the estate to any of the beneficiaries named in the will, if capable, or to such person as would have been entitled to the appointment if the testator had died intestate.

(2) If the person appointed as personal representative of an intestate estate neglects for 15 days from the date of appointment to give bond as required by law, the court may, without notice, grant letters of authority to an heir, if

suitable, or to some other person deemed suitable by the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.515 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.515 Discharge of surety on bond; petition; accounting by principal; new bond.

Sec. 515. Upon the written petition of the surety or his principal to the court, a surety on a bond required by the court may be discharged from all further responsibility, after the principal named in the bond files an account of all his actions and administration from the date of his last account up to the date of hearing, if the court, after due notice to all interested persons, deems it reasonable and proper, and the principal thereupon gives a new bond. The principal named in the bond shall be required by the court to file an account or a supplemental account of all his actions and administration up to the date of hearing of the surety's petition as well as an account of all the residue of the estate remaining in the principal's hands.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.516 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.516 Petition requiring principal to file account; excessive bond; ordering new bond.

Sec. 516. On the petition of an interested person in the estate the court may require the principal named in a bond to file an account, at any time during the administration of his estate or trust. If the accounting shows that the bond on file is excessive, the court may order a new bond in a reasonable amount.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.517 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.517 Requiring new or additional bond; discharge of existing bond and sureties.

Sec. 517. The court may require a new or additional bond to be given by a fiduciary, when it deems necessary. On the filing of the new bond, the existing bond and the sureties thereon shall be discharged from responsibility for any act of the principal therein occurring subsequent to the date of the discharge.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.518 THIS SECTION IS REPEALED BY ACT 386 OF 1998

EFFECTIVE APRIL 1, 2000 *****

700.518 Requiring new or additional bond; notice to fiduciary; removal of fiduciary refusing or neglecting to give bond.

Sec. 518. When a new or additional bond is required under this act, the court shall require written notice thereof to be given to the fiduciary. If after the giving of the notice, the fiduciary refuses or neglects for 10 days to give the bond as required, the court may immediately and on its own motion, remove the fiduciary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.519 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.519 Payment of costs; warrant; refund.

Sec. 519. The necessary costs incurred in carrying out sections 517 and 518 and serving the notices required in this article shall be borne by the county in which the proceeding is had, and shall be paid by the county treasurer from the general fund of the county, upon the warrant of the court approved by the county board of commissioners of the county. When it appears that funds in the estate are sufficient, the court shall by order direct the fiduciary to refund to the county the costs of the proceeding.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.521 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.521 Proceeding on bond; commencement; liability.

Sec. 521. (1) A successor fiduciary, any other fiduciary of the same decedent or any interested party, may commence a proceeding in the court on the bond.

(2) Unless otherwise provided by the terms of the bond, sureties are jointly and severally liable with the fiduciary and with each other.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.522 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.522 Prosecution on bond for refusing or omitting to perform order or decree; application of moneys collected.

Sec. 522. When a fiduciary refuses or omits to perform an order or decree made by the court for rendering an account, upon a final settlement, or for the payment of debts, legacies, or

distributive shares, the court may cause the bond of the fiduciary to be prosecuted, and the moneys collected thereon to be applied in satisfaction of the order or decree, in the same manner as the moneys ought to have been applied by the fiduciary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.523 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.523 Action on bond; name; execution; plaintiff.

Sec. 523. In an action upon a bond, the proceedings shall be in the name of the state as obligee for the benefit of the persons interested, and when the action is brought the execution shall state that it is for the use of the persons, and in such case the persons for whose use the action is brought shall be deemed the plaintiff.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.525 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.525 Action on bond for benefit of person; judgment.

Sec. 525. If judgment is rendered for the plaintiff in an action on the bond, brought for the benefit of a particular person, judgment shall be for the amount due to the person with costs.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.526 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.526 Action on bond for breach; judgment; exhaustion of penalty.

Sec. 526. (1) If judgment is rendered for the plaintiff in an action upon the bond brought for a breach thereof, in not performing an order or decree of the court, judgment shall be awarded for the full value of all the estate of the deceased that came to the hands of the fiduciary for which he did not satisfactorily account, and for damages resulting from his neglect or maladministration, with costs.

(2) The bond of the fiduciary is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.527 THIS SECTION IS REPEALED BY ACT 386 OF 1998

EFFECTIVE APRIL 1, 2000 *****

700.527 Moneys on execution issued on judgment on bond; payment; moneys as assets.

Sec. 527. Moneys on an execution issued on a judgment on a bond, as mentioned in section 526 shall be paid over to the cofiduciary, if there is any, or to such person, other than the defendant, who is then the rightful fiduciary, and the moneys shall be assets in his hands to be administered according to law.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.528 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.528 Breach of conditions of bond; prosecution of claims for damages.

Sec. 528. Claims for damages, on account of the breach of the conditions of a bond, may be prosecuted by a fiduciary of the estate, in behalf of those he represents, in the same manner as by persons living and of full age, and the claims may be prosecuted against the representatives of deceased persons, in the same manner as other claims against the deceased persons.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.529 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.529 Adjournment of hearing involving liability of surety; purpose; notice; service; surety as party.

Sec. 529. (1) When on any hearing in the court an issue is presented which involves the liability of a surety or sureties on the bond of a fiduciary, the court may adjourn the hearing for the purpose of giving the surety or sureties an opportunity to appear, defend, and be heard. Notice of the adjourned hearing shall be given to the surety or sureties by the court or an interested party as the court directs at least 15 days before the date of the adjourned hearing.

(2) A copy of the notice shall be served personally by delivering the copy to anyone on whom process may be served in making service of process on the surety or sureties. When service is made on a corporate surety by serving the commissioner of insurance, secretary of state, or other state officer, the notice shall be served in duplicate on the state officer and the state officer shall immediately forward a copy of the notice by registered mail to the corporate surety addressed to its secretary.

(3) When service is made upon a surety as provided in this

section, the surety shall be deemed to be a party to the proceeding and the court may enter judgment with respect to the liability of the surety or sureties on the bond of the fiduciary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.531 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.531 Fiduciary; amenable to process; preference; qualifications of nonresident to serve as fiduciary or testamentary trustee; resident agent to accept service of process; submitting personally to jurisdiction; removal of assets from state.

Sec. 531. (1) A person acting as fiduciary is at all times amenable to process issued out of the courts of this state and therefore a resident of this state and a citizen of the United States of America who is suitable and competent to act as fiduciary shall be given preference.

(2) A nonresident may qualify to serve as a fiduciary, or a testamentary trustee acting under article 8, if 1 of the following applies:

(a) The nonresident is a bank or trust company authorized to do business in this state.

(b) The nonresident is a guardian of the person of a resident minor and the will of the surviving parent of the minor nominates the nonresident as guardian.

(c) The nonresident is appointed as a foreign fiduciary, for the purposes of ancillary administration, as provided in this act.

(d) The nonresident files with the court a designation of and acceptance by a resident agent to accept service of process in all actions or proceedings with respect to the estate or the trust or the conduct of the fiduciary or testamentary trustee.

(3) If a resident fiduciary, or a testamentary trustee acting under article 8, becomes a nonresident, he or she may continue to qualify to act by filing with the court a designation of and acceptance by a resident agent to accept service of process in all actions or proceedings with respect to the estate or the trust or the conduct of the fiduciary or testamentary trustee.

(4) By accepting appointment, a fiduciary or testamentary trustee submits personally to the jurisdiction of the court in any proceeding relating to the estate or trust that may be instituted by an interested person.

(5) A person who is qualified to act as a nonresident fiduciary

or testamentary trustee under only subsection (2)(d) shall not remove assets of the estate or trust from this state without prior approval of the court. Removal of assets from the state without prior approval of the court constitutes grounds for the removal of the nonresident fiduciary. This subsection shall not apply to a fiduciary, or to a testamentary trustee acting under article 8, if any of the following applies:

(a) The conservator was named in the petition filed by the person to be protected.

(b) The personal representative or testamentary trustee was nominated in a testamentary instrument.

(c) The testamentary trustee acting under article 8 was named trustee in the instrument creating the trust.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.533 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.533 Letters of authority; issuance; contents; evidence of authority to secure and take possession of property.

Sec. 533. When the bond, if any, of a fiduciary is approved by the court, there shall be issued out of the court letters of authority to which a certified copy of the will shall be annexed, which letters shall state in substance the duties of the fiduciary and his authority granted by the court. The letters shall be sufficient to entitle the fiduciary to secure and take possession of any and all of the property belonging to the estate or trust, and shall also be evidence of his authority to do so.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.534 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.534 Letters of authority, revocation.

Sec. 534. The letters issued pursuant to section 533 shall be revoked only upon discharge of the fiduciary after full and complete administration of the estate or trust, or upon the resignation of the fiduciary duly accepted by the court, or upon the removal of the fiduciary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.535 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.535 Execution of instrument purporting to be assignment,

release, or discharge of mortgage, or evidence of lien; certificate; recordation; record as evidence.

Sec. 535. When a fiduciary executes a written instrument, purporting to be an assignment, release, or discharge of a mortgage, or otherwise evidence of a lien upon any property, situated in this state, the court shall, when so requested, make and attach to the instrument a certificate verifying the date of issuance of letters of authority to the fiduciary, and the time to which they continued in force unsuspending and unrevoked. The certificate may be recorded in the office of the register of deeds, or other place of record, in any county, with the instrument when the instrument is entitled by law to be recorded; and the record, or an authenticated copy thereof, shall be prima facie evidence of the facts certified in all courts and legal proceedings in this state.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.536 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.536 Certification of fiduciary and letters of authority; recording certificate; certificate and record as evidence.

Sec. 536. Upon request of an interested person the probate court shall ascertain by search of the records in its office, and certify the name of the fiduciary of an estate which was administered, or may be in process of administration in the court, the date of issuance of any letters of authority to that fiduciary, and the time to which the letters continued in force. The certificate may be recorded in the office of the register of deeds of a county where an instrument executed by the fiduciary, affecting in any manner the title to any lands in the county, is recorded. The certificate and the record, or a duly certified copy thereof, shall be prima facie evidence of the facts certified in all courts and legal proceedings.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.537 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.537 Letters of authority; recording of authenticated copy; record or authenticated copy as evidence.

Sec. 537. An authenticated copy of any letters of authority issued by a court, in which the authentication contains a statement of the date to which the letters continued in force may be recorded in the office of any register of deeds of any county, where an instrument in writing, executed by a person under authority of the letters is recorded. The record, or an authenticated copy thereof, shall be prima facie evidence of the facts therein contained in all courts and legal proceedings in

this state.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.541 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.541 Fiduciary; expenses and compensation; fees.

Sec. 541. A fiduciary shall be allowed the amount of his or her reasonable expenses incurred in the administration of the estate and shall also have such compensation for his or her services, both ordinary and extraordinary as the court in which the fiduciary's accounts are settled deems to be just and reasonable. When compensation is provided by a written instrument, the provision shall be deemed to provide full compensation for the fiduciary's services if the fiduciary accepts the trust under the instrument, unless, by written instrument filed in the court at the time of his or her acceptance the fiduciary renounces his or her claim to compensation provided by the instrument. In the case of a successor personal representative, the court, in its discretion, may apportion the compensation among the first and successor personal representatives. Fiduciary fees may be taken at intervals as approved by the court.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

700.542 Repealed. 1979, Act 51, Imd. Eff. July 7, 1979.

Compiler's note: The repealed section pertained to fiduciary fees.

***** 700.543 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.543 Fiduciary; employment and compensation of counsel.

Sec. 543. Without obtaining a court order, a fiduciary of an estate may employ counsel to perform necessary legal services in behalf of the estate and the counsel shall receive reasonable compensation for the legal services.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.544 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.544 Fiduciary; liability; closing estate promptly; accounting; order; decree for distribution of assets among creditors.

Sec. 544. (1) A fiduciary is liable to an interested party for

any loss to the estate of which he is a fiduciary arising from his embezzlement. A fiduciary is liable for any loss through commingling of funds of an estate with funds of his own; for negligence in the handling of an estate; for wanton and wilful mishandling thereof; for loss through self-dealing and through failure to account for, or to terminate the estate when it is ready for termination and an extension of time is not granted by the court; and for any misfeasance, malfeasance, nonfeasance, or other breach of duty. An estate shall be closed as promptly as possible, unless for good cause shown the court extends the time therefor, in a decedent's estate unless otherwise provided by will or due to the existence of a contingent claim as provided in this act. A fiduciary as an officer of the court, shall be held in strict account for prompt and expeditious termination of the estate. The court in its discretion may at any time order a fiduciary of an estate under its jurisdiction to file an accounting, and after due hearing thereon, the court shall enter an order which agrees with the law and the facts of the case.

(2) When a decree is made by the court for the distribution of the assets among the creditors, the fiduciary, after the time of payment arrives, is personally liable to the creditors for those debts, or the dividend thereon.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.546 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.546 Fiduciary; authorization to continue business of decedent or ward; manner of conducting business; general instructions.

Sec. 546. After petition is duly filed, the court may, to preserve the estate, authorize a fiduciary under its jurisdiction to continue in the course of business in which the decedent was engaged at the time of death, or in which the ward was engaged immediately prior to legal incapacity, until the further order of the court. The court may specify in the order the manner of conducting the business together with general instructions concerning the handling and accounting thereof.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.551 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.551 Definitions used in SS 700.551 to 700.557.

Sec. 551. As used in sections 551 to 557:

(a) "Business of the decedent" or "business of the ward" means a trade, occupation, or business, whether mercantile, manufacturing, agricultural, or otherwise, or an interest

therein, except a profession, which the decedent or ward owned at the time of his or her death, either alone or together with any other person or persons, in partnership or otherwise.

(b) "Continue the business of the decedent or ward" means to hold, manage, operate, or participate in the management of the business of the decedent or ward as sole owner or proprietor thereof, or as a partner, including the participation of the fiduciary as a general partner in a new partnership.

(c) "Continuation agreement" means a contract between 2 or more partners, whether included in the partnership agreement or otherwise, which authorizes the continuance of the partnership enterprise after the death or legal incapacity of a partner.

(d) "Fiduciary" includes an inter vivos trustee and a testamentary trustee.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.552 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.552 Continuing or discontinuing business of decedent or ward; right of surviving partner.

Sec. 552. (1) If the last will and testament of the decedent or an inter vivos agreement of which the decedent was a trustor authorizes or directs the fiduciary to continue the business of the decedent, the fiduciary may if authorized, and shall if directed, continue the business of the decedent for the period, in the manner, and with such assets, as may be provided by the will or trust agreement. On petition of an interested party and on notice to all interested parties, the court may, for good cause shown, direct the fiduciary to discontinue or dispose of the business or the interest of the decedent's estate therein.

(2) If a partnership business is to be continued after the death or legal incapacity of a partner pursuant to the provisions of a continuation agreement, the fiduciary shall continue the business of the decedent or ward in the partnership for the period, in the manner, and with the assets, as may be provided by the continuation agreement but the fiduciary and the surviving partner or partners may discontinue the partnership business before the time stipulated in the continuation agreement if they mutually agree.

(3) The court shall upon petition or objection of a creditor of the decedent or ward, made at or before the allowance of the creditor's claim against the estate of the decedent, and on notice to the fiduciary, direct the fiduciary to discontinue the business of the decedent or ward unless the creditor is paid within such reasonable time as may be fixed by the court.

(4) This section shall not be construed to affect the right of a surviving partner or partners, to refuse to continue the business of the decedent or ward if the partner or partners is, or are, not under a contract obligation to continue the business of the decedent or ward.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.553 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.553 Continuing business of decedent or ward; certificate; liability of fiduciary; claims of creditors.

Sec. 553. (1) When a fiduciary continues the business of a decedent or ward pursuant either to the provisions of the last will and testament or trust agreement, or of a continuation agreement, the fiduciary:

(a) Shall file a certificate of doing business under an assumed name or join in the filing of a partnership certificate, pursuant to law relative to the filing of assumed name or partnership certificates. The certificate shall state that the fiduciary is conducting the business either alone or as a partner, and shall state the capacity in which the fiduciary of the decedent's or ward's estate is acting.

(b) Shall not be personally liable either as sole owner, holder, operator, manager, partner, or otherwise, for losses to a devisee, heir, distributee, or beneficiary of the decedent or ward or the decedent's or ward's estate; nor shall the fiduciary be liable to a creditor of the continued business who become a creditor of the continued business after the filing of the certificate referred to in subdivision (a), for any claims, demands, or causes of action, arising out of, or in connection with, the conduct or operation, or the act of an agent, employee, or copartner of the business. Insofar as the fiduciary or the decedent's or ward's estate is concerned, the persons who become creditors after the filing of the certificate shall be limited in the payment or satisfaction of their claims to the assets of the business.

(2) Nothing contained in this section shall relieve the fiduciary from liability for his or her wilful fraud, gross negligence, or other wilful misconduct, nor prevent the fiduciary from assuming personal contractual liability to creditors of the continued business of the decedent or ward. A fiduciary shall not be charged with personal contractual liability except upon an express written undertaking signed by the fiduciary.

(3) This section shall not be construed to preclude a provision in a last will and testament or trust agreement, or in a continuation agreement, that the assets of the decedent's estate

not engaged in the business, or some specified portion thereof, shall be also available for the payment or satisfaction of the claims of creditors of the continued business.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.554 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.554 Continuing business of decedent or ward; insufficiency of assets; liability.

Sec. 554. (1) When a fiduciary continues the business of a decedent or ward pursuant to the provisions of the last will and testament of the decedent or trust agreement, the provisions of a continuation agreement, or a court order under section 546; and (a) the assets of the decedent's or ward's estate prove insufficient to pay all claims, then the claims of unpaid creditors of the decedent or ward shall be postponed in payment to the claims of creditors of the continued business insofar as assets engaged in the continued business are concerned; or (b) the assets engaged in the continued business prove insufficient to pay all claims of creditors of the continued business, then the claims of creditors of the continued business shall be postponed in payment to the claims of unpaid creditors of the decedent or ward insofar as the other assets of the estate are concerned.

(2) The heirs, distributees, devisees, and beneficiaries of a decedent's or ward's estate, shall not be personally liable for any obligations incurred in, or arising from, the continuation of the business of the decedent by the fiduciary by reason of their status.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.555 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.555 Continuing business of decedent or ward; actions by creditors; judgment against fiduciary in representative capacity; satisfaction of judgment; personal liability of fiduciary.

Sec. 555. Actions by creditors of the continued business of the decedent or ward shall be brought against the fiduciary in his representative capacity only. Judgments against the fiduciary in those actions shall be against the fiduciary in his representative capacity only. Satisfaction or the judgments shall be had only from the assets of the estate as are subject to the satisfaction thereof. If a fiduciary assumed personal liability for a claim, demand, or obligation, or is otherwise personally liable, as provided in this article, then an action may be

brought, and judgment may be rendered, against the fiduciary personally, and satisfaction thereof may be had as in other cases of liability of the fiduciary in the fiduciary's nonrepresentative capacity.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.556 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.556 Fiduciary; right of exoneration or reimbursement.

Sec. 556. This article shall not be construed to modify or affect the fiduciary's right of exoneration by, or reimbursement from, the decedent's or ward's estate when the fiduciary is entitled thereto.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.557 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.557 Fiduciary as corporation; partner in continuation of business.

Sec. 557. A fiduciary which is a corporation may be a partner in the continuation of the business of a decedent or ward pursuant to this act.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.561 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.561 Fiduciary; investments; transactions; personal profit prohibited; deposit of moneys.

Sec. 561. (1) A fiduciary entitled by law to make investments of property of the estate of which he is representative, shall keep the funds of the estate reasonably invested. Except as the court expressly authorizes, a fiduciary may make only such investments as conform with the provisions of Act No. 177 of the Public Acts of 1937, as amended, being sections 555.201 to 555.203 of the Michigan Compiled Laws, or any investments expressly authorized by the will, or other instrument creating a trust. Except with the written approval of the court, a fiduciary in his personal capacity shall not engage in a transaction whatsoever with the estate which he represents, nor shall he invest estate funds in any company, corporation, or association with which he is affiliated, other than as a bondholder or minority stockholder. A fiduciary in his personal capacity shall not personally derive any profit from the purchase, sale, or transfer of any property of the estate.

(2) The deposit of moneys by a fiduciary in a bank or trust company in which the fiduciary may be interested as an officer, director, or stockholder, shall not constitute a violation of this section.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.563 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.563 Fiduciary; filing of accounting; discharge of fiduciary and closing of estate; proof of filing inheritance or estate tax.

Sec. 563. (1) A fiduciary shall file at least once a year, or oftener if the court directs, a complete itemized accounting of all of his doings in the estate, showing in detail all of the receipts and disbursements and the property remaining in his hands, and in what form. When a fiduciary finds that the estate is ready for closing, he shall thereupon file with the court his final account together with an itemized and complete list describing all of the properties remaining. The court upon its own motion may order the accounting filed, and the fiduciary shall thereupon proceed to the filing of his accounting and failing so to do may be adjudged in contempt of court.

(2) Upon the allowance of the final account of the fiduciary and a showing to the court that in a solvent estate all presented claims, taxes, devises or other charges for which the estate is liable were paid or that in an insolvent estate the charges were paid in proportion as provided by law, the court shall discharge the fiduciary and close the estate. At the election of the fiduciary, proof of filing the inheritance or estate tax return shall be accepted as a showing of payment.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.564 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.564 Hearing on accounting; notice; creditor as interested party; withholding hearing; order allowing account; finality.

Sec. 564. (1) Upon the filing of any accounting, the accounting shall be set for hearing and notice of the hearing shall be given to the interested parties in the manner provided by supreme court rule, and at the hearing the court shall proceed to settlement of the accounting.

(2) A person claiming to be a creditor who has not presented his claim against the estate of the decedent or ward shall not be an interested party and need not be given notice of hearing on an accounting or on the final settlement of the estate.

(3) Where the assets and income of the estate are insufficient in the opinion of the court to warrant the necessity and expense of a hearing upon each annual account as shall be filed, the court may withhold the hearing until the filing of the final account, or until such time as the court determines the hearing should be held.

(4) Subject to the right of appeal, and except in case of fraudulent concealment or fraudulent misrepresentation on the part of the fiduciary, the order of the court allowing an account of a fiduciary shall be final and conclusive against all persons in any way interested therein who are legally competent at the date of the order and against all other persons who are or may become interested therein although legally incapacitated to act in their own behalf if the persons designated by law or supreme court rule are eligible to be served on their behalf, assented to the account, have been heard thereon, or given notice of hearing thereon, as provided in this act.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.565 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.565 Fiduciary; profits and losses on increase or decrease of estate; accounting for excess; responsibility for loss.

Sec. 565. A fiduciary shall not make profit by the increase, nor suffer loss by the decrease or destruction, without his fault, of any part of the estate. A fiduciary shall account for the excess, when he sells any part of the estate for more than the appraisal. If he sells any for less than the appraisal, he shall not be responsible for the loss, if it appears to be beneficial to the estate to sell it.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.566 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.566 Fiduciary; accountability for debts.

Sec. 566. A fiduciary shall not be accountable for any debts due to the deceased or his ward, if it appears that they remain uncollected without his fault.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.567 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.567 Fiduciary; accountability for income, use, or occupation of property; disagreement on sum allowed.

Sec. 567. The fiduciary of an estate shall be accountable for the income of the property while it remains in his possession. If the fiduciary uses or occupies any part of it, he shall account for it as may be agreed upon between him and the interested parties, or adjudged by the court with their assent. If the parties do not agree upon the sum to be allowed, the sum may be ascertained by any disinterested person, to be appointed by the court, whose award, being accepted by the court, shall be final.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.568 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.568 Fiduciary; liability for waste.

Sec. 568. When a fiduciary neglects or unreasonably delays to raise money, by collecting the debts or selling property of the estate of the deceased; neglects to pay over the money he has in his hands, and the value of the estate thereby is lessened, or unnecessary cost or interest accrue; or the person interested suffers loss, the same shall be deemed waste, and the damages sustained may be charged against the fiduciary in his account, or he shall be liable therefor on his fiduciary bond.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.571 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.571 Compelling final judicial settlement of account of fiduciary.

Sec. 571. The court may compel a final judicial settlement of the account of a fiduciary in either of the following cases:

(a) Where the fiduciary is removed or for any other reason his powers ceased.

(b) Where the trust, or 1 or more distinct and separate trusts, created by the terms of the will or otherwise, were executed or are ready to be executed, so that the persons beneficially interested are by the terms of the will, or by operation of law, entitled to receive any money or other property from the fiduciary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.572 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.572 Petition for final judicial settlement; presentation; citation; noncompliance; supplemental citation or notice.

Sec. 572. (1) A petition praying for a final judicial settlement as prescribed in section 571, and that the fiduciary may be cited to show cause why he should not render and settle his account, may be presented by any person beneficially interested in the execution of the trust or in the estate; by a person duly qualified in behalf of a minor so beneficially interested; by a surety in the bond of the fiduciary; or by the legal representatives of the parties. Upon presentation of the petition, the judge shall issue a citation accordingly, unless the account of the fiduciary is judicially settled within a year before the petition is presented; in which case the court may, in its discretion, entertain or decline to entertain the petition.

(2) Upon the return of the citation, the fiduciary shall account and attend, within such time and in such manner as the court directs, before the court for that purpose. If the fiduciary fails to comply with the order, the court may remove him from his trust, and take such other proceedings, and make such order, as justice requires. The court may issue supplemental citations, or give a supplemental notice as it deems fit, directed to the persons to whom notice must be given upon the petition of a fiduciary for a judicial settlement of his account, and requiring them to attend the accounting.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.573 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.573 Judicial settlement of account of fiduciary;
determination of controversy; order.

Sec. 573. Upon a judicial settlement of the account of a fiduciary, a controversy which arises respecting the right of a person to share in the money or other property to be paid, distributed, or delivered over, shall be determined in the same manner as other issues are determined. If a controversy remains undetermined after the determination of all other questions upon which the distribution of the funds or the delivery of the property depends, the order shall direct that a sum sufficient to satisfy the claim in controversy, or the proportion to which it is entitled, together with the probable amount of the interest and costs, and, if the case so requires, that the property in controversy be retained in the hands of the accounting party; or that the money be deposited in a bank or trust company, subject to the order of the court for the purpose of being applied to the payment of the claim, when it is due, recovered, or settled; and that so much thereof as is not needed for that purpose be afterwards distributed according to law.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.574 THIS SECTION IS REPEALED BY ACT 386 OF 1998

EFFECTIVE APRIL 1, 2000 *****

700.574 Removal or resignation of fiduciary; hearing; notice; settlement and adjustment of accounts; liability of sureties; final account of surety.

Sec. 574. If a fiduciary resides out of this state or, after due notice by the court, neglects to render his account and settle the estate according to law or to perform any order of the court or absconds or otherwise becomes unsuitable or incapable to discharge the trust, the court may remove the fiduciary by an order therefor following hearing, notice of which may be given in any manner provided by supreme court rule. When his personal interests conflict with the interest of the estate, or when another reason exists which the court deems proper, a fiduciary may resign his trust. After resigning his trust he shall promptly settle and adjust his accounts with the estate of which he may be fiduciary. The sureties of the fiduciary shall not be released from liability until the fiduciary has fully settled and adjusted his accounts. The court may order the surety to render the final account on behalf of his principal.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.575 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.575 Petition by fiduciary; contents; proceedings; order.

Sec. 575. At any time a fiduciary may present to the court a verified written petition praying that his account may be judicially settled; that an order may thereupon be made allowing him to resign his trust and discharging him accordingly; and that all persons who are entitled, absolutely or contingently, by the terms of the will or other instrument creating the trust, or by operation of law, to share in the fund or estate, or the proceeds of any property held by the fiduciary, as a part of his trust, may be cited to show cause why the decree should not be made. The petition shall state the facts upon which the application is founded and in all other respects conform to a petition presented for a judicial settlement of the account of a fiduciary, as prescribed in this article. The court may, in its discretion, entertain or decline to entertain the petition. If entertained, the proceedings shall in all respects be as upon a petition for a judicial settlement of the petitioner's account, except that upon hearing the court shall first determine whether sufficient reasons exist for granting the prayer of the petition; and if it determines that they exist, it shall make an order accordingly, allowing the petitioner to account for the purpose of being discharged. Upon the petitioner's fully accounting and paying all money belonging to the trust and delivering all books, papers, and other property of the trust in his hands either into the court or as the court directs, an order may be made accepting his resignation, and discharging him accordingly.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.576 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.576 Duties of removed fiduciary.

Sec. 576. A fiduciary who is removed shall immediately deliver all of the property in his possession belonging to the trust or estate to his cofiduciary, or to his successor, as the case may be, as soon as the successor qualifies. Within 30 days after the making of the order of removal, or within such time as the court directs, the fiduciary shall render his final account, and the same notice with like effect shall be given and the same proceedings shall be had thereon as provided in this article for the hearing of the final account of a fiduciary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.577 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.577 Appointment of successor fiduciary.

Sec. 577. Where a fiduciary of an estate dies or is by the order of the court removed or allowed to resign, or a vacancy in the office of the fiduciary is in any manner created, or the estate is closed without being fully administered, and the trust or estate has not been fully executed, the court shall appoint a successor unless the appointment would contravene the express terms of the will. Where 1 of 2 or more fiduciaries dies or is by order of the court removed, or allowed to resign, a successor shall not be appointed except where the appointment is necessary in order to comply with the express terms of the will, or unless the court is of the opinion that the appointment of a successor would be for the benefit of the cestui que trust or estate. Until a successor is appointed, the remaining fiduciary or fiduciaries may proceed and execute the trust or estate as fully as if the fiduciary had not died, been removed, or resigned. The successor shall be appointed in the manner prescribed by this act for the appointment of a fiduciary of an estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.578 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.578 Death of fiduciary without leaving surviving fiduciary;
final accounting.

Sec. 578. When the fiduciary of the estate dies without leaving a surviving fiduciary, his fiduciary shall not as such, have any authority to administer the estate of the first decedent but

shall file a final account in the estate of the first decedent. If the deceased fiduciary does not have a fiduciary of his estate then the surety on the bond if any of the deceased fiduciary shall file the final accounting.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.579 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.579 Acts of fiduciary before revocation of letters;
validity.

Sec. 579. The acts of a fiduciary, as such, before the revocation of his letters, shall be as valid to all intents and purposes as if the fiduciary had continued lawfully to execute the duties of his trust.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.580 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.580 Assumptions by third person dealing with conservator or
guardian; protection of third person.

Sec. 580. With respect to a third person dealing with a conservator or guardian or assisting a conservator or guardian in the conduct of a transaction, the existence of trust powers and their proper exercise by the conservator or guardian may be assumed without inquiry. The third person is not bound to inquire whether the conservator or guardian may act or is properly exercising the power; and a third person, without actual knowledge that the conservator or guardian is exceeding his powers or improperly exercising them, is fully protected in dealing with the conservator or guardian as if the conservator or guardian possessed and properly exercised the powers he purports to exercise. A third person is not bound to assume the proper application of estate assets paid or delivered to the conservator or guardian. This section shall not apply to a third person dealing with a limited guardian.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.581 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.581 Powers of fiduciary appointed in place of former
fiduciary.

Sec. 581. A fiduciary, appointed in the place of a former fiduciary, for the purpose of administering the estate not already administered, shall have the same powers, and shall proceed in settling the estate in the same manner, as the former

fiduciary should have done; and may prosecute or defend an action commenced by or against the former fiduciary, and may have execution on a judgment recovered in the name of the former fiduciary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.582 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.582 Judge as fiduciary; petition for replacement; filing accounting.

Sec. 582. (1) A judge of any court, except a municipal court, shall not be appointed as a fiduciary in an estate except for a member of his or her immediate family.

(2) A person, acting as a fiduciary in any estate, who is elected or appointed to the office of judge, except municipal court judge, shall file a petition with the court, within 30 days of the final certification of his or her election or appointment to office, for his or her replacement as fiduciary and shall file an accounting not later than 60 days after assuming the office of judge.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1988, Act 513, Imd. Eff. Dec. 29, 1988.

***** 700.584 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.584 Order to deposit moneys or personal property of certain persons with county treasurer; petition to sell property.

Sec. 584. (1) When a fiduciary's final settlement is approved by the court, the court shall order the fiduciary, in exchange for suitable receipts, to deposit with the county treasurer the moneys or personal property he has that belong to any of the following:

(a) An heir, devisee or claimant whose whereabouts, after diligent inquiry, he cannot ascertain.

(b) An heir, devisee or claimant who declined to accept the funds awarded to him.

(c) A person when the right of the person is the subject of appeal from the orders of the court.

(2) If that property other than money is in the hands of a fiduciary after final settlement is approved by the court, which belongs to a person under subsection (1)(a) or (b), the fiduciary shall petition the court for authority to sell the property for the purpose of reducing it to money to be deposited with the

county treasurer, and upon due hearing thereon the court may order the same sold upon notice as the court requires.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.585 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.585 Order discharging fiduciary and bond upon filing receipts; receipt of money by county treasurer; separate fund and account; disposition of sums; bond of county treasurer; care of fund; order directing payment of money to applicant; notice of hearing.

Sec. 585. (1) Upon filing of the receipts in the court where the settlement is approved, the fiduciary is entitled to an order discharging him and his bond, as though he paid or delivered the money or property to the heir, devisee, or claimant and filed receipt therefor.

(2) Upon being furnished with an authenticated copy of the order, the county treasurer shall receive the money mentioned in the order and safely keep it. The county treasurer shall keep the moneys in a separate fund and keep a separate account with each individual mentioned in the orders entered under this section. The county treasurer shall deposit the sums in a county depository at the current rate of interest; pay out from the fund upon the order of the court; and shall turn over any surplus left in his hands at the termination of his term of office to his successor.

(3) The county treasurer at the commencement of each term of office and before receiving moneys under subsection (2), shall give a bond running to the judge and his successor in office, with 2 or more sufficient sureties approved by the court. The bond shall be in a sum as the judge directs, conditioned that the county treasurer and his deputy shall pay out the moneys whether they: (a) were turned over to him by his predecessor in office, or deposited with him during the term which he is then commencing or during a prior term of office, only on the orders of the court; (b) the court treasurer shall render to the court, and to the county board of commissioners at the end of each year a true account of the moneys; and (c) that he will deliver over to his successor in office all moneys, and books, papers, and other things appertaining or belonging thereto.

(4) The court may at any time require the county treasurer to give such new or additional bond conditioned as provided in subsection (3) as the court deems necessary.

(5) The bond deposited by the county treasurer and his sureties thereon shall be discharged from further liability thereunder upon the filing of a new bond by successor in office of the county treasurer named on the bond, unless he failed to account

for any of the moneys as required in this article, or to turn the same over to his successor in office.

(6) For the care of the fund, the county treasurer may take 1% out of the different sums paid out by him upon the order of the court unless the amount so paid out to any 1 individual exceeds \$1,000.00, in which case he shall take \$10.00 plus one-half of 1% of the excess of the amount over \$1,000.00.

(7) When the money is deposited as provided in subsection (6), any person entitled to the money may apply to the court making the order for an order directing the county treasurer to pay over the money. Upon satisfactory proof being made to the court of the right of the claimant to the money, the court shall make an order directing the county treasurer to pay the money over to the applicant. Upon receiving the application, the court shall make such order as to notice of the hearing as it may think proper.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.586 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.586 Actions on bond of county treasurer.

Sec. 586. Actions on the bond given by the county treasurer may be started in the name of the state, for the use and benefit of anyone interested, in the same manner and with the same effect as allowed by law upon bonds given by fiduciaries.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.591 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.591 Directing payment and delivery of money or proceeds to county treasurer or statutory trustee for benefit of heir, devisee, distributee, and other persons; special order or judgment; sale of property; petition; proceedings.

Sec. 591. Where it appears that an heir, devisee, distributee or beneficiary of a trust would not have the benefit or use or control of the money or other property due him, or where it appears that the person entitled to the money or property is a resident and national of a foreign country, and the federal statutes or federal regulations preclude the payment or delivery, directly or indirectly, of moneys from the federal treasury to persons who are residents and nationals of the foreign country, the court may direct that the money or the proceeds of such other property after deduction of administration expenses, taxes and other charges approved by the court, be paid and delivered to the county treasurer, or to a statutory trustee appointed by the court, for the benefit of the heir, devisee, distributee, or the persons who may thereafter appear entitled thereto. The money so

paid to the county treasurer or to the statutory trustee shall be paid out only by special order of the court or pursuant to judgment of a court of competent jurisdiction. The order shall direct sale of all the property other than cash. Upon petition of the fiduciary or any other interested party, the court may order, license, and empower the sale and conveyance or transfer to be made. The proceedings under this section shall be the same as for the sale of similar property by fiduciaries excepting that the petition and order therefor shall set forth the entry of the order as the ground for the sale, conveyance, or transfer.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.593 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.593 Distribution by fiduciary; receipts; discharge of fiduciary and release of bondsmen; petition to reopen estate; purpose; failure to file claim during original administration.

Sec. 593. (1) After allowance of the final account and entry of the order for distribution, the fiduciary shall make distribution, taking receipts for the same, and upon filing the receipts and the receipts showing payment of the inheritance tax or the issuance of an order determining that a tax is not payable or proof of filing the inheritance tax return, he may be discharged and his bondsmen released.

(2) Upon filing a petition after the closing of an estate, the court may cause the estate to be reopened for the purpose of administering after-discovered assets or any other assets belonging to the estate or to complete the administration of the estate in case the estate was closed without being fully administered by the fiduciary or court, or for the correction of typographical errors, omissions, or misdescription of property contained in any order or record in the estate, and for any of these purposes may appoint successor fiduciary. The failure of a claimant to file a claim against the estate during the original administration thereof shall not be a cause for reopening the estate or for the appointment of a successor fiduciary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.595 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.595 Fiduciary; voting shares of stock or giving of proxy.

Sec. 595. Unless the instrument or order appointing the fiduciary otherwise directs: (a) a fiduciary may vote shares of stock of a corporation standing in his name or in the name of any person for whom he is authorized to act either in person or by proxy, for all purposes, without the necessity of any authorization by a court and any officer, agent, or employee of a

corporate fiduciary may vote the shares at the corporate meetings on behalf of the corporate fiduciary; (b) where there are more than 2 fiduciaries, the will of a majority of the fiduciaries shall control the manner of voting or the giving of a proxy; (c) where in any case the fiduciaries are equally divided upon the manner of voting the shares or the giving of a proxy, the court may, on petition filed by any of the joint fiduciaries or by an interested party, appoint, for the purpose of the particular meeting or meetings of shareholders set forth in the petition, another person to act with the fiduciaries in determining the manner in which the shares shall be voted upon the particular questions as to which fiduciaries are equally divided, and may fix the compensation of the person; (d) where only 1 of the fiduciaries shall be present in person at any corporate meeting at which shares are to be voted, the vote of the fiduciary shall be regarded as representing the will of all the joint fiduciaries in the absence of a proxy on file with the corporation signed by a majority of the fiduciaries; (e) where an even number of joint fiduciaries, having failed to avail themselves of the remedy provided in subdivision (c), are equally divided, their opposite votes in person or by proxy shall result in a vote not being cast on behalf of the shares held by them.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.597 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.597 Petition authorizing former fiduciary to collect or take possession of unprobated assets; assignment or distribution of assets.

Sec. 597. If unprobated assets of a decedent are found after his estate is administered, assigned and closed, and the Michigan inheritance tax is paid thereon, the court may, on petition, without notice and with or without setting bond, authorize the former fiduciary of the estate to collect or take possession of the assets and assign or distribute them to the persons entitled thereto in accordance with the former order of assignment.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.598 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.598 Proceeding by testamentary trustee.

Sec. 598. A testamentary trustee, upon qualifying and filing his inventory, may proceed under article 8.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.601 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.601 Fiduciary; taking possession of estate property; powers.

Sec. 601. (1) The fiduciary of an estate has a right to the possession of all the property of the estate of the deceased or the ward. The fiduciary shall take possession thereof immediately following his appointment, except as otherwise provided in this act.

(2) The fiduciary may do any of the following:

(a) Lease the property as provided in this act.

(b) Cancel or modify an existing lease given by a decedent or ward in the same manner that the deceased or ward might have done.

(c) Receive the rents, issues, and profits of the property of a decedent or ward until the estate is settled, or until the property is delivered by order of the court to those entitled to it.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.602 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.602 Delivery of real estate to heir or devisee before settlement; application; conditions; effect of delivery on right of fiduciary.

Sec. 602. (1) Upon application of an heir or devisee interested in a parcel of real estate in a decedent's estate before settlement is made, the court shall by order deliver over the parcel of real estate to the heir or devisee if it appears to the court that all of the following conditions exist:

(a) Charges are not outstanding and unpaid against the estate.

(b) Debts are not unpaid.

(c) Other rights are not unsatisfied for the payment or satisfaction of which a parcel of real estate is subject to appropriation.

(d) Other property is in the estate which is subject to prior appropriation for the payment of the charges and legacies or the satisfaction of those rights.

(e) The property is sufficient for the purpose stated in the application.

(2) The right of the fiduciary to the possession of the parcel of real estate, and to receive the rents, issues, and profits of the parcel of real estate, ceases when the real estate is delivered under subsection (1).

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.603 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.603 Construction of article.

Sec. 603. This article shall not be construed to interfere with the possession of the homestead.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.605 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.605 Inventory; filing and amendment by fiduciary; contents; calculation of fees and taxes; valuation of assets; objection; orders.

Sec. 605. (1) Within 60 days after his appointment and qualification a fiduciary shall file in the court a verified inventory of the property of the deceased or of the ward, which came to his possession or knowledge. The fiduciary may amend the inventory by filing an amended inventory or a supplement to the inventory.

(2) The inventory for each asset listed shall include a statement of the fair market valuation at the date of death of a decedent or at the date of qualification of a fiduciary. If property listed in the inventory is encumbered, the inventory shall include a statement of the nature and amount of the lien.

(3) The fair market valuation shall be used for purposes of calculation of fees and taxes. The fiduciary may employ 1 or more qualified and disinterested appraisers to assist him in ascertaining the fair market value, as of the date of decedent's death, of any asset the value of which may be subject to reasonable doubt. If values of assets are not agreed to the fiduciary shall furnish or file such information as required for the computation of inheritance tax and, after hearing and on proofs, valuations shall be set by the court.

(4) On objection of an interested party, the court may order evaluation of an inventoried asset, order amendment of the inventory, or order that an item be stricken from the inventory as not being an asset of the estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.607 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.607 Citing person to appear upon matter of complaint filed by interested person; allegations; failure to appear or refusal to answer interrogatories; warrant; committing person to county jail.

Sec. 607. (1) The judge may cite a person to appear before the court and be examined upon the matter of a complaint which is filed with the court under oath by a fiduciary, heir, devisee, creditor, or any other interested person in the estate of a decedent or ward alleging that: (a) the person is suspected to have, or has knowledge that another may have, concealed, embezzled, conveyed away, or disposed of, any property of the decedent or ward; (b) the person has possession or knowledge of a deed, conveyance, bond, contract or other writing, which contains evidence of, or tends to disclose the right, title, interest, or claim of the decedent or ward to any of the estate; or (c) the person has possession or knowledge of a last will and testament of the decedent.

(2) If the person cited under subsection (1) refuses to appear and be examined or refuses to answer interrogatories as may be put to him touching the matter of complaint, the judge may, by warrant for that purpose, commit the person to the county jail to remain in custody until that person submits to the order of the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.609 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.609 Safe deposit box; opening; fees and mileage; additional provisions; access by joint lessee.

Sec. 609. (1) In estates of decedents dying before October 1, 1993, 1 of the following applies:

(a) The safe deposit box of which a decedent was an individual or joint lessee may be opened following his or her death only upon compliance with the Michigan estate tax act, Act No. 188 of the Public Acts of 1899, as amended, being sections 205.201 to 205.256 of the Michigan Compiled Laws.

(b) The safe deposit box of a person who is an individual or joint lessee and for whom a fiduciary was appointed may be opened by that fiduciary in a like manner as provided by Act No. 188 of the Public Acts of 1899, as amended, as it relates to deceased persons, and the fiduciary shall pay to the county treasurer the fees and mileage as provided in that act.

(2) In estates of decedents dying after September 30, 1993, 1 of the following applies:

(a) If it appears to the court by petition of an interested party that a safe and collateral deposit company, trust company, corporation, bank, or other institution has leased to a decedent, either as an individual or joint lessee, a safe deposit box in the county in which the probate court has jurisdiction and that the safe deposit box may contain a will of the decedent or a deed to a burial plot in which the decedent is to be interred, the court may make an order directing that institution to permit the person named in the order to examine the safe deposit box in the presence of an officer or other authorized employee of that institution. If a paper purporting to be a will of the decedent or a deed to a burial plot is found in the box, the person named in the order shall deliver the will or deed to the probate register or his or her deputy. The probate register or his or her deputy shall furnish a receipt to the institution. Items contained in the safe deposit box other than the will or deed shall not be removed from the safe deposit box. At the time of the opening of the safe deposit box, all persons in attendance shall execute a written statement certifying whether any will or deed to a burial plot was found and that no other items were removed from the safe deposit box. That written statement shall be delivered by the person named in the order within 7 days to the probate register or his or her deputy. Before the court shall enter the order, the interested party shall pay to the probate register a fee of \$10.00, which shall be credited to the general fund of the county. If the decedent's estate is administered in any probate court in this state, the interested party making payment of that fee may file a claim in the estate for that amount which shall be charged as a cost of administration.

(b) The safe deposit box of a person who is an individual or joint lessee and for whom a fiduciary was appointed under this act may be opened by that fiduciary and its contents removed. If the safe deposit box is jointly leased, then the fiduciary shall examine the safe deposit box in the presence of an officer or other authorized employee of the safe deposit and collateral company, trust company, corporation, bank, or other institution. At the time of the opening of a joint safe deposit box, all persons in attendance shall execute a written statement certifying as to what was removed from the safe deposit box by the fiduciary. The fiduciary shall serve a copy of that written statement on the other joint lessee by personal service or by registered, certified, or ordinary first-class mail within 7 days of removing the items.

(3) Notwithstanding any other provision of this section, a surviving joint lessee of a joint safe deposit box shall have full access to the safe deposit box.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1994, Act 371, Imd. Eff. Dec. 27, 1994.

***** 700.611 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.611 Citing person entrusted with part of estate; petition;
rendering account; refusal to appear.

Sec. 611. The probate judge, upon the petition of any fiduciary, may cite a person who has been entrusted by the fiduciary with any part of the estate of the decedent or ward, to appear before the court and may require the person to render under oath a full account of any money, goods, chattels, bonds, accounts, or other papers belonging to the estate, which came to his possession, in trust for the fiduciary, and a full account of his proceedings thereon. If the person so cited refuses to appear and render the account the court may proceed against him as provided in section 607.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.612 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.612 Debtor of decedent or ward; inability to pay debts;
discharge.

Sec. 612. When a debtor of a decedent or ward is unable to pay all his debts, the fiduciary of an estate, under order of the court, may compound with the debtor and give him a discharge upon receiving a fair and just dividend of his effects.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.613 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.613 Death of mortgagee or assignee of mortgage; instituting
or continuing proceedings for collection of debt.

Sec. 613. When a mortgagee of real estate, or an assignee of the mortgage, dies without having foreclosed the mortgage, all the interest in the mortgaged premises conveyed by the mortgage and the debt secured thereby, shall be considered as personal assets in the hands of the personal representative. The personal representative may foreclose the mortgage, and have any other remedy for the collection of the debt which the decedent could have had if living, or may continue a proceeding commenced by the decedent for that purpose. The death of a mortgagee or assignee of a mortgage following first publication of notice of foreclosure of the mortgage by advertisement shall not affect the proceedings regardless of whether the mortgagee or assignee held title to the mortgage individually or with others, but the proceedings may be continued as though originally instituted by his personal representative, or in case title to the mortgage was

held subject to right of survivorship by the surviving mortgagee or assignee.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.614 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.614 Receipt of money by personal representative pursuant to payment of mortgage debt or sale or redemption of mortgaged premises; release and receipts.

Sec. 614. In case of the payment of the mortgage debt, or the sale of the mortgaged premises by virtue of a power of sale, contained in the mortgage or otherwise, or redemption of the mortgaged premises from foreclosure sale at which the premises were bid in by the personal representative, the money paid thereon shall be received by the personal representative who shall thereupon give all necessary releases and receipts.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.615 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.615 Real estate purchased by personal representative as personal estate; sale and conveyance; proceeds.

Sec. 615. A real estate purchased by a personal representative, upon a sale on execution for the recovery of a debt due to the estate or conveyed to the estate by deed in lieu of foreclosure or execution sale or which may be received as a result of compromise of the debt or upon a sale in the foreclosure of a mortgage or land contract held by the personal representative, whether owned by the decedent in his lifetime, or acquired after his death, or may have been purchased at a sale by the decedent in his lifetime but as to which the period of redemption had not expired at the date of his death, shall be considered as personal estate and may be sold and conveyed by the personal representative in like manner as real estate may now be sold, and the same or the proceeds thereof shall be held and divided as personal estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.616 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.616 Land held by personal representative; assignment and distribution; partition.

Sec. 616. If any land so held by a personal representative as mentioned in section 615 is not sold by him as therein provided, it shall be assigned and distributed to the same persons, and in

the same proportions, as if it were part of the personal estate of the decedent. If, upon the distribution, the estate shall come to 2 or more persons, partition thereof may be made between them, in like manner as if it were real estate which the decedent held in his lifetime.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.617 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.617 Deficiency of assets; fraudulent conveyance of real estate during lifetime of decedent or ward; deed void against creditors; equity; action for recovery of property.

Sec. 617. When a deficiency of assets exists in the hands of a fiduciary, and when the decedent or ward in his lifetime conveyed any real estate, or a right or interest therein, with intent to defraud his creditors, or to avoid a right, debt, or duty of a person, or so conveyed the real estate, or so caused it to be conveyed, that the deeds of conveyance are void as against creditors or so that the grantee of the estate is in equity a trustee for the benefit of creditors, the fiduciary shall commence and prosecute to final judgment any proper action for the recovery of the property. The fiduciary shall sue in any proper action and recover for all goods, chattels, rights, credits, or assets of any kind which may have been so fraudulently conveyed by the decedent or ward, whatever may have been the manner of the fraudulent conveyance, or which may have been so conveyed or caused to be conveyed that the conveyance is void as against creditors, or so conveyed or caused to be conveyed that in equity the grantee is a trustee for the benefit of the creditors of the decedent or ward.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.618 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.618 Suit by fiduciary or creditor to recover estate for benefit of creditors.

Sec. 618. A fiduciary shall not be bound to sue for the estate as mentioned in section 617 for the benefit of the creditors except upon application of a creditor of the decedent or ward and upon that creditor's offering to pay such part of the costs or expenses, or to give such security to the fiduciary for costs, as the court deems just and equitable. If a fiduciary, after application of any creditor and an offer by the creditor to pay or secure to the fiduciary the portion of the costs or expenses as the court deems reasonable, refuses or neglects to sue for the estate or to prosecute the action, then the creditor upon filing a bond in such sum and with such sureties as shall be approved by the judge, conditioned to save the fiduciary harmless from the

whole of the costs and expenses of the proceedings in case of failure to recover, may sue and recover the estate in the name of the fiduciary, and for the benefit of the creditors of the estate. If an action is brought by a creditor in the name of the fiduciary or if brought by the fiduciary individually, the court shall order the reasonable costs and expenses of the proceedings paid from the fund or estate recovered, if any, before any distribution of the estate shall be made to creditors.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.619 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.619 Recovered real estate; sale; proceeds.

Sec. 619. Real estate recovered under sections 613 to 618 shall be sold, in the same manner as other real estate, upon obtaining an order therefor from the court, and the proceeds of all goods, chattels, rights and credits recovered, pursuant to sections 613 to 618, shall be held in the same manner as other assets in the hands of the fiduciary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.621 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.621 Recovery by fiduciary of goods or damages held by decedent or ward for use and benefit of another; recovered goods or money as assets; paying over and delivery.

Sec. 621. If the fiduciary of any decedent or ward who claimed only a special property in any goods, to hold them for the use and benefit of another, recovers the goods, or the value thereof, or damages for the taking or detention thereof, or for any injury done to them, the goods or money so recovered shall not be considered assets in his hands, but shall, after deducting the costs and expenses of the proceedings, be paid over and delivered to the person for whose use or benefit they were so claimed or held by the decedent or ward.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.622 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.622 Judgment for return against fiduciary; goods returned not assets.

Sec. 622. If judgment for a return, in an action in the nature of replevin, is rendered against a fiduciary, the goods returned by him shall not be considered assets in his hands. If the goods were included in the inventory, it shall be a sufficient

discharge for the fiduciary to show that they were returned pursuant to the judgment.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.623 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.623 Contract; demanding and enforcing payment of moneys due; forfeiture of contract; execution, verification, and delivery of deed or conveyance; reference in deed or conveyance to contracting parties and date; recording; execution and issuance of deed or conveyance in name of deceased person; forfeiture of contract for lands.

Sec. 623. (1) A fiduciary of an estate for any of the following persons who entered into or were assigned a contract, may demand and enforce payment of the moneys due or falling on that contract as follows:

(a) The person contracted to convey land, or right, interest, or claim in or to lands, and thereafter dies before he executed deeds or conveyances in pursuance of the contract, leaving the contract subsisting and in force.

(b) The person is an assignee of the contract entitled to the benefit of it, and grantee of the contracted premises subject to the contract, died.

(c) The person is an assignee of the contract and is adjudged legally incapacitated before deeds or conveyances are executed for the contracted premises in pursuance of the contract, leaving the contract subsisting and in force.

(d) The person is the owner of the vendor's interest and is a minor.

(2) If a cause of forfeiture of the contract accrues and is not waived, the fiduciary may declare the contract forfeited. If the contract is performed so as to entitle the party thereto, or his assigns, to have a deed or conveyance to him executed under the terms of the contract of the premises thereby contracted, the fiduciary may execute, verify, and deliver deeds or conveyances of the contracted premises in pursuance of the terms of the contract, to the party contracting to purchase, or his assigns, with like effect as if the party contracting to convey had himself executed and delivered the deed or conveyance.

(3) A deed or conveyance to be executed pursuant to subsection (1) or (2) shall contain a reference to the date and respective parties to the contract in pursuance of which it purports to have been made. An authenticated copy of the contract under which the grantee named in the deed or conveyance makes his claim, and of any assignment under which he claims, shall be annexed to or

embodied in a deed or conveyance, shall be deemed part and parcel of it, and as such shall be recorded with the newly executed deed or conveyance.

(4) If the person who contracted the purchase, or his assigns, died, the deed or conveyance for the contracted premises, embodying the substance of the contract, or a copy of it, may be executed and issued to and in the name of the deceased person, and when so executed and issued shall have the same effect as though it were executed and delivered during the lifetime of the person, or his assigns.

(5) If the contract for any lands, or any right, interest or claim in or to lands theretofore contracted to be sold, are forfeited, and are duly declared to be forfeited, as provided in this section, or are surrendered to the fiduciary in lieu of forfeiture or foreclosure, all of the lands, and rights, interests and claims in or to the lands, shall be thenceforth deemed to be held, and shall be treated in the same manner and may be sold, as lands purchased at mortgage sales by a personal representative under this article.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.625 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.625 Contract for conveyance requiring giving of warranties.

Sec. 625. If the contract for a conveyance requires the giving of warranties, the deed or other instrument of conveyance to be given by the fiduciary shall contain the warranties required. The warranties shall be binding on the estate as though made by the decedent or ward but shall not bind the fiduciary.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.627 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.627 Instrument naming estate or fiduciary as grantee, vendee, or assignee.

Sec. 627. An instrument by which property or any interest therein is conveyed, transferred, or assigned and in which an estate or the fiduciary thereof is named as grantee, vendee, or assignee is deemed to vest title to the property or interest in the estate, and the property or interest shall be held and disposed of in like manner as provided by law for property constituting the assets of an estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.631 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.631 Sale of personal property by fiduciary at private or public sale; price; notice.

Sec. 631. The fiduciary of an estate may sell at private or public sale all or any part of the personal property having a market value which is definitely ascertainable from time to time because of quotations or transactions on any securities, produce, or commodity exchange or similar establishments at the market value. The fiduciary may sell other kinds of personal property at the best price obtainable but not less than its current market value. A personal representative may not sell personal property specifically devised by the will of the decedent except after notice to the specific devisee and upon order of the court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.632 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.632 Sale of real estate subject to executory contract; amount; charges.

Sec. 632. If the fee title to real estate, or a fractional interest therein, of a deceased person, of the ward, or held in trust, is subject to an executory contract for the sale thereof, the court, by ex parte order, may direct the sale thereof subject to the contract for an amount not less than the remaining face value of the contract, or, in the event of a fractional interest, for that portion of the remaining face value to which the estate is entitled. A sale so directed shall be made by the fiduciary subject to all charges on the real estate, by mortgage or otherwise.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.634 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.634 Sale of real estate by fiduciary at private or public sale; conditions.

Sec. 634. A fiduciary may sell real estate, an interest therein or easement at private or public sale if all the following occur:

(a) He has the authority to sell under sections 634 to 638.

(b) He reported the sale in writing to the court for confirmation and had a hearing thereon.

(c) He gave notice of the hearing on the report of sale to all parties in interest as provided by supreme court rule.

(d) He filed and had approved the bond required by the court as a condition of the sale.

(e) He obtained an order from the court confirming the sale and directing the giving of a deed or other conveyance pursuant to the sale.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.635 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.635 Sale of real estate by personal representative; circumstances; confirmation by court; determining whether persons owning majority in interest approved sale; rights of spouse; neglect or refusal of personal representative to make sale; petition and order.

Sec. 635. (1) Subject to confirmation by the court, real estate, an interest therein, or easement may be sold by a personal representative in any of the following instances:

(a) When it appears that the personal estate of a deceased person in the hands of his personal representative is insufficient to pay the debts of the deceased and the charges of administering his estate, or when it appears that it is for the best interest of all persons interested in the estate that his real estate or some part thereof be sold for that purpose in lieu of disposing of the personal estate.

(b) When it appears that sale of the real estate is necessary to preserve the estate or to prevent a sacrifice thereof, or to carry out the provisions of a will.

(c) When a testator gave a devise by will that is effectual to pass or charge real estate, and his personal property is insufficient to pay the devise, together with his debts and charges of administration.

(d) When a testator gave real estate to 2 or more persons, or when a person died intestate, and it appears that it is necessary or will be for the best interests of the persons interested in the real estate as devisees or heirs to sell the real estate for the purpose of distribution, if that application under this subdivision is approved in writing by the persons owning a majority in interest of the real estate proposed to be sold.

(2) In the determination as to whether the persons owning a majority in interest of the real estate proposed to be sold under subdivision (d) approved the sale, an inchoate right of dower or any other interest held by the wife of a person entitled to an interest in the real estate as heir, devisee, or assignee, of an interest of an heir or devisee except the interest as may be held

by her by virtue of a deed or recorded contract, shall not be considered in computing the majority in interest but the computation shall be based upon the interests of those persons only who would be entitled to participate in the distribution of the real estate proposed to be sold if it were personal property.

(3) If a sale is made under this section, the spouse, if any, shall not be entitled to a greater interest in the estate than the spouse would have received had the real estate been distributed instead of being sold.

(4) If it appears that persons owning a majority in interest of the real estate proposed to be sold are desirous of having the real estate sold for any of the purposes or reasons stated in this section, and the personal representative neglects or refuses to make the sale as provided in this section, then the court shall entertain a petition for that purpose from persons owning a majority in interest of the real estate and the court may order the sale. After the sale the personal representative shall make the sale in the same manner as if the sale were originally made by the personal representative, and the neglect or refusal of the personal representative to perform the order shall constitute sufficient cause for removal.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.636 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.636 Sale of real estate by fiduciary; circumstances; confirmation by court; interest of ward and other tenant.

Sec. 636. (1) Subject to confirmation by the court, the real estate, an interest therein, or easement of a ward may be sold by the fiduciary in any of the following instances:

(a) When the personal property of the person is insufficient to pay his just debts, together with the charges of managing his estate or when it appears that it is for the best interest of the ward that his real estate or some part thereof be sold for that purpose in lieu of disposing of the personal estate.

(b) When the personal property of the person is insufficient to pay the expenses incurred by any county or by the state in the care, support or maintenance of the ward, together with the charges of managing his estate.

(c) When the income of the estate of a ward is insufficient to maintain the ward and his family or is insufficient to educate a minor ward or the children of a ward.

(d) When it appears that it would be for the benefit of the ward that his real estate or any part thereof be sold and the proceeds thereof reinvested.

(e) When the interest of the ward is that of tenant by the entirety or is that of a joint tenant.

(2) For the purposes of the sale and the distribution of the proceeds of the sale under subdivision (e), the interest of the estate of the ward and the other tenant shall be deemed to be equal. If the sale is made of the entirety or joint interest with right of survivorship of the ward, upon the death of the ward any surplus of the proceeds of the sale coming to the ward's estate shall remain a part of the ward's estate and shall not belong or be subject to any claim of the other tenant by the entirety or other joint tenant or joint tenants.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.637 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.637 Sale by trustee of real estate held in trust.

Sec. 637. Subject to confirmation by the court the real estate, an interest therein, or easement held in trust may be sold by the trustee if it appears necessary or expedient.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.638 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.638 Sale of real estate of decedent by temporary personal representative.

Sec. 638. Subject to confirmation by the court, the real estate, an interest therein, or easement in an estate of a decedent may be sold by the temporary personal representative when the appointment of a personal representative is delayed and where it appears that sale is necessary to preserve the estate or to prevent a sacrifice thereof.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.641 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.641 Sale of real property by fiduciary; terms and conditions; approval of court; payment of interest upon mortgages or executory contracts; modification of terms and conditions.

Sec. 641. (1) A fiduciary, upon compliance with all of the provisions of this article, may sell the real property upon any of the following terms and conditions:

(a) For cash.

(b) Not less than 1/3 cash with the note of the purchaser and mortgage back for the balance of such purchase price, the mortgage to run for a period not exceeding 5 years and to carry such legal rate of interest as may be agreed upon by the fiduciary and purchaser, all of the terms and conditions of the mortgage to be subject to the approval of the court.

(c) By executory contract with a down payment of at least 20% of the purchase price, the contract to run for a period not exceeding 5 years. The contract may contain a provision that if 50% of the purchase price is paid within the period of 5 years, the fiduciary shall convey the land to the purchaser, his heirs, or assigns, and take back a mortgage for the remainder of the purchase price, the mortgage to run for a period not exceeding 5 years from its date and to carry interest at such rate as may be agreed upon between the fiduciary and the purchaser.

(2) The terms and conditions of an executory contract are subject to the approval of the court. The court may subsequently, by ex parte order, direct the sale of the fee subject to the contract for an amount not less than the remaining face value of the contract. When it is desired to subsequently sell the fee subject to the contract for an amount less than the remaining face value of the contract, the court may then direct the sale of the fee subject to the contract for an amount not less than the fair market value of the vendor's interest in the contract upon compliance with all the provisions of this article as in the case of the original sale of the property by executory contract.

(3) All interest upon mortgages or executory contracts, as provided in this section, shall be payable at least as often as annually.

(4) A modification of the terms and conditions of a sale as stated in this section shall not be made except that if a fiduciary, after diligent effort, is unable to sell the real estate, an interest therein, or easement for cash, or on such length of credit, and on such terms as provided in this section, he may sell the real estate, interest therein or easement upon such terms as he finds to be for the best interest of the estate, ward, or beneficiary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.642 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.642 Purchase of real or personal property by fiduciary making sale; construction of section.

Sec. 642. The fiduciary making the sale of real or personal property or an interest therein shall not directly or indirectly

purchase, or be interested in the purchase of any part of the property so sold, and all sales made contrary to the provisions of this section are void. This section shall not be construed to prohibit a purchase by a fiduciary for the benefit of his ward or by a personal representative when he is given express court authority to make the purchase and after notice to all interested parties and hearing thereon.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.643 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.643 Sale of real estate by fiduciary; report; notice and hearing; confirmation and conveyance.

Sec. 643. The fiduciary making a sale of real estate, an interest therein, or easement shall immediately make a report of the sale to the court, stating the facts of the sale. The report shall be verified by the fiduciary. After notice of hearing on the report is given to all interested parties as provided by supreme court rule, the court shall hear and determine whether the report shall be confirmed and a conveyance ordered. When it appears that the real estate, interest therein, or easement is subject to a mortgage or vendor's interest which was foreclosed, and that insufficient time remains in which to give notice of hearing on the report before the equity of redemption period of the foreclosure expires, the court may immediately hear and determine whether the report shall be confirmed and a conveyance ordered without notice.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.644 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.644 Confirming report of sale; directing fiduciary to complete sale; revocation of confirming order and vacation of sale.

Sec. 644. If the court is satisfied, after a hearing upon the report, that the sale, transfer, and conveyance of the real estate, an interest therein, or easement is necessary and proper, the court shall confirm the report of sale and direct the fiduciary to complete the sale by giving to the purchaser a deed, land contract, or other proper instrument or conveyance. If the purchaser neglects to pay or causes to be paid the sum bid at the sale for 20 days thereafter, the court may, upon application of the fiduciary making the sale and after notice to the purchaser, revoke the confirming order and vacate the sale.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.645 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.645 Confirming report of sale of real estate; bond;
proceeds; attachments to report.

Sec. 645. A report of sale of real estate, interest therein, or easement shall not be confirmed until the fiduciary files and has approved by the court a further bond with sufficient surety or sureties, conditioned to account for all the proceeds of the sale of the property. All of the proceeds shall be deemed assets in the hands of the fiduciary in like manner as if they were originally part of the goods and chattels of the deceased, ward, or beneficiary; and the sureties on his fiduciary bond shall be accountable and chargeable therefor, as well as the sureties on the additional bond. The report of the proposed sale shall have attached a true copy of the executory contract or deed, or deed, mortgage, and note to be used in consummating the sale.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.646 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.646 Order confirming report of sale of real estate;
authorization; contents; sequence of sale.

Sec. 646. The order confirming the report of sale may authorize the whole or so much and such part of the real estate, interest therein, or easement as the court deems necessary and beneficial; shall describe the property to be sold; and may direct the sequence in which several tracts, lots or parcels, shall be sold. If it appears that any part of the real estate was specifically devised, and not charged in the devise with the payment of debts, the court shall order that part generally devised to heirs to be sold before the part specifically devised. If it appears that any lands devised were sold by the heirs or devisees, then the lands in their hands remaining unsold shall be ordered to be first sold.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.647 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.647 Order confirming report of sale of real estate;
specification of purpose.

Sec. 647. The order confirming the report of sale of real estate, interest therein, or easement shall specify the purpose or reason for which the sale is authorized.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.648 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.648 Report on sale of real estate; bond precluding confirmation.

Sec. 648. (1) A report on sale of real estate of a deceased person, except for the purpose of distribution, shall not be confirmed if any of the persons interested in the estate gives bond to the court, in the sum and with the sureties which the court directs and approves, with condition to pay all the debts, and the expenses of administration, so far as the goods and chattels and rights and credits of the deceased are insufficient therefor, within the time which the court directs.

(2) The bond described in subsection (1) shall be for the security of, and may be prosecuted for the benefit of, the creditors or personal representative.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.651 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.651 Sale of reversion of widow's dower.

Sec. 651. Sale of real estate, interest in real estate, or easement may extend to the reversion of the dower of the widow of a deceased person under sections 1 to 29 of chapter 66 of the Revised Statutes of 1846, as amended, and if the reversion is not sold with the other real estate, it may be sold after the expiration of the widow's term.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1980, Act 326, Imd. Eff. Dec. 17, 1980.

***** 700.652 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.652 Sale of interest in land of deceased person or ward under contract for purchase.

Sec. 652. If a deceased person at the time of his death, or a ward at the time of the appointment of his fiduciary, was possessed of a contract for the purchase of land, his interest in the land and under the contract may be sold in the same manner as if he had died seized of the land, or as if he were seized thereof in fee at the time of the appointment of the fiduciary. The same proceedings may be had for that purpose as are prescribed in this article in such instances.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.653 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.653 Assignment of contract upon confirmation of sale.

Sec. 653. Upon the confirmation of the sale, the fiduciary shall execute to the purchaser an assignment of the contract, which assignment shall vest in the purchaser, his heirs, and assigns, all the rights, remedies, interest, and title of the original vendee, or his heirs or assigns in the contract, and the lands so sold.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.654 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.654 Sale of real estate; disposal of proceeds.

Sec. 654. The proceeds of a sale of real estate shall be disposed of in all respects in the same manner as the proceeds of the sale of lands in other cases.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.655 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.655 Sales and conveyances of land by fiduciary subject to charges.

Sec. 655. (1) Sales and conveyances of land made by fiduciaries pursuant to this article, are subject to all charges thereon, by mortgage or otherwise.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.656 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.656 Sale of real estate by fiduciary; surplus of proceeds as real estate; exception; disposal.

Sec. 656. In a sale by a fiduciary, of part or the whole of the real estate of the decedent or ward, except the sale of an interest in real estate held by a ward as a tenant by the entirety or a joint tenant with right of survivorship, the surplus of the proceeds of the sale remaining on the final settlement of the accounts shall be considered as real estate and disposed of among the persons and in the same proportions as the real estate would have been disposed of by law, if it had not been sold.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.657 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.657 Unreasonable objection to confirmation of report on sale; awarding costs to prevailing party.

Sec. 657. If a person appears and objects to the confirmation of a report on sale filed by a fiduciary, and if it appears to the court that the objection is unreasonable, the court may award costs to the party prevailing, and may enforce the payment thereof.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.658 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.658 Action relating to real estate sold by fiduciary; contesting and voiding sale; possession of land for 10 years under deed by fiduciary; deed as evidence.

Sec. 658. (1) In an action relating to any real estate or interest therein, or easement, sold by a fiduciary, in which an heir or other person claiming under the deceased, or in which the ward or any person claiming under him, contests the validity of the sale, the sale shall not be voided on account of an irregularity in the proceedings, if all of the following occurred:

- (a) The fiduciary was authorized by law to make the sale.
- (b) The fiduciary gave a bond which was approved by the judge, if a bond was required.
- (c) The fiduciary gave notice of the sale as prescribed by law or supreme court rule.
- (d) The property was sold accordingly, the sale was confirmed by the court, and the property is held by a person who purchased it in good faith.

(2) Where a person, or those under whom he holds, was in actual possession of any lands or premises for at least 10 years, holding and claiming under, and by virtue of, a deed executed by a fiduciary, the deed shall be prima facie evidence of the regularity of all the proceedings from and including the application to sell the lands, or interest therein, or easement, to the date and execution of the deed.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.659 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.659 Validity of sale drawn in question by person claiming adversely to title or under title not derived from deceased person or ward.

Sec. 659. If the validity of a sale made by a fiduciary is drawn in question by a person claiming adversely to the title of the deceased person or of the ward, or claiming under a title that is not derived from or through the deceased person or the ward, the sale shall not be voided on account of an irregularity in the proceedings if it appears that the fiduciary was authorized to make the sale, that the sale was confirmed by the court, and that the fiduciary accordingly executed and acknowledged in legal form, a deed, conveyance, or assignment, as the case may be, of the property sold.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.661 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.661 Neglect or misconduct in proceedings of fiduciary; action on bond.

Sec. 661. If there is any neglect or misconduct in the proceedings of the fiduciary in relation to the sale, by which a person interested in the estate suffers damages, the aggrieved person may recover the damages in an action on the general bond of the fiduciary, or otherwise, as the case requires.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.662 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.662 Fraudulent sale of real estate by fiduciary; liability; action.

Sec. 662. A fiduciary who fraudulently sells any real estate of the decedent or ward, contrary to this article, is liable for double the value of the land sold, as damages to be recovered in an action in the probate court by the person having an estate of inheritance thereon.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.664 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.664 Execution by fiduciary of power to sell, mortgage, or lease property; authority.

Sec. 664. When power to sell, mortgage, or lease property of the estate is given in a will, the fiduciary, if authorized to

execute the power, may proceed under the power without authorization of the court, or may proceed under the provisions of this act.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.665 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.665 Mortgaging or pledging interest in estate or trust estate by fiduciary; purposes; scope of authority; extension or renewal of existing mortgage.

Sec. 665. (1) Subject to confirmation by the court, the fiduciary of an estate may mortgage or pledge an interest in the estate for any of the following purposes:

(a) To pay the debts of any deceased person or ward or against the estate of a deceased person or ward.

(b) To pay the devises provided in the last will of any deceased person.

(c) To support a ward.

(d) To complete the erection of buildings begun by the deceased person or ward or by some person in his behalf or for his benefit.

(e) To mortgage a ward's interest by entirety or as a joint tenant.

(2) Subject to confirmation by the court and subject to the limitations and restrictions contained in the will or other instrument creating the testamentary trust, the fiduciary may mortgage or pledge an interest in the trust estate for any of the following purposes:

(a) To pay taxes or assessment levied or assessed on the trust estate or the expenses of the management of the estate.

(b) To pay the expense of erecting, altering, completing, repairing, or improving a building on the estate.

(c) To pay an existing lien or mortgage on the trust estate, or on a part thereof, or a debt chargeable against the trust estate or for which it is liable.

(d) To raise money for any purpose in order to carry out the provisions of the will or other instrument creating the trust.

(3) The authority given in subsections (1) and (2) to mortgage or pledge property for the payment of debts and devises extends to the estate only as might be sold for the purpose, unless a

mortgage or other lien exists against the homestead of the deceased person or ward, in which event the fiduciary may be authorized to mortgage the homestead for sufficient funds to pay the mortgage or other lien and the necessary expenses connected with the proceedings.

(4) A testamentary trustee may be authorized to make an agreement for the extension or renewal of an existing mortgage.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.667 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.667 Mortgage or pledge; report; notice of hearing; hearing; confirmation of report and execution of mortgage or pledge; bond.

Sec. 667. (1) The fiduciary making a mortgage or pledge shall immediately make a report of the mortgage or pledge to the court, stating the facts of the mortgage or pledge. The report shall be verified by the fiduciary and have attached to it a copy of the proposed mortgage. After notice of hearing on the report is given to all parties in interest as provided by supreme court rule, the court shall hear and determine whether the report is confirmed and the execution of the mortgage or pledge authorized.

(2) If the court is satisfied, after a full hearing upon the report of mortgage or pledge and an examination of the proofs and allegations of interested parties, that the mortgage or pledge is necessary and proper, the court shall confirm the report of mortgage or pledge and direct the fiduciary to execute the mortgage or pledge.

(3) A report of mortgage or pledge shall not be confirmed until the fiduciary files and has approved by the court a further bond with sufficient surety or sureties, conditioned to account for all of the proceeds of the mortgage or pledge.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.671 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.671 Leasing land of estate by fiduciary; authority; petition; notice; hearing; order.

Sec. 671. (1) A fiduciary may lease the land of the estate, or an interest therein, including oil, gas, and mineral rights, from year to year or for a term of years when authorized by the court. The lease may be authorized when the lease appears to be necessary or expedient for the best interests of the estate. A lease of the estate of a minor ward shall not extend beyond the eighteenth birthday of the ward, unless ratified by the ward upon

attaining his majority, except that in all estates the term of a lease of oil, gas and minerals, or any of them, shall not exceed 5 years but may contain a provision that the lease may extend for such additional term as there is commercial production under the lease of oil, gas or minerals.

(2) To obtain an order authorizing execution of a lease under subsection (1), the fiduciary shall present a verified petition to the court, setting forth the facts upon which the petition is based. After notice to all interested parties as provided by supreme court rule and after hearing, the court may enter an order authorizing the fiduciary to execute the lease.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.672 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.672 Failure or refusal of fiduciary to make conveyance of real estate under land contract after payment or tender of balance due; petition; notice of hearing.

Sec. 672. When a person owning a vendor's interest in a land contract in writing, however acquired, dies before making the conveyance, or when a fiduciary of the estate of a person is appointed before the person has made the conveyance, and the fiduciary, after payment or tender of the balance due on the contract, has not made or refuses to make conveyance of the real estate, a person claiming to be entitled to the conveyance from the fiduciary may file a petition stating the facts upon which the claim is predicated. Notice of hearing on the petition shall be given as provided by supreme court rule.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.673 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.673 Hearing upon petition; order authorizing and directing fiduciary to make and execute conveyance to grantee.

Sec. 673. If the court is satisfied, after a full hearing upon the petition and examination of the facts and circumstances of the claim, that the grantee in the contract is entitled to a conveyance of the real estate described in the petition, the court shall make an order authorizing and directing the fiduciary to make and execute a conveyance thereof to the grantee.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.675 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.675 Appeal of order; execution of conveyance; recording copy

of order with deed; evidence.

Sec. 675. If an appeal of the order entered under section 673 is not taken within the time limited by law, or if the order is affirmed on appeal, the fiduciary shall execute the conveyance according to the direction contained in the order. A certified copy of the order shall be recorded with the deed, in the office of the register of deeds in the county where the lands are situated, and shall be evidence of the correctness of the proceedings and of the authority of the fiduciary to make the conveyance.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.681 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.681 Jurisdiction of probate court under SS 700.672 to 700.675 not exclusive; action for specific performance.

Sec. 681. The jurisdiction conferred by sections 672 to 675 upon the probate court shall not be deemed to be exclusive of the jurisdiction of the circuit court, but any person entitled to specific performance may, at his election, file an action in circuit court for that relief.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.682 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.682 Effect of conveyance made pursuant to order of probate court.

Sec. 682. A conveyance made in pursuance of an order of the probate court, as provided in this article, shall be effectual to pass the estate contracted for, as fully as if the contracting party, if a decedent, were still living, or, if a ward, were still competent, and had executed the conveyance.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.683 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.683 Copy of probate court order or circuit court decree for conveyance as giving person right to possess and hold lands contracted for.

Sec. 683. A copy of the order for a conveyance made by the probate court and authenticated and recorded in the office of the register of deeds in the county where the lands are situated, or a copy of the decree of the circuit court for that purpose authenticated by the clerk of the court and recorded in the

office of the register of deeds in the county where the lands are situated, shall give the person entitled to the conveyance a right to the possession of the lands contracted for, and to hold the same according to the terms of the intended conveyance, in like manner as if they were conveyed in pursuance of the order.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.685 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.685 Enforcement of order notwithstanding recordation.

Sec. 685. The recording of any order, as provided in section 683, shall not prevent the court making the order from enforcing it by any proper process in that court.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.687 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.687 Death of person to whom conveyance made before commencement of proceedings or before completion of conveyance.

Sec. 687. If the person to whom the conveyance was to be made dies before the commencement of proceedings according to this article, or before the conveyance is completed, a person who would have been entitled to the estate under him as heir, devisee or otherwise, in the event the conveyance were made according to the terms of the contract, or the fiduciary of the deceased person, for the benefit of the person so entitled, may commence the proceedings, or may prosecute them if already commenced. The conveyance shall thereupon be so made as to vest the estate in the same persons who would have been so entitled to it, or in the fiduciary for their benefit.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.688 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.688 Report for order confirming sale of real estate to pay debts and expenses of administration; sale of homestead; procedure; disposition of proceeds.

Sec. 688. (1) When a report is made to the court for an order to confirm the sale of real estate of a deceased person or ward, for the purposes of paying his debts or the expenses of administering his estate, the court shall determine what, if any, of the real estate constituted the homestead of the deceased at the time of his death, or of the ward at the time of the appointment of the fiduciary. If there is real estate not part of the homestead, the real estate shall be first sold. If there is

not any real estate other than that determined to be the homestead, or, if the proceeds of the sale of the real estate, other than the homestead, are insufficient for the purposes thereof, the court may order the sale of the homestead, or a part of it.

(2) Upon the hearing of the report for the order to confirm the sale of real estate, the court shall proceed as follows:

(a) If the value of the homestead does not exceed \$10,000.00, further action shall not be taken until the homestead ceases to be exempt from the payment of debts.

(b) If the value of the homestead exceeds \$10,000.00, and the homestead can be divided, and a homestead not exceeding \$10,000.00 in value can be set apart for the benefit of the ward, spouse or family, the court shall order that the homestead be set apart until it ceases to be exempt from the payment of debts and that the remainder of the real estate be sold for the payment of debts and the expenses of administration.

(c) If the value of the homestead exceeds \$10,000.00, and if the real estate cannot be divided so that a homestead not exceeding \$10,000.00 in value can be set apart for the benefit of the ward, spouse or family, the court shall order the whole of the real estate to be sold.

(d) The ward, spouse, or family entitled to the homestead may elect to preserve the homestead by paying the debts and expenses of administering the estate or by using the homestead as security to obtain funds to pay the debts and expenses of administering the estate.

(3) From the proceeds of a sale under subsection (2)(c), the fiduciary shall reserve and retain the sum of \$10,000.00 for the benefit of the ward, spouse, or family and shall apply the remainder, so far as it extends or is necessary, in payment of the debts and expenses of administering his estate. The sum so reserved and retained by the fiduciary shall be invested by the fiduciary with the approval of the court, either in the purchase of a new homestead, or in proper securities for the benefit of the ward, spouse, or family, as may seem best, and the same, or the property or securities in which it is invested, shall remain exempt from the payment of debts and the expenses of administering his estate in like manner as a legal homestead would have remained exempt, and shall finally go to the persons, who, upon termination of the homestead exemption would have been entitled to the homestead if it had not been sold.

History: 1978, Act 642, Eff. July 1, 1979.

ARTICLE 7

***** 700.701 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,

700.701 Property of decedent's or ward's estate subject to payment of debts; unsecured and secured debts; presentment of claims; claim allowed by law or supreme court rule; simultaneous death of husband and wife; funeral and burial expenses; claim by fiduciary against estate; notice and hearing; permission of court.

Sec. 701. (1) Subject to homestead and family allowances or dower, right of exempt property, and to all prior charges against the estate, both real and personal property of a decedent's or ward's estate is subject to the payment of his or her debts. However a debt which is not secured by a lien upon the property of the decedent or ward shall not be paid unless filed in the probate court and allowed; and secured claims not so proved shall be paid only when the court, upon hearing, determines that the property covered by the lien is worth more than the amount of the indebtedness so secured.

(2) In estates of decedents, and in estates of wards when requested by a fiduciary, a claimant, or other interested party, a date for presentment of claims shall be set, notice of the date for presentment of claims given, and procedures for allowance of claims shall be as provided by supreme court rule.

(3) If a claim is allowed by law or supreme court rule because of the passage of a period of time without objection being made to the claim, such allowance shall be subject to the law and supreme court rule dealing with granting of rehearings and modification and setting aside of orders and subject to appeals of orders as though such allowance had been made on an order of the court.

(4) If a husband and wife die and there is insufficient evidence that they died other than simultaneously, the reasonable expenses of the husband's or wife's funeral and burial shall be chargeable against that person's estate as provided in section 716(a). If insufficient assets preclude payment in full, any unpaid balance of the expenses may be presented as a debt against the estate of the other spouse under section 716(f).

(5) A fiduciary shall not file his or her own claim against the estate unless the court, upon prior notice to all interested parties and after hearing, permits the fiduciary to do so. A fiduciary's claim filed without permission is void. If the court does not permit the fiduciary to file his or her claim, the fiduciary may resign his or her office; and after the appointment and qualification of a successor fiduciary, the former fiduciary may file his or her claim and have it heard.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.703 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.703 Notice to creditors generally.

Sec. 703. (1) Unless notice has already been given, upon appointment a personal representative shall publish and a temporary personal representative may publish a notice, as provided by supreme court rule, notifying creditors of the estate to present their claims within 4 months after the date of the publication of the notice or be forever barred. The personal representative who publishes the notice also shall send pursuant to subsection (2) a copy of the notice or a similar notice to any creditor of the estate who at the time of publication or during the 4 months following publication is known to the personal representative. For purposes of this section, a creditor of the decedent is known to the personal representative if the personal representative has actual notice of the creditor or the existence of the creditor was reasonably ascertainable by the personal representative based on an investigation of the decedent's available records for the 2 years immediately preceding the death and mail following the death.

(2) Notice to known creditors of the estate shall be given as follows:

(a) Within 4 months after the date of the publication of notice to creditors.

(b) If the personal representative first learns of a creditor of the estate less than 1 month before the expiration of the time period in subdivision (a), within 1 month after the personal representative first learns of the creditor.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989;--Am. 1996, Act 130, Eff. June 1, 1996.

***** 700.704 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.704 Notice to creditors; liability.

Sec. 704. (1) If the personal representative or his or her attorney in good faith believes that notice to a creditor of the estate is or may be required by section 703 and gives notice based on that belief, the personal representative or his or her attorney is not liable to any person for giving notice.

(2) If the personal representative or his or her attorney in good faith fails to give the notice required by section 703, the personal representative or his or her attorney is not personally liable to any person for the failure to give notice. Liability, if any, for failure to give notice is on the estate.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989;--Am. 1996, Act 130, Eff. June 1, 1996.

***** 700.705 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.705 Contested claims; costs allowed prevailing party; order;
payment of fiduciary.

Sec. 705. Costs may be allowed the prevailing party in connection with a contested claim, which costs shall include witness fees, except for the claimant and the fiduciary, taxed at the same rate as in cases in circuit court, and the fees of the referee, if any. The court may also allow the prevailing party an attorney fee of not exceeding \$100.00 in connection with any 1 claim. The order of the court shall state whether costs are allowed, and if so, shall fix the amount of costs. If costs are allowed against an estate, the fiduciary shall pay them as part of the expenses of administration.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.707 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.707 Statute of limitations generally.

Sec. 707. Unless an estate is insolvent, the personal representative, with the consent of all interested parties whose interests would be affected, may waive a statute of limitations defense available to the estate. If a statute of limitations defense is not waived, a claim that was barred by a statute of limitations at the time of the decedent's death shall not be allowed or paid. The running of a statute of limitations measured from some other event than death and advertisement for claims against a decedent is suspended during the 4 months following the decedent's death but resumes thereafter as to claims not barred under this article. For purposes of a statute of limitations, the proper presentation of a claim under section 712 is equivalent to commencement of a proceeding on the claim.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.708 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.708 Referee to serve at pleasure of judge; compensation;
charge for services.

Sec. 708. A referee appointed under section 702 shall serve at the pleasure of the judge, shall receive from the estate such reasonable compensation as the judge shall determine, and shall not receive any other fee or prerequisite. In any county in which the county board of commissioners may provide a salary for the

referee, a charge shall not be made against the estate for the services of the referee.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.710 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.710 Claims against decedent's estate barred unless presented within certain time; certain proceedings or compensation not affected by section.

Sec. 710. (1) A claim against a decedent's estate that arose before the death of the decedent, including a claim of the state or any subdivision of the state, whether due or to become due, absolute or contingent, liquidated or unliquidated, or founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, is barred against the estate, the personal representative, and the decedent's heirs and devisees unless presented as follows:

(a) If notice is given in compliance with section 703(1), within 4 months after the date of the publication of notice to creditors, except that a claim barred by a statute at the decedent's domicile before the publication for claims in this state is also barred in this state.

(b) In the case of a creditor known to the personal representative at the time of publication or during the 4 months following publication, within 1 month after the subsequent sending of notice or 4 months after the date of the publication of notice to creditors, whichever is later.

(c) If the notice requirements of section 703 have not been met, within 3 years after the decedent's death.

(2) A claim against a decedent's estate that arises at or after the death of the decedent, including a claim of the state or any subdivision of the state, whether due or to become due, absolute or contingent, liquidated or unliquidated, or founded on contract, tort, or other legal basis, is barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(a) If for a claim based on a contract with the personal representative, within 4 months after performance by the personal representative is due.

(b) For a claim not within subdivision (a), within 4 months after the claim arises or the time specified in subsection (1)(a), whichever is later.

(3) This section does not affect or prevent any of the following:

(a) A proceeding to enforce a mortgage, pledge, or other lien upon property of the estate.

(b) A proceeding to establish the decedent's or the personal representative's liability for which the decedent or the personal representative is protected by liability insurance to the limits of the insurance protection only.

(c) Collection of compensation for services rendered and reimbursement of expenses advanced by the personal representative or by an attorney, auditor, investment adviser, or other specialized agent or assistant for the personal representative of the estate.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989;--Am. 1996, Act 130, Eff. June 1, 1996.

***** 700.711 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.711 Claim for burial expense or other claim; petition; hearing; order; payment.

Sec. 711. After a fiduciary of an estate is appointed and qualified, the court may, upon petition and with or without notice, hear a claim for the expense of burial or any other claim where the court deems it advisable. Upon the hearing, the court shall enter an order allowing or disallowing the claim or any part thereof and in the order shall provide that the claim be immediately paid if the payment can be made without injury or serious inconvenience to the estate. After the date for the presentment of claims, all claims allowed shall be paid promptly from the estate.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.712 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.712 Presentation of claim against decedent's estate; commencement of proceeding on claim; extension of time; form and copies of claim; warning.

Sec. 712. (1) A claimant with a claim against a decedent's estate shall present the claim by doing either of the following:

(a) Delivering or mailing to the personal representative or proposed personal representative a written statement of the claim indicating its basis, the name and address of the claimant, and the amount claimed, or by filing a written statement of the claim, in the form prescribed by supreme court rule, with the court and delivering or mailing a copy of the statement to the personal representative or proposed personal representative. The

claim shall be considered presented on receipt of the written statement of claim by the personal representative or the filing of the claim with the court, whichever occurs first. If a claim is not yet due, the date when it will become due shall be stated. If the claim is contingent or unliquidated, the nature of the uncertainty shall be stated. If the claim is secured, the security shall be described. Failure to describe correctly the security, the nature of an uncertainty, and the due date of a claim not yet due does not invalidate the presentation made.

(b) Commencing a proceeding to obtain payment of a claim against the estate in a court where the personal representative may be subjected to jurisdiction. The claimant shall commence the proceeding within the time limited for presenting the claim. A presentation of a claim is not required in matters claimed in proceedings against the decedent that were pending at the time of death.

(2) Except as otherwise provided in this subsection, if a claim is presented under subsection (1)(a), a proceeding on the claim shall not be commenced more than 63 days after the personal representative has mailed a notice of disallowance. For a claim that is not presently due or that is contingent or unliquidated, the personal representative may consent to an extension of the 63-day period, or to avoid injustice the court, on petition, may order an extension of the 63-day period, but an extension shall not be consented to or ordered if the extension would run beyond the applicable statute of limitations.

(3) Claims by the personal representative against the estate shall be in the form prescribed by supreme court rule. The personal representative shall give a copy of the claim to all interested persons not later than 7 days after the time for original presentation of the claim has expired. The claim shall contain a warning that the personal representative's claim will be allowed unless a notice of objection is delivered or mailed to the personal representative within 63 days after the time for original presentation of the claim has expired. This subsection does not apply to a claim for collection of compensation for services rendered or for reimbursement of expenses advanced by the personal representative.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989;--Am. 1996, Act 130, Eff. June 1, 1996.

***** 700.713 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.713 Claims against estate; filing; contents; demanding bill of particulars; practice on motions; failure to furnish bill of particulars.

Sec. 713. (1) Claims filed against an estate shall be in the manner prescribed by supreme court rule and shall contain

sufficient detail to reasonably inform the fiduciary of the nature and amount of the claim. A claim founded in whole or in part upon a written instrument shall have annexed a true copy of the instrument.

(2) The fiduciary in connection with any claim may demand a bill of particulars of claimant's demands, and the claimant shall furnish the same within 10 days after the demand. In case of setoff, claimant may demand a bill of particulars under like terms and conditions. If either party considers the bill of particulars insufficient, he may file like motion in court for a more detailed bill of particulars. The practice on the motions, as to notice of hearing and the requiring of a more detailed statement, shall be the same as near as may be as the practice in circuit court. Failure to furnish a bill of particulars shall be cause to dismiss the claim.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.715 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.715 Payment of claims; priority; preference.

Sec. 715. (1) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order of priority:

(a) Costs and expenses of administration.

(b) Reasonable funeral and burial expenses.

(c) Debts and taxes with priority under federal law.

(d) Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him or her.

(e) Debts and taxes with priority under other laws of this state.

(f) All other claims.

(2) A preference shall not be given in the payment of a claim over another claim of the same class, and a claim due and payable shall not be entitled to a preference over a claim not due.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.716 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.716 Preference of claim allowed against estate.

Sec. 716. A claim allowed against the estate has preference as follows:

(a) Funeral and burial expenses. Burial expenses include expenses of cremation.

(b) Debts due the United States of America.

(c) Expenses of the last illness.

(d) Debts due the state of Michigan.

(e) Debts owing for labor incurred by the decedent before a time when the decedent was found insolvent in an insolvency proceeding, voluntary or involuntary.

(f) All other debts.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.717 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.717 Allowance or disallowance of claim in whole or in part; notice; petition; judgment in another court; interest on allowed claims.

Sec. 717. (1) If a claim is presented in a manner described in section 712 and within the time limit prescribed in section 710, the personal representative may deliver or mail a notice to a claimant stating that the claim has been disallowed in whole or in part. If, after allowing or disallowing a claim, the personal representative changes a decision concerning the claim, the personal representative shall notify the claimant. The personal representative shall not change a decision disallowing a claim if the time for the claimant to file a petition for allowance has passed or if the time to commence a proceeding on the claim has run and the claim has been barred. A claim that is disallowed in whole or in part by the personal representative is barred to the extent not allowed unless the claimant files a petition for allowance in the court or commences a proceeding against the personal representative not later than 63 days after the mailing of the notice of disallowance or partial allowance if the notice warns the claimant of the impending bar. Failure by the personal representative to deliver or mail to a claimant notice of action on the claim within 63 days after the time for original presentation of the claim has expired or within 63 days after the appointment of the personal representative, whichever is later, constitutes a notice of allowance. Failure by an interested person to deliver or mail to the personal representative notice of an objection to a personal representative's claim within 63 days after the time for original presentation of the claim has expired constitutes a notice of allowance.

(2) Upon the personal representative's or a claimant's petition, the court may allow in whole or in part a claim presented to the personal representative or filed with the court in due time and not barred by subsection (1). Upon an interested person's petition concerning a claim by the personal representative, the court may allow in whole or in part a claim of the personal representative presented to the interested persons in due time and not previously allowed by subsection (1).

(3) A judgment in a proceeding in another court against a personal representative to enforce a claim against a decedent's estate constitutes an allowance of the claim.

(4) Unless otherwise provided in a judgment in another court entered against the estate, allowed claims bear interest at a rate determined under section 6013 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.6013 of the Michigan Compiled Laws, for the period commencing 63 days after the time for original presentation of the claim has expired unless based on a contract making a provision for interest, in which case they bear interest in accordance with that provision.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989;--Am. 1996, Act 130, Eff. June 1, 1996.

***** 700.718 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.718 Payment of claims in full.

Sec. 718. If, after all claims against the estate are determined, it appears that the fiduciary has in his possession sufficient assets to pay all the debts, he shall pay them in full within the time limited for that purpose or within such extended time as the court may allow.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.720 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.720 Payment of claims; time; petition; liability of personal representative; disallowance of claim if whereabouts of claimant unknown.

Sec. 720. (1) Upon the expiration of 4 months after the date of the first publication of the notice to creditors, the personal representative shall proceed to pay the claims allowed against the estate in the order of priority prescribed in section 715, after making provision for dower, the homestead, family, and exempt property allowances, for claims already presented that have not yet been allowed or whose allowance has been appealed,

and for unbarred claims that may yet be presented, including costs and expenses of administration. A claimant whose claim has been allowed but not paid as provided in this section may petition the court to secure an order directing the personal representative to pay the claim to the extent that funds of the estate are available for the payment.

(2) The personal representative at any time may pay a just claim that has not been barred, with or without formal presentation, but is individually liable to another claimant whose claim is allowed and who is injured by the payment if either of the following occurs:

(a) The payment was made before the expiration of the time limit under subsection (1) and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants.

(b) The payment was made, due to the negligence or willful fault of the personal representative, in a manner that deprives the injured claimant of priority.

(3) If a claim has been allowed, but the whereabouts of the claimant is unknown at the time the personal representative attempts to pay the claim, the court, upon petition by the personal representative and after notice the court considers advisable, may disallow the claim. If the court disallows a claim under this subsection, the claim shall be barred.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.721 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.721 Payment of dividend in proportion to claim; order of payment; payment of pro rata percentage of claims.

Sec. 721. (1) If there are not enough assets to pay all of the debts of any 1 subdivision of section 716, each creditor shall be paid a dividend in proportion to his claim. A creditor of a debt in any subdivision of section 716 shall not receive any payment until the debts of the preceding subdivision are paid.

(2) If the estate available for payment of claims in a subdivision of section 716 is insufficient, claimants in that subdivision whether residents or nonresidents shall be paid a pro rata percentage of their claims. But if 1 of the claimants received a pro rata payment in another jurisdiction on the full amount owing to him, the other claimants in that subdivision shall be paid a like pro rata percentage of their claims before payment shall be made pro rata to all the claimants.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.726 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.726 Liability of personal representative or estate.

Sec. 726. (1) Unless otherwise provided in the contract, a personal representative shall not be individually liable on a contract properly entered into in the personal representative's fiduciary capacity in the course of administration of the estate unless the personal representative fails to reveal his or her representative capacity and fails to identify the estate in the contract.

(2) A personal representative shall be individually liable for obligations arising from ownership or control of the estate or for torts committed in the course of administration of the estate only if the personal representative is personally at fault.

(3) Claims based on contracts entered into by a personal representative in the personal representative's fiduciary capacity on obligations arising from ownership or control of the estate or on torts committed in the course of estate administration may be asserted against the estate by proceeding against the personal representative in the personal representative's fiduciary capacity, without regard to whether or not the personal representative is individually liable.

(4) Issues of liability as between the estate and the personal representative individually may be determined in a proceeding for accounting, surcharge, indemnification, or other appropriate proceeding.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.730 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.730 Basis for payment of secured claim.

Sec. 730. Payment of a secured claim shall be upon the basis of the amount allowed if the creditor surrenders his or her security. Otherwise payment shall be upon the basis of 1 of the following:

(a) If the creditor exhausts the security before receiving payment, upon the amount of the claim allowed less the fair value of the security.

(b) If the creditor does not have the right to exhaust the security or has not done so, upon the amount of the claim allowed less the value of the security determined by converting it into money according to the terms of the agreement under which the security was delivered to the creditor, or by the creditor and personal representative by agreement, arbitration, compromise, or

litigation.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.731 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.731 Statute of limitations.

Sec. 731. After adjudication on claims, the statute of limitations shall not run against claims so adjudicated, except that, if, after notice is given as provided in section 725, a creditor neglects to demand from the fiduciary his debt, or the dividend thereon, within 2 years from the time so limited for the payment of the debts, or if the notice is given after that time, within 2 years from the last publication, the claim of the creditor shall be forever barred.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.733 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.733 Claims becoming due at future time, contingent claims, and unliquidated claims.

Sec. 733. (1) This section applies to claims that will become due at a future time, contingent claims, and unliquidated claims.

(2) If a claim becomes due or certain before the distribution of the estate, and if the claim has been allowed or established by a proceeding, the claim shall be paid in the same manner as presently due and absolute claims of the same class.

(3) For claims not covered by subsection (2), the personal representative or, on petition of the personal representative or the claimant in a proceeding for the purpose, the court may provide for payment as follows:

(a) If the claimant consents, the claimant may be paid the present or agreed value of the claim, taking any uncertainty into account.

(b) Arrangement for future payment or possible payment, on the happening of the contingency or on liquidation, may be made by creating a trust, giving a mortgage, obtaining a bond or security from a distributee, or otherwise.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.734 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.734 Adjustment, settlement, or compromise of claim.

Sec. 734. A fiduciary, under the order of the court, after such notice as it directs, or without notice in its discretion, may adjust, settle, or compromise a claim for or against the estate of a decedent or ward.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.736 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.736 Counterclaims.

Sec. 736. In allowing a claim, the personal representative may deduct a counterclaim that the estate has against the claimant. In determining a claim against an estate, the court shall reduce the amount allowed by the amount of the counterclaim and, if the counterclaim exceeds the claim, render a judgment against the claimant in the amount of the excess. A counterclaim, liquidated or unliquidated, may arise from a transaction other than that upon which the claim is based. A counterclaim may give rise to relief exceeding in amount or different in kind from that sought in the claim.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.737 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.737 Construction of article.

Sec. 737. This article shall not be construed to prevent a fiduciary from paying a debt which is payable at a future day, according to the terms and at the time specified in the contract.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.740 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.740 Execution and levy prohibited; enforcement of mortgages, pledges, or liens.

Sec. 740. An execution shall not issue upon nor shall a levy be made against property of the estate under a judgment against a decedent or a personal representative. However, this section shall not be construed to prevent the enforcement of mortgages, pledges, or liens upon real or personal property in an appropriate proceeding.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.741 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.741 Commencement of action against personal representative; attachment or execution; filing notice of action pending; distribution; certification of final judgment; contingent or other lawful claim; lien upon real or personal estate of deceased.

Sec. 741. (1) An action shall not be commenced against a personal representative, except actions of ejectment, actions to recover the title or possession of real estate, actions of replevin and trespass on the case, and any other action in which the deceased might have been properly joined with others as a party defendant. An attachment or execution shall not be issued against the estate of the deceased, until the expiration of the time limited by the court for the payment of debts. Plaintiff may file in the court having jurisdiction of the estate a notice of an action pending. After the filing of the notice an assignment of property to heirs, payment of debts, or other distribution shall not be made to creditors of debts under section 716(f), except that the court may authorize the distribution in case the personal representative retains sufficient assets to secure to that plaintiff payment of the judgment recovered and of costs in the proceeding. The final judgment rendered in the action shall be certified to the probate court by the county clerk upon its becoming final, whereupon the judgment shall have the same effect as all other approved claims of the same class against the estate.

(2) A person having any contingent or other lawful claim against a deceased person shall not thereby be prevented from prosecuting it against the personal representative, heirs, or devisees, as provided by law. A claimant having a lien upon real or personal estate of the deceased, by attachment previous to his death may, upon obtaining judgment, have execution against the real or personal estate.

(3) Except as expressly provided in this article, an action shall not be commenced or prosecuted against a personal representative; nor shall a writ of attachment or execution issue against a personal representative or against the estate of the deceased in his hands, during the time allowed him for the payment of debts, except in the instance provided in subsection (2).

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.743 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.743 Settlement of claim by personal representative.

Sec. 743. If a claim against the estate has been presented as provided in section 712, the personal representative, if it appears to be in the best interest of the estate, may settle the

claim, whether due or not due, absolute or contingent, liquidated or unliquidated.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.744 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.744 Persons indebted on joint contract; liability.

Sec. 744. When 2 or more persons are indebted on a joint contract, or upon a judgment founded on a joint contract, and either of them dies, his estate shall be liable therefor, and it may be allowed by the court, as if the contract were joint and several, or as if the judgment were against him alone. The other parties to the joint contract may be compelled to contribute or to pay it, if they would have been liable to do so upon the payment thereof by the deceased.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.746 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.746 Encumbrances.

Sec. 746. If an asset of the estate is encumbered by mortgage, pledge, lien, or other security interest, the personal representative may pay the encumbrance or any part of the encumbrance, renew or extend an obligation secured by the encumbrance, or convey or transfer the assets to the creditor in satisfaction of the lien, in whole or in part, whether or not the holder of the encumbrance has presented a claim, if it appears to be in the best interest of the estate. Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.749 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.749 Claims, allowances, and charges to which assets subject; estate insufficient to cover exemptions, allowances, and charges; payment of equal proportion of claim; preference or security allowed in another jurisdiction; family exemptions, allowances, prior charges, and claims exceeding total value of portions of estate administered in separate states; payment of claims from local assets; marshaling of local assets.

Sec. 749. (1) All assets of estates being administered in this state shall be subject to all claims, allowances, and charges existing or established against the personal representative

wherever appointed.

(2) If the estate, either in this state or as a whole, is insufficient to cover all family exemptions and allowances as determined by the law of the decedent's domicile, prior charges, and claims, each claimant whose claim has been allowed either in this state or elsewhere in administrations of which the personal representative is aware, after satisfaction of the exemptions, allowances, and charges, is entitled to receive payment of an equal proportion of the claim. If a preference or security concerning a claim is allowed in another jurisdiction but not in this state, the benefited creditor shall receive dividends from local assets only upon the balance of the claim after deducting the amount of the benefit.

(3) If the family exemptions, allowances, prior charges, and claims of the entire estate exceed the total value of the portions of the estate being administered in separate states and this state is not the state of the decedent's last domicile, the claims allowed in this state shall be paid their proportion from local assets if local assets are adequate for the purpose, and thereafter the balance of local assets shall be transferred to the domiciliary personal representative. If local assets are not sufficient to pay all claims allowed in this state the amount to which they are entitled, local assets shall be marshaled so that each claim allowed in this state shall be paid its proportion as far as possible, after taking into account all dividends on claims allowed in this state from assets in other jurisdictions.

History: Add. 1988, Act 222, Eff. Jan. 1, 1989.

***** 700.751 THIS SECTION IS REPEALED EFFECTIVE JANUARY 1,
1989 *****

700.751 Liability as security for deceased or ward or having claim against estate which cannot be proved as debt; presentation and proof; claim by reason of bond or agreement; compromise and settlement; disposition as personal property.

Sec. 751. If a person is liable as security for the deceased or ward or has any other claim against his estate which cannot be proved as a debt, it shall be presented with the proper proof to the court or a referee appointed by the court within the time limited for approving claims or otherwise shall be barred. If the claim is made against the estate by reason of a bond or agreement of any kind in writing, signed by the deceased or ward and binding him to pay a certain sum for the support of the claimant for the lifetime of the claimant or another or for a term of years, or to perform certain work for another, for the nonperformance of which his estate is liable, or bonding the deceased or ward to pay any sums as rental or royalty during a lease or license, the fiduciary of the estate, by and with the consent of the claimant and the approval of the court, may compromise and settle the claim in such manner as is just and

determined by the court. The claim so determined shall be paid as other debts of the deceased or ward. The fiduciary in effecting the compromise may, if necessary and if so ordered by the court, after such notice as it directs, purchase the property covered by the lease or license. In the event of the purchase of real estate as provided above, it shall be treated, disposed of, and distributed as personal property in the hands of the fiduciary.

History: 1978, Act 642, Eff. July 1, 1979.

ARTICLE 8

***** 700.801 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.801 Registration of trust; principal place of administration; exceptions.

Sec. 801. (1) Except as provided in subsection (2), the trustee of a trust shall register the trust in the probate court at the principal place of administration. Unless otherwise designated in the trust instrument, the principal place of administration of a trust is the trustee's usual place of business where the records pertaining to the trust are kept, or at the trustee's residence if the trustee does not have a place of business. The principal place of administration of cotrustees, if not otherwise designated in the trust instrument, is the usual place of business of the corporate trustee if there is but 1 corporate cotrustee; or the usual place of business or residence of the individual trustee who is a professional fiduciary if there is but 1 such person and not a corporate cotrustee; and otherwise the usual place of business or residence of any of the cotrustees as agreed upon by them. The duty to register under this chapter does not apply to the trustee of a trust if registration would be inconsistent with the retained jurisdiction of a foreign court from which the trustee cannot obtain release.

(2) Subsection (1) does not apply to any of the following:

(a) A testamentary trust.

(b) A trust created before, on, or after the effective date of this act by a living trust agreement in existence before the effective date of this act.

(c) A trust containing terms to exempt it from registration.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1979, Act 51, Imd. Eff. July 7, 1979.

***** 700.802 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.802 Trust; registration; statement; release of earlier

registration.

Sec. 802. Registration is accomplished by filing a statement indicating the name and address of the trustee in which it acknowledges the trusteeship. The statement shall indicate whether the trust is registered elsewhere. The statement shall identify the trust: in the case of a written inter vivos trust, by the name of each settlor and the original trustee and the date of the trust instrument; or in the case of an oral trust, by information identifying the settlor or other source of funds and describing the time and manner of the trust's creation and the terms of the trust, including the subject matter, beneficiaries, and time of performance. If a trust is registered elsewhere, registration in this state is ineffective until the earlier registration is released by order of the court where prior registration occurred, or an instrument executed by the trustee and all beneficiaries, filed with the registration in this state.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.803 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.803 Trustee; submitting personally to jurisdiction; notice of proceeding; beneficiaries subject to jurisdiction of court of registration.

Sec. 803. (1) By registering a trust, or accepting the trusteeship of a registered trust, the trustee submits personally to the jurisdiction of the court in any proceeding under section 805 relating to the trust that may be initiated by an interested person while the trust remains registered. Notice of a proceeding shall be delivered to the trustee, or mailed to him or her by first class mail at his or her address as listed in the registration or as thereafter reported to the court and to his or her address as then known to the petitioner.

(2) To the extent of their interests in the trust, all beneficiaries of a trust properly registered in this state are subject to the jurisdiction of the court of registration for the purposes of proceedings under section 805 if notice is given them personally, by first class mail or, if their addresses are unknown, by publication as provided by supreme court rule.

History: 1978, Act 642, Eff. July 1, 1979;--Am. 1984, Act 377, Eff. Mar. 29, 1985.

***** 700.804 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.804 Effect of failure to register trust.

Sec. 804. A trustee who fails to register a trust in a proper county as required by this article, for purposes of any

proceedings initiated by a beneficiary of a trust before the registration, is subject to the personal jurisdiction of the court in a county in which the trust could have been registered. In addition, a trustee who, within 30 days after receipt of a written demand by a settlor or beneficiary of the trust, fails to register a trust as required by this article may be removed, denied compensation, or surcharged as the court directs.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.805 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.805 Exclusive jurisdiction of proceedings concerning internal affairs of trusts; scope of proceedings; administration of trust.

Sec. 805. (1) The probate court has exclusive jurisdiction of proceedings initiated by interested parties concerning the internal affairs of all trusts. Proceedings which may be maintained under this section are those concerning the administration and distribution of a trust, the declaration of rights, and the determination of other matters involving trustees and beneficiaries of a trust. These include proceedings to:

(a) Appoint or remove a trustee.

(b) Review trustees' fees and to review and settle interim or final accounts.

(c) Ascertain beneficiaries, to determine any question arising in the administration or distribution of any trust including questions of construction of trust instruments, to instruct trustees, and to determine the existence or nonexistence of any immunity, power, privilege, duty, or right.

(d) Release registration of a trust.

(2) Neither registration of an inter vivos trust nor a proceeding under this section result in continuing supervisory proceedings. The management and distribution of a trust estate, submission of accounts and reports to beneficiaries, payment of trustee's fees and other obligations of the trust, acceptance and change of trusteeship, and other aspects of the administration of a trust shall proceed expeditiously consistent with the terms of the trust, free of judicial intervention and without order, approval or other action of any court, subject to the jurisdiction of the court as invoked by interested parties or as otherwise exercised as provided by law.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.806 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.806 Venue for proceedings under S 700.805.

Sec. 806. Venue for proceedings under section 805 involving registered trusts is in the county of registration. Venue for proceedings under section 805 involving trusts not registered in this state is in any county where the trust properly could have been registered.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.807 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.807 Objection to proceeding; stay or dismissal of proceeding.

Sec. 807. The court shall not, over the objection of a party, entertain proceedings under section 805 involving a trust registered or having its principal place of administration in another state, unless all appropriate parties could not be bound by litigation in the courts of the state where the trust is registered or has its principal place of administration; or the interests of justice otherwise would seriously be impaired. The court may condition a stay or dismissal of a proceeding under this section on the consent of a party to jurisdiction of the state in which the trust is registered or has its principal place of business, or the court may grant a continuance or enter any other appropriate order.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.808 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.808 Concurrent jurisdiction; venue.

Sec. 808. The court in the county in which the trust is registered has concurrent jurisdiction with other courts of this state of actions and proceedings to determine the existence or nonexistence of trusts created other than by will, of actions by or against creditors or debtors of trusts, and of other actions and proceedings involving trustees and third parties. Venue is determined by the rules generally applicable to civil actions.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.809 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.809 Review of employment of person by trustee and of compensation; petition; notice; refunds.

Sec. 809. On petition of an interested person, after notice to

all interested persons, the court may review the propriety of employment of a person by a trustee including an attorney, auditor, investment advisor, or other specialized agent or assistant, and the reasonableness of the compensation of a person so employed, and the reasonableness of the compensation determined by the trustee for his own services. A person who received excessive compensation from a trust may be ordered to make appropriate refunds.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.811 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.811 Initiation of proceedings under S 700.805; petition; notice; validity of decree.

Sec. 811. Proceedings under section 805 are initiated by filing a petition in the court and giving notice to interested parties. The court may order notification of additional persons. A decree is valid as to all who are given notice of the proceeding though fewer than all interested parties are notified.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.812 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.812 Duty of trustee not altered.

Sec. 812. Except as specifically provided, the general duty of the trustee to administer a trust expeditiously for the benefit of the beneficiaries is not altered by this act.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.813 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.813 Standards in dealing with trust assets; duty to use special skills.

Sec. 813. Except as otherwise provided by the terms of the trust, the trustee shall observe the standards in dealing with the trust assets that would be observed by a prudent man dealing with the property of another, and if the trustee has special skills or is named trustee on the basis of representations of special skills or expertise, he is under a duty to use those skills.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.814 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.814 Trustee to keep beneficiaries informed of trust and administration; copy of terms of trust; statement of accounts.

Sec. 814. (1) The trustee shall keep the presently vested beneficiaries of the trust reasonably informed of the trust and its administration.

(2) Within 30 days after his acceptance of the trust, the trustee shall inform in writing the presently vested beneficiaries and if possible, 1 or more persons who may represent beneficiaries with future interests, of his name and address and of the court in which the trust is registered or probated, and, further, advise the beneficiary that he has the right to request and receive a copy of the terms of the trust which describe or affect his interest and relevant information about the assets and administration of the trust.

(3) Upon reasonable request, the trustee shall provide the beneficiary with a copy of the terms of the trust which describe or affect his interest and with relevant information about the assets of the trust and the particulars relating to the administration.

(4) The trustee shall provide to each presently vested beneficiary a statement of the accounts of the trust annually and on termination of the trust or change of the trustee.

(5) The trustee of a testamentary trust shall file a copy of any statement required by subsection (4), together with a verified statement that a copy of the filed statement has been provided to each presently vested beneficiary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.816 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.816 Bond of trustee.

Sec. 816. A trustee need not provide bond to secure performance of his duties unless required by the terms of the trust, reasonably requested by a beneficiary or found by the court to be necessary to protect the interests of the beneficiaries who are not able to protect themselves and whose interests otherwise are not adequately represented. On petition of the trustee or other interested person the court may excuse a requirement of bond, reduce the amount of the bond, release the surety, or permit the substitution of another bond with the same or different sureties. If bond is required, it shall be filed in the court in the county of registration or other appropriate court in amounts and with sureties and liabilities as provided by this act for bonds of fiduciaries.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.817 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.817 Place of administration.

Sec. 817. A trustee is under a continuing duty to administer the trust at a place appropriate to the purposes of the trust and to its sound, efficient management. If the principal place of administration becomes inappropriate for any reason, the court may enter any order furthering efficient administration and the interests of beneficiaries, including, if appropriate, release of registration, removal of the trustee, and appointment of a trustee in another state. Trust provisions relating to the place of administration and to changes in the place of administration or of trustee control unless compliance would be contrary to efficient administration or the purposes of the trust. Views of adult beneficiaries shall be given weight in determining the suitability of the trustee and the place of administration.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.818 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.818 Liability of trustee.

Sec. 818. (1) Unless otherwise provided in the contract, a trustee is not personally liable on contracts properly entered into in his fiduciary capacity in the course of administration of the trust estate unless he fails to reveal his representative capacity and identify the trust estate in the contract.

(2) A trustee is personally liable for obligations arising from ownership or control of property of the trust estate, or for torts committed in the course of administration of the trust estate, only if he is personally at fault or if the obligation or tort results from an act or omission of the trustee's agent or employee or a person retained by the trustee.

(3) Claims based on contracts entered into by a trustee in his fiduciary capacity, on obligations arising from ownership or control of the trust estate, or on torts committed in the course of trust administration may be asserted against the trust estate by proceeding against the trustee in his fiduciary capacity, whether or not the trustee is personally liable therefor.

(4) The question of liability as between the trust estate and the trustee individually may be determined in a proceeding for accounting, surcharge, indemnification, or other appropriate proceeding.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.819 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.819 Claim against trustee for breach of trust; effect of final account or statement.

Sec. 819. Unless previously barred by adjudication, consent, or limitation, a claim against a trustee for breach of trust is barred as to any beneficiary who received a final account or other statement fully disclosing the matter and showing termination of the trust relationship between the trustee and the beneficiary unless a proceeding to assert the claim is commenced within 6 months after receipt of the final account or statement. Notwithstanding lack of full disclosure, a trustee who issued a final account or statement in good faith which was received by the beneficiary and which informed the beneficiary of the location and availability of records for his examination is not liable after 3 years. A beneficiary is deemed to have received a final account or statement if, being an adult, it is received by him personally or if being a minor or legally incapacitated, it is received by his representative or fiduciary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.820 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.820 Person succeeding to position of trustee of revocable inter vivos trust; no liability for acts or omissions of grantor-trustee; responsibilities of successor trustee; information upon which successor trustee may act.

Sec. 820. (1) A person who succeeds to the position of trustee of a revocable inter vivos trust upon the death, resignation, or incapacity of a trustee who was also the grantor of the trust, shall not be liable for any acts or omissions of the grantor-trustee.

(2) The successor trustee shall have no responsibility to investigate transactions of the grantor-trustee or to review accounts, acts, or omissions of the grantor-trustee or take action against the grantor-trustee for breaches of trust.

(3) In no event shall the successor trustee have any greater responsibility to locate assets in the trust, or passing to the trust, than it would have if the successor trustee were acting as personal representative of the estate of the grantor-trustee. The successor trustee may act upon any information which the successor trustee believes true or any document which the successor trustee believes genuine.

History: Add. 1982, Act 453, Eff. Mar. 30, 1983.

***** 700.821 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.821 Acts of trustee.

Sec. 821. Except as is otherwise provided in this act, a trustee may perform, without court authorization, any act which a prudent man would perform for the purposes of the trust from time of creation of the trust until final distribution of the assets of the trust.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.822 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.822 Trustee; powers generally.

Sec. 822. Subject to section 805, a trustee may:

(a) Collect, hold, and retain assets received from a trustor until, in the judgment of the trustee, disposition of the assets should be made, and the assets may be retained even though they include an asset in which the trustee is personally interested.

(b) Receive additions to the assets of the trust which are acceptable to the trustee.

(c) Continue or participate in the operation of a business or other enterprise, and effect incorporation, dissolution, or other change in the form of the organization of the business or enterprise. Following the death of the trustor, the provisions of sections 553 to 557 shall be applicable with the same as though the trustee were a fiduciary continuing the business of a decedent under those sections.

(d) Acquire an undivided interest in a trust asset in which the trustee, in any trust capacity, holds an undivided interest.

(e) Invest and reinvest trust assets in accordance with the provisions of the trust or as provided by law.

(f) Deposit trust funds in a bank, including a bank operated by the trustee.

(g) Acquire or dispose of an asset, for cash or on credit, at public or private sale; manage, develop, improve, exchange, partition, change the character of, or abandon a trust asset or an interest therein; and encumber, mortgage, or pledge a trust asset for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the trustee.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.823 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.823 Trustee; additional powers.

Sec. 823. Subject to section 805, a trustee may:

(a) Make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, or raze existing or erect new party walls or buildings.

(b) Subdivide and develop land, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation on exchange or partition by giving or receiving consideration; or dedicate easements to public use without consideration.

(c) Enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the trust.

(d) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement.

(e) As to oil, gas, and mineral interests, drill, test, explore, mine, develop, and otherwise exploit the interests; in connection therewith pay from principal or income all delay rentals, lease bonuses, royalties, overriding royalties, taxes, assessments, and other charges; and surrender or abandon an interest; enter into farmout pooling, unitization, or dryhold contribution agreements in connection therewith; and produce, process, sell, or exchange the production from the interest in a manner and extent as the trustee, in his sole discretion, deems advisable.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.824 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.824 Trustee; additional powers.

Sec. 824. Subject to section 805, a trustee may:

(a) Grant an option involving disposition of a trust asset, or take an option for the acquisition of an asset.

(b) Vote a security, in person or by general or limited proxy.

(c) Pay calls, assessments, and any other sums chargeable or accruing against or on account of securities.

(d) Sell or exercise stock subscription or conversion rights; or consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.

(e) Hold land or a security in the name of a nominee or in other form without disclosure of the trust, so that the title to the land or security may pass by delivery, but the trustee is liable for any act of the nominee in connection with the land or security so held.

(f) Insure the assets of the trust against damage or loss, and the trustee against liability with respect to third persons.

(g) Borrow money to be repaid from trust assets or otherwise; and advance money for the protection of the trust, and for expenses, losses, or liabilities sustained in the administration of the trust or because of the holding or ownership of any trust assets, for which advances with any interest the trustee has a lien on the trust assets as against the beneficiary.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.826 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.826 Trustee; additional powers.

Sec. 826. Subject to section 805, a trustee may:

(a) Pay or contest a claim; settle a claim by or against the trust or the trust assets by compromise, arbitration, or otherwise; and release, in whole or in part, a claim belonging to the trust to the extent that the claim is uncollectible in the opinion of the trustee.

(b) Pay taxes, assessments, compensation of the trustee, and other expenses incurred in the collection, care, administration, and production of the trust.

(c) Pay any sum distributable to a beneficiary under legal disability, without liability to the trustee, by paying the sum to the beneficiary, or by paying the sum for the use of the beneficiary or to a legal representative appointed by the court, or if none to a relative, for the use of the beneficiary.

(d) Effect distribution of property and money in divided or undivided interest or in disproportionate shares or in different kinds of property and adjust resulting differences in valuation.

(e) Employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated with the trustee, to advise or assist the trustee in the performance of his administrative duties; act without independent investigation

upon their recommendations; and instead of acting personally, employ an agent to perform any act of administration, whether or not discretionary.

(f) Prosecute or defend actions, claims, or proceedings for the protection of trust assets and of the trustee in the performance of his duties.

(g) Execute and deliver instruments which will accomplish or facilitate the exercise of the powers vested in the trustee.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.827 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.827 Trustee; additional powers.

Sec. 827. Subject to section 805, a trustee may perform, compromise, or refuse performance of the decedent's contracts that continue as obligations of the estate, as he determines under the circumstances. In performing enforceable contracts by the settlor of the trust to convey or lease land, the trustee, among other possible choices of action, may do either of the following:

(a) Execute and deliver a deed of conveyance for cash payment of all sums remaining due on the purchaser's note for the sum remaining due secured by a mortgage or deed of trust on the land.

(b) Deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the trustee, as designated in the escrow agreement.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.828 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.828 Trustee; additional powers.

Sec. 828. Subject to section 805, a trustee may:

(a) Satisfy written charitable pledges of the settlor of the trust, irrespective of whether the pledges constitute binding obligations of the settlor or where properly presented as claims, if in the judgment of the trustee the settlor would have wanted the pledges completed under the circumstances.

(b) Abandon property when, in the opinion of the trustee, it is valueless, or is so encumbered or is in condition that it is not of benefit to the trust.

(c) Effect a fair and reasonable compromise with a debtor or

obligor, or extend, renew, or in any manner modify the terms of an obligation owing to the trust. A trustee who holds a mortgage, pledge, or other lien upon property of another person, may, in lieu of foreclosure, accept the conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien.

(d) Provide for exoneration of the trustee from personal liability in a contract entered into on behalf of the trust.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.829 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.829 Trustee to exercise best judgment and discretion; scope of trustee's powers; restoration of interest through adjustment between income and principal; accountability; use of funds from exempt sources.

Sec. 829. (1) In the general administration of a trust, a trustee shall exercise his best judgment and discretion for what he believes to be the best interest of the trust and the persons designated to benefit from the trust. The trustee's powers include the following:

(a) Exclusion from or inclusion in the gross estate of any asset, in the first instance, for federal estate tax purposes.

(b) Valuation of an asset, in the first instance, for federal estate tax purposes.

(c) Election of date of death or alternative values for federal estate tax purposes.

(d) Joining with the surviving spouse or his personal representative, in the execution and filing of any joint income tax return and consenting to any gift tax return filed by the spouse, or his personal representative.

(e) Election to claim expenses or losses as either income or estate tax deductions, and shall not make an adjustment between income and principal of the estate because of this election.

(2) In the exercise of his powers including the powers granted by this article and where the applicable provisions of the internal revenue code confer a benefit or impose a detriment upon a trust or estate or persons designated to benefit from a trust or estate, a trustee or personal representative shall not restore an interest to the position otherwise contemplated by the person having authority to act in respect to that interest through adjustment between income and principal.

(3) A trustee shall not be accountable or responsible to any

person interested in the estate, and a personal representative shall not be accountable or responsible to any person interested in the trust, for the manner in which each exercises any discretion or authority or election afforded in subsection (1) or (2).

(4) A trustee shall not use funds from sources which are exempt for federal estate tax purposes for payment of taxes, claims, and administrative expenses of decedents' estates or trusts.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.830 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.830 Relieving trustee from restrictions.

Sec. 830. The probate court for cause shown and upon petition of the trustee or affected beneficiary and upon appropriate notice to the affected parties may relieve a trustee from any restrictions on his power that would otherwise be placed upon him by the trust or by sections 805 to 831.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.831 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.831 Conflict of interest.

Sec. 831. If the duty of the trustee and his individual interest or his interest as trustee of another trust conflict in the exercise of a trust power, the power may be exercised by court authorization upon petition of the trustee. Under this section, personal profit or advantage to an affiliated or subsidiary company of association is personal profit to a corporate trustee.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.832 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.832 Inability or refusal to accept appointment as trustee; ceasing to be trustee.

Sec. 832. If 2 or more trustees are appointed to perform a trust, and if any of them is unable or refuses to accept the appointment, or having accepted, ceases to be a trustee, the surviving or remaining trustees shall perform the trust and succeed to all the powers, duties, and discretionary authority given to the trustees jointly.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.833 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.833 Assumptions by third party; protection of third party.

Sec. 833. With respect to a third person dealing with a trustee or assisting a trustee in the conduct of a transaction, the existence of trust powers and their proper exercise by the trustee may be assumed without inquiry. The third person is not bound to inquire whether the trustee may act or is properly exercising the power; and a third person, without actual knowledge that the trustee is exceeding his powers or improperly exercising them, is fully protected in dealing with the trustee as if the trustee possessed and properly exercised the powers he purports to exercise. A third person is not bound to assume the proper application of trust assets paid or delivered to the trustee.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.834 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.834 Trusts and trust assets to which article applicable; validity of act of trustee.

Sec. 834. Except as specifically provided in the trust, this article applies to any trust established before or after the effective date of this act and to any trust asset acquired by the trustee before or after the effective date of this act. This article shall not affect the validity of an act of the trustee which occurred before the effective date of this act.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.835 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.835 Transfer and delivery of trust estate.

Sec. 835. (1) When personal property is held by a testamentary trustee in this state, the trustee may upon probate court order transfer and deliver the trust estate to a trustee appointed in the state where the beneficiary resides, to be there held upon the same trust as in this state.

(2) The beneficiary shall first procure the appointment of a trustee in the other state and file in the probate court of this state a certified copy of the appointment together with a petition for an order to transfer and deliver the trust estate.

(3) Upon the filing of a receipt showing the transfer and delivery of the trust estate, the probate court in this state

shall discharge the transferring trustee from all liability on account of the trust.

(4) When personal property is held in trust by a testamentary trustee in another state and a beneficiary of the trust is a resident of this state, the testamentary trustee may by order of a court of competent jurisdiction transfer and deliver the personal property to a trustee appointed in this state by the probate court in the county of the beneficiary's residence, to be held upon the same trust as in the other state. The testamentary trustee or an interested party in the trust may petition for the appointment of the trustee and after notice of hearing is given to all parties interested in the trust as provided by rule of court, the court may appoint the trustee who shall have the same powers and duties as provided for a trustee under this article.

History: 1978, Act 642, Eff. July 1, 1979.

ARTICLE 9

***** 700.991 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.991 Conditional effective date.

Sec. 991. (1) Except as provided in subsection (2), this act shall not take effect until July 1, 1979.

(2) This act shall not take effect unless House Bill No. 4474 of the 1977 regular session of the legislature is enacted into law.

History: 1978, Act 642, Eff. July 1, 1979.

Compiler's note: House Bill No. 4474, referred to in this section, was approved by the Governor on December 22, 1978, and became P.A. 1978, No. 543, Eff. July 1, 1979.

***** 700.992 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.992 Proceedings to which act applicable; appointment and powers of fiduciary; prior acts and accrued rights; rules of construction; presumptions.

Sec. 992. Except as provided elsewhere in this act, on the effective date of this act:

(a) This act applies to any proceedings in court then pending or thereafter commenced regardless of the time of the death of decedent except to the extent that in the opinion of the court the former procedure should be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedure of this act.

(b) A fiduciary, including a person administering an estate of a minor or incompetent holding an appointment on that date, continues to hold the appointment but has only the powers conferred by this act and is subject to the duties imposed with respect to any act occurring or done thereafter.

(c) An act done before the effective date in any proceeding and any accrued right is not impaired by this act. If a right is acquired, extinguished, or barred upon the expiration of a prescribed period of time which has commenced to run by the provisions of any statute before the effective date, the provisions shall remain in force with respect to that right.

(d) A rule of construction or presumption provided in this act applies to instruments executed before the effective date unless there is a clear indication of a contrary intent.

History: 1978, Act 642, Eff. July 1, 1979.

***** 700.993 THIS SECTION IS REPEALED BY ACT 386 OF 1998
EFFECTIVE APRIL 1, 2000 *****

700.993 Sections and acts repealed.

Sec. 993. (1) The following sections of Act No. 288 of the Public Acts of 1939, as amended, are repealed:

Section numbers	Chapter number	Compiled law number
19 to 19b	1	701.19 to 701.19b
46 to 48	1	701.46 to 701.48
1 to 117	2	702.1 to 702.117
1 to 35	3	703.1 to 703.35
1 to 60	4	704.1 to 704.60
1 to 34	5	705.1 to 705.34
1 to 6	6	706.1 to 706.6
1 to 20	7	707.1 to 707.20
1 to 41	8	708.1 to 708.41
1 to 62	9	709.1 to 709.62
1 to 6	13	713.1 to 713.6

(2) The following acts are repealed:

Act No.	Year	Compiled law number
12	1941	720.1 to 720.3
207	1917	720.51 to 720.53
178	1945	720.81
242	1968	720.91
305	1941	720.151 to 720.164
229	1911	720.251
206	1935	720.401 to 720.402
324	1905	554.321 to 554.322

108	1968	555.481 to 555.485
376	1976	556.151 to 556.153

(3) The following sections of chapter 1 of the Revised Statutes of 1846, are repealed:

Section	Compiled law number
3h	8.3h
3p	8.3p

(4) Sections 3, 5 and 8 of Act No. 194 of the Public Acts of 1947, being sections 720.203, 720.205 and 720.208 of the Compiled Laws of 1970, are repealed.

History: 1978, Act 642, Eff. July 1, 1979.