

HOUSE BILL No. 1088

DIGEST OF INTRODUCED BILL

Citations Affected: IC 29-1; IC 30-4-3-3; IC 30-5-10-4.

Synopsis: Various probate matters. Clarifies that a personal representative or the personal representative's agent shall serve a written or electronic copy of the notice of the estate administration on a creditor of the decedent within one month of the notice being published. Requires the personal representative or the personal representative's agent to file and serve a new proposed notice with the clerk of court for a creditor that is served more than one month after the notice is published. Clarifies that a creditor that is served notice more than one month after the notice is published must file a claim against the estate within two months of the date of the notice. Provides a template for notice that is served more than one month after the notice is published. Allows a: (1) personal representative of an unsupervised estate; or (2) trustee of a trust; to distribute all or part of a decedent's interest in a retirement plan or retirement account without a court order. Defines a "direct postmortem transfer" as a transfer of an asset to a testamentary trust established in a will admitted to probate that meets certain conditions. Specifies that a direct postmortem transfer is a transfer of an asset or property to a trust established by a will for all purposes of the Social Security Act. Establishes that the effective date of the testamentary trust is the date of the decedent's death. Provides that a power of attorney authority to take certain actions concerning tax matters of the principal does not terminate upon the death of the principal. Specifies that this authority terminates upon the appointment of a personal representative. (The introduced version of this bill was prepared by the probate code study committee.)

Effective: July 1, 2025.

Jeter

January 8, 2025, read first time and referred to Committee on Judiciary.



First Regular Session of the 124th General Assembly (2025)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2024 Regular Session of the General Assembly.

HOUSE BILL No. 1088

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

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

1 SECTION 1. IC 29-1-7-7, AS AMENDED BY P.L.162-2022,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2025]: Sec. 7. (a) As soon as letters testamentary or of
4 administration, general or special, supervised or unsupervised, have
5 been issued, notice of the estate administration shall be published.
6 (b) The notice required under subsection (a) shall be published in
7 a newspaper of general circulation, printed in the English language and
8 published in the county where the court is located, once each week for
9 two (2) consecutive weeks. A copy of the notice, with proof of
10 publication, shall be filed with the clerk of the court as a part of the
11 administration of the estate within thirty (30) days after the publication.
12 If no newspaper is published in the county, the notice shall be
13 published in a newspaper published in an adjacent county.
14 (c) The notice required under subsection (a) shall be served through
15 the E-filing System of the Indiana Courts or by first class postage
16 prepaid mail on each heir, devisee, legatee, and known creditor whose
17 name and address is set forth in the petition for probate or letters,



1 except as otherwise ordered by the court.

2 (d) The personal representative or the personal representative's
3 agent shall, **within one (1) month after the first publication of notice**
4 **under subsection (a) or as soon as possible after the elapse of one**
5 **(1) month, serve a written or electronic copy of the notice** on each
6 creditor of the decedent:

7 (1) whose name is not set forth in the petition for probate or
8 letters under subsection (c);

9 (2) who is known or reasonably ascertainable within one (1)
10 month after the first publication of notice under subsection (a);
11 and

12 (3) whose claim has not been paid or settled by the personal
13 representative.

14 The notice may be served by mail or any other means reasonably
15 calculated to ensure actual receipt of the notice by a creditor. The unit
16 is a reasonably ascertainable creditor under this section if the decedent
17 was at least fifty-five (55) years of age at the time of death and dies on
18 or after June 30, 2018. Notice served under this section by mail to the
19 unit at the unit's address is reasonably calculated to ensure receipt of
20 the notice by the unit.

21 (e) Notice under subsection (d) shall be served within one (1) month
22 after the first publication of notice under subsection (a) or as soon as
23 possible after the elapse of one (1) month. If the personal representative
24 or the personal representative's agent fails to give notice to a known or
25 reasonably ascertainable creditor of the decedent under subsection (d)
26 within one (1) month after the first publication of notice under
27 subsection (a), the period during which the creditor may submit a claim
28 against the estate includes an additional period ending two (2) months
29 after the date notice is given to the creditor under subsection (d).
30 However, a

31 **If a creditor is served within one (1) month after the first**
32 **publication of notice, the personal representative or the personal**
33 **representative's agent shall serve a copy of the notice issued by the**
34 **clerk under subsection (a). A creditor that is served notice**
35 **described in this subsection, must file a claim against the estate**
36 **within three (3) months after the date of the first published notice**
37 **to creditors under IC 29-1-14-1.**

38 (f) **If a creditor is served more than one (1) month after the first**
39 **publication of notice, the personal representative or the personal**
40 **representative's agent shall electronically file a new proposed**
41 **notice with the clerk of the court. Once the clerk of the court has**
42 **issued the new notice, the personal representative or the personal**



1 **representative's agent shall serve a written or electronic copy of**
2 **the notice by mail or any other means reasonably calculated to**
3 **ensure actual receipt of the notice by a creditor. A creditor that is**
4 **served notice under this subsection, must submit a claim against**
5 **the estate within two (2) months from the date of the notice.**

6 **(g) Any claim filed under IC 29-1-14-1(a) more than nine (9)**
7 **months after the death of the decedent is barred.**

8 ~~(f)~~ **(h) A schedule of creditors that received notice under subsection**
9 **subsections (d) and (f) shall be delivered to the clerk of the court as**
10 **soon as possible after notice is given.**

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

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

19 ~~(i)~~ **(k) The Notice filed under subsection (a) or served under**
20 **subsection (e) shall read substantially as follows:**

21 **NOTICE OF ADMINISTRATION**

22 In the _____ Court of _____ County, Indiana.
23 Notice is hereby given that _____ was, on the ____ day of
24 _____, 20 __, appointed personal representative of the estate of
25 _____, deceased, who died on the ____ day of _____, 20 __.

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

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

32 _____
33 CLERK OF THE _____ COURT
34 FOR _____ COUNTY, INDIANA

35 **(l) Notice filed under subsection (f) shall read substantially as**
36 **follows:**

37 **NOTICE OF ADMINISTRATION**

38 **In the _____ Court of _____ County,**
39 **Indiana.**

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



1 All persons who have claims against this estate, whether or not
2 now due, must file the claim in the office of the clerk of this court
3 within two (2) months from the date of this notice, or within nine
4 (9) months after the decedent's death, whichever is earlier, or the
5 claims will be forever barred.

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

7
8 CLERK OF THE _____ COURT
9 FOR _____ COUNTY, INDIANA

10 SECTION 2. IC 29-1-7.5-1, AS AMENDED BY P.L.38-2023,
11 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2025]: Sec. 1. (a) Upon the filing of a petition under
13 IC 29-1-7-5, the following persons may at any time petition the court
14 for authority to have a decedent's estate administered without court
15 supervision:

- 16 (1) The decedent's heirs at law if the decedent dies intestate.
- 17 (2) The legatees and devisees under the decedent's will.
- 18 (3) The personal representative.

19 (b) The clerk of the court shall sign and issue a notice of the filing
20 of a petition for unsupervised administration.

21 (c) The petitioner or the petitioner's agent shall serve the notice
22 described in subsection (b) upon the known creditors of the decedent
23 as provided in IC 29-1-7-7(c), and IC 29-1-7-7(d), and **IC 29-1-7-7(f)**.

24 SECTION 3. IC 29-1-7.5-3, AS AMENDED BY P.L.231-2019,
25 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2025]: Sec. 3. (a) Subject to section 2(d) of this chapter, a
27 personal representative who administers an estate under this chapter
28 may do the following without order of the court:

- 29 (1) Retain assets owned by the decedent pending distribution or
30 liquidation including those in which the representative is
31 personally interested or which are otherwise improper for trust
32 investment.
- 33 (2) Receive assets from fiduciaries or other sources.
- 34 (3) Perform, compromise, or refuse performance of the decedent's
35 contracts that continue as obligations of the estate, as the personal
36 representative may determine under the circumstances. In
37 performing enforceable contracts by the decedent to convey or
38 lease land, the personal representative, among other possible
39 courses of action, may:

- 40 (A) execute and deliver a deed of conveyance for cash
41 payment of all sums remaining due or the purchaser's note for
42 the sum remaining due secured by a mortgage or deed of trust



- 1 on the land; or
2 (B) deliver a deed in escrow with directions that the proceeds,
3 when paid in accordance with the escrow agreement, be paid
4 to the successors of the decedent, as designated in the escrow
5 agreement.
6 (4) Satisfy written charitable pledges of the decedent irrespective
7 of whether the pledges constituted binding obligations of the
8 decedent or were properly presented as claims, if in the judgment
9 of the personal representative the decedent would have wanted
10 the pledges completed under the circumstances.
11 (5) If funds are not needed to meet debts and expenses currently
12 payable and are not immediately distributable, deposit or invest
13 liquid assets of the estate, including moneys received from the
14 sale of other assets, in federally insured interest-bearing accounts,
15 readily marketable secured loan arrangements, or other prudent
16 investments which would be reasonable for use by trustees
17 generally.
18 (6) Acquire or dispose of an asset, including land in this or
19 another state, for cash or on credit, at public or private sale; and
20 manage, develop, improve, exchange, partition, change the
21 character of, or abandon an estate asset.
22 (7) Make ordinary or extraordinary repairs or alterations in
23 buildings or other structures, demolish any improvements, raze
24 existing or erect new party walls or buildings.
25 (8) Subdivide, develop, or dedicate land to public use; make or
26 obtain the vacation of plats and adjust boundaries; or adjust
27 differences in valuation on exchange or partition by giving or
28 receiving considerations; or dedicate easements to public use
29 without consideration.
30 (9) Enter for any purpose into a lease as lessor or lessee, with or
31 without option to purchase or renew, for a term within or
32 extending beyond the period of administration.
33 (10) Enter into a lease or arrangement for exploration and
34 removal of minerals or other natural resources or enter into a
35 pooling or unitization agreement.
36 (11) Abandon property when, in the opinion of the personal
37 representatives, it is valueless, or is so encumbered, or is in
38 condition that it is of no benefit to the estate.
39 (12) Vote stocks or other securities in person or by general or
40 limited proxy.
41 (13) Pay calls, assessments, and other sums chargeable or
42 accruing against or on account of securities, unless barred by the



- 1 provisions relating to claims.
- 2 (14) Hold a security in the name of a nominee or in other form
- 3 without disclosure of the interest of the estate but the personal
- 4 representative is liable for any act of the nominee in connection
- 5 with the security so held.
- 6 (15) Hold, manage, safeguard, and control the estate's real and
- 7 personal property, insure the assets of the estate against damage,
- 8 loss, and liability, and insure the personal representative
- 9 personally against liability as to third persons.
- 10 (16) Borrow money with or without security to be repaid from the
- 11 estate assets or otherwise and advance money for the protection
- 12 of the estate.
- 13 (17) Effect a fair and reasonable compromise with any debtor or
- 14 obligor, or extend, renew, or in any manner modify the terms of
- 15 any obligation owing to the estate. If the personal representative
- 16 holds a mortgage, pledge, or other lien upon property of another
- 17 person, the personal representative may, in lieu of foreclosure,
- 18 accept a conveyance or transfer of encumbered assets from the
- 19 owner thereof in satisfaction of the indebtedness secured by lien.
- 20 (18) Pay taxes, assessments, compensation of the personal
- 21 representative, and other expenses incident to the administration
- 22 of the estate.
- 23 (19) Hold an interest in a proprietorship, partnership, limited
- 24 liability company, business trust, corporation, or another domestic
- 25 or foreign form of business or enterprise.
- 26 (20) Continue a business.
- 27 (21) Take any action that may be taken by shareholders, partners,
- 28 members, or property owners, including contributing additional
- 29 capital to or merging, consolidating, reorganizing, recapitalizing,
- 30 dissolving, or otherwise changing the form of the business
- 31 organization.
- 32 (22) Allocate items of income or expense to either estate income
- 33 or principal, as permitted or provided by IC 30-2-14.
- 34 (23) Employ persons, including attorneys, auditors, investment
- 35 advisors, or agents, even if they are associated with the personal
- 36 representative, to advise or assist the personal representative in
- 37 the performance of the personal representative's administrative
- 38 duties; act without independent investigation upon their
- 39 recommendations; and instead of acting personally, employ one
- 40 (1) or more agents to perform any act of administration, whether
- 41 or not discretionary.
- 42 (24) Do any of the following concerning a claim or demand made



1 in favor of or against the estate for the protection of the estate and
 2 of the personal representative in the performance of the personal
 3 representative's duties:

4 (A) Release, assign, settle, compromise, or contest the claim
 5 or demand.

6 (B) Participate in mediation or submit to arbitration to resolve
 7 any dispute concerning the claim or demand.

8 (C) Extend the time for payment of the claim or demand.

9 (D) Abandon the claim or demand.

10 (25) Sell, mortgage, or lease any real or personal property of the
 11 estate or any interest therein for cash, credit, or for part cash and
 12 part credit, and with or without security for unpaid balances.

13 (26) Select a settlement option under any qualified or
 14 nonqualified benefit or retirement plan, annuity, or life insurance
 15 payable to the estate, and take appropriate action to collect the
 16 proceeds.

17 (27) Inspect and investigate property held, directly or indirectly,
 18 by the personal representative for the purpose of:

19 (A) determining the application of environmental law with
 20 respect to the property; and

21 (B) doing the following:

22 (i) Take action to prevent, abate, or remedy an actual or a
 23 potential violation of an environmental law affecting the
 24 property, whether taken before or after the assertion of a
 25 claim or the initiation of governmental enforcement by
 26 federal, state, or local authorities.

27 (ii) Compromise claims against the estate that may be
 28 asserted for an alleged violation of environmental law.

29 (iii) Pay the expense of inspection, review, abatement, or
 30 remedial action to comply with the environmental law.

31 (28) Distribute assets of the estate upon such terms as the
 32 personal representative may impose. To the extent practicable,
 33 taking into account the decedent's probable intention, the power
 34 to distribute assets includes the power to:

35 (A) pay an amount to a distributee who is under a legal
 36 disability or whom the personal representative reasonably
 37 believes to be incapacitated by:

38 (i) paying the amount directly to the distributee or applying
 39 the amount for the distributee's use and benefit;

40 (ii) paying the amount to the guardian appointed for the
 41 distributee;

42 (iii) paying the amount to a custodian under the Indiana



1 Uniform Transfers to Minors Act (IC 30-2-8.5) or a
 2 custodial trustee under the Uniform Custodial Trust Act (IC
 3 30-2-8.6); or

4 (iv) paying the amount to the trustee of a trust established by
 5 the decedent or by the personal representative under
 6 subsection (b); and

7 (B) make distributions of estate income and principal in kind,
 8 in cash, or partly in each, in shares of differing composition.

9 **(29) Distribute in kind all or part of the decedent's interest in**
 10 **a retirement plan or retirement account that the estate:**

11 **(A) is a beneficiary of; or**

12 **(B) has an interest in;**

13 **to a distributee.**

14 ~~(29)~~ **(30)** Perform any other act necessary or appropriate to
 15 administer the estate.

16 (b) A personal representative who administers an estate under this
 17 chapter may, without court order, establish a trust to make distributions
 18 to a distributee who is under a legal disability or whom the personal
 19 representative reasonably believes is incapacitated. In establishing a
 20 trust under this subsection, a personal representative may exercise:

21 (1) the authority given to custodians under the Indiana Uniform
 22 Transfers to Minors Act (IC 30-2-8.5) to create a trust that
 23 satisfies the requirements of Section 2503(c) of the Internal
 24 Revenue Code and the regulations adopted under that Section; or

25 (2) the authority given to an attorney in fact under
 26 IC 30-5-5-15(a)(3) to establish a revocable trust for the benefit of
 27 a principal.

28 (c) Unless the court revokes unsupervised administration and
 29 converts the estate to supervised administration, the issuance of an
 30 order on any matter in an unsupervised estate does not revoke the
 31 personal representative's authority to continue to administer an estate
 32 according to unsupervised administration.

33 SECTION 4. IC 29-1-7.5-4, AS AMENDED BY P.L.194-2017,
 34 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2025]: Sec. 4. (a) Unless prohibited by order of the court and
 36 except for estates being administered in supervised administration
 37 proceedings, a personal representative may close an estate by filing
 38 with the court no earlier than three (3) months after the date of the first
 39 published notice to creditors under IC 29-1-7-7(b), a verified statement
 40 stating that the personal representative, or a prior personal
 41 representative, has done the following:

42 (1) Published notice to creditors as provided in IC 29-1-7-7(b),



1 and that the first publication occurred more than three (3) months
2 prior to the date of the statement.

3 (2) Provided notice to creditors as required under IC 29-1-7-7(c),
4 ~~and IC 29-1-7-7(d)~~, **and IC 29-1-7-7(f)**.

5 (3) Fully administered the estate of the decedent by making
6 payment, settlement, or other disposition of all claims which were
7 presented, expenses of administration and estate, inheritance, and
8 other death taxes, except as specified in the statement. If any
9 claims remain undischarged, the statement shall:

10 (A) state whether the personal representative has distributed
11 the estate, subject to possible liability, with the agreement of
12 the distributees; or

13 (B) detail other arrangements which have been made to
14 accommodate outstanding liabilities.

15 (4) Executed and recorded a personal representative's deed for
16 any real estate owned by the decedent.

17 (5) Distributed all the assets of the estate to the persons entitled
18 to receive the assets.

19 (6) Sent a copy of the statement to:

20 (A) all distributees of the estate; and

21 (B) all creditors or other claimants of whom the personal
22 representative has actual knowledge whose claims are neither
23 paid nor barred and has furnished a full account in writing of
24 the personal representative's administration to the distributees
25 whose interests are affected, unless waived in writing.

26 (7) Provided the court with the names and addresses of all
27 distributees, creditors, and claimants to whom the personal
28 representative has sent a copy of the statement under subdivision
29 (6).

30 (b) If no proceedings involving the personal representative are
31 pending in the court three (3) months after the closing statement is
32 filed, the appointment of the personal representative terminates and the
33 estate is closed by operation of law.

34 SECTION 5. IC 29-1-8-10, AS ADDED BY P.L.81-2015,
35 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2025]: Sec. 10. (a) ~~This section applies only to a nonprobate~~
37 ~~transfer (as defined in IC 32-17-13-1) by a transferee that is~~ **As used in**
38 **this section, "direct postmortem transfer" means a transfer of an**
39 **asset to a testamentary trust established in a will that is admitted to**
40 **probate under this article if any of the following apply:**

41 (1) **The asset transferred to the testamentary trust is a**
42 **distribution of death proceeds under a life insurance policy or**



- 1 annuity.
- 2 **(2) The testamentary trust is a designated beneficiary of an:**
- 3 **(A) individual retirement account; or**
- 4 **(B) employee benefit plan that is governed by the federal**
- 5 **Employee Retirement Income Security Act of 1974 (29**
- 6 **U.S.C. 1001 et seq.).**
- 7 **(3) The transfer to the testamentary trust is:**
- 8 **(A) a distribution from another trust;**
- 9 **(B) the result of a disclaimer;**
- 10 **(C) a transfer on death transfer under IC 32-17-14; or**
- 11 **(D) a decanting distribution.**

12 (b) All of the following apply to a ~~nonprobate~~ **direct postmortem**
 13 transfer described in subsection (a):

- 14 (1) The ~~nonprobate~~ **direct postmortem** transfer is considered
- 15 effective upon the decedent's death, if the decedent's will is
- 16 admitted to probate, regardless of when the will is admitted to
- 17 probate **subject to IC 29-1-7-15.1(g).**
- 18 (2) The ~~nonprobate~~ **direct postmortem** transfer:
- 19 (A) does not constitute part of the estate (as defined in
- 20 IC 29-1-1-3); and
- 21 (B) is not subject to claims other than as provided in
- 22 IC 32-17-13.
- 23 (3) The ~~nonprobate~~ **direct postmortem** transfer is ~~not considered~~
- 24 the decedent's transfer to the testamentary trust by the decedent's
- 25 will for all other purposes of the Indiana Code: **is a transfer of an**
- 26 **asset or property to a trust established in a will for all**
- 27 **purposes of the Social Security Act (42 U.S.C. 301 et seq.).**

28 **(c) After the will is admitted to probate, the effective date of the**
 29 **testamentary trust is the date of the decedent's death.**

30 SECTION 6. IC 29-1-17-2, AS AMENDED BY P.L.211-2019,
 31 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2025]: Sec. 2. (a) After the expiration of the time limit for the
 33 filing of claims, and after all claims against the estate, including state
 34 and federal inheritance and estate taxes, have been determined, paid,
 35 or provision made therefor, except contingent and unmatured claims
 36 which cannot then be paid, the personal representative shall, if the
 37 estate is in a condition to be closed, render a final account and at the
 38 same time petition the court to decree the final distribution of the
 39 estate.

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



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

4 (2) Provided notice to creditors as required under IC 29-1-7-7(c),
5 **and IC 29-1-7-7(d), and IC 29-1-7-7(f).**

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

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

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

35 (f) The decree of final distribution shall be a conclusive
36 determination of the persons who are the successors in interest to the
37 estate of the decedent and of the extent and character of their interest
38 therein, subject only to the right of appeal and the right to reopen the
39 decree. It shall operate as the final adjudication of the transfer of the
40 right, title, and interest of the decedent to the distributees therein
41 designated; but no transfer before or after the decedent's death by an
42 heir or devisee shall affect the decree, nor shall the decree affect any



1 rights so acquired by grantees from the heirs or devisees.

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

8 SECTION 7. IC 30-4-3-3, AS AMENDED BY P.L.99-2024,
9 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2025]: Sec. 3. (a) Except as provided in the terms of the trust
11 and subject to subsection (c), a trustee has the power to perform
12 without court authorization, except as provided in sections 4(b) and
13 5(a) of this chapter, every act necessary or appropriate for the purposes
14 of the trust including, by way of illustration and not of limitation, the
15 following powers:

16 (1) The power to:

17 (A) deal with the trust estate;

18 (B) buy, sell, or exchange and convey or transfer all property
19 (real, personal, or mixed) for cash or on credit and at public or
20 private sale with or without notice; and

21 (C) invest and reinvest the trust estate.

22 (2) The power to receive additions to the assets of the trust.

23 (3) The power to acquire an undivided interest in a trust asset in
24 which the trustee, in any trust capacity, holds an undivided
25 interest.

26 (4) The power to manage real property in every way, including:

27 (A) the adjusting of boundaries;

28 (B) erecting, altering, or demolishing buildings;

29 (C) dedicating of streets, alleys, or other public uses;

30 (D) subdividing;

31 (E) developing;

32 (F) obtaining vacation of plats;

33 (G) granting of easements and rights-of-way;

34 (H) partitioning;

35 (I) entering into party wall agreements; and

36 (J) obtaining title insurance for trust property.

37 (5) The power to:

38 (A) grant options concerning disposition of trust property,
39 including the sale of covered security options; and

40 (B) take options for acquisition of trust property, including the
41 purchase back of previously sold covered security options.

42 (6) The power to enter into a lease as lessor or lessee, with or



- 1 without option to renew.
- 2 (7) The power to enter into arrangements for exploration and
3 removal of minerals or other natural resources and enter into a
4 pooling or unitization agreement.
- 5 (8) The power to continue the operation or management of any
6 business or other enterprise placed in trust.
- 7 (9) The power to:
- 8 (A) borrow money, to be repaid from trust property or
9 otherwise; and
- 10 (B) encumber, mortgage, pledge, or grant a security interest in
11 trust property in connection with the exercise of any power.
- 12 (10) The power to:
- 13 (A) advance money for the benefit of the trust estate and for all
14 expenses or losses sustained in the administration of the trust;
15 and
- 16 (B) collect any money advanced, without interest or with
17 interest, at no more than the lowest rate prevailing when
18 advanced.
- 19 (11) The power to prosecute or defend actions, claims, or
20 proceedings for the protection of:
- 21 (A) trust property; and
22 (B) the trustee in the performance of the trustee's duties.
- 23 (12) The power to:
- 24 (A) pay or contest any claim;
25 (B) settle a claim by or against the trust by compromise or
26 arbitration; and
27 (C) abandon or release, totally or partially, any claim
28 belonging to the trust.
- 29 (13) The power to insure the:
- 30 (A) trust estate against damage or loss; and
31 (B) trustee against liability with respect to third persons.
- 32 (14) The power to pay taxes, assessments, and other expenses
33 incurred in the:
- 34 (A) acquisition, retention, and maintenance of the trust
35 property; and
36 (B) administration of the trust.
- 37 (15) The power to:
- 38 (A) vote securities, in person or by a general or special proxy;
39 (B) hold the securities in the name of a nominee if the trustee
40 is a corporate trustee; and
41 (C) effect or approve, and deposit securities in connection
42 with, any change in the form of the corporation, including:



- 1 (i) dissolution;
 2 (ii) liquidation;
 3 (iii) reorganization;
 4 (iv) acquisition; and
 5 (v) merger.
- 6 (16) The power to employ persons, including:
 7 (A) attorneys;
 8 (B) accountants;
 9 (C) investment advisors; and
 10 (D) agents;
 11 to advise and assist the trustee in the performance of the trustee's
 12 duties.
- 13 (17) The power to effect distribution of property in cash, in kind,
 14 or partly in cash and partly in kind, in divided or undivided
 15 interests.
- 16 (18) The power to execute and deliver all instruments necessary
 17 or appropriate to accomplishing or facilitating the exercise of the
 18 trustee's powers.
- 19 (19) With respect to an interest in a proprietorship, partnership,
 20 limited liability company, business trust, corporation, or another
 21 form of business or enterprise, the power to:
 22 (A) continue the business or enterprise; and
 23 (B) take any action that may be taken by shareholders,
 24 members, or property owners, including:
 25 (i) merging;
 26 (ii) dissolving; or
 27 (iii) changing the form of business organization or
 28 contributing additional capital.
- 29 (20) With respect to possible liability for violation of
 30 environmental law, the power to:
 31 (A) inspect or investigate property:
 32 (i) the trustee holds or has been asked to hold; or
 33 (ii) owned or operated by an organization in which the
 34 trustee holds an interest or has been asked to hold an
 35 interest;
 36 to determine the application of environmental law with respect
 37 to the property;
 38 (B) take action to prevent, abate, or remedy an actual or
 39 potential violation of an environmental law affecting property
 40 held directly or indirectly by the trustee before or after the
 41 assertion of a claim or the initiation of governmental
 42 enforcement;



- 1 (C) decline to accept property into the trust or disclaim any
 2 power with respect to property that is or may be burdened with
 3 liability for violation of environmental law;
 4 (D) compromise claims against the trust that may be asserted
 5 for an alleged violation of environmental law; and
 6 (E) pay the expense of any inspection, review, abatement, or
 7 remedial action to comply with environmental law.
- 8 (21) The power to exercise elections with respect to federal, state,
 9 and local taxes.
- 10 (22) The power to select a mode of payment under any employee
 11 benefit plan or retirement plan, annuity, or life insurance payable
 12 to the trustee and exercise rights under the plan, annuity, or
 13 insurance, including the right to:
 14 (A) indemnification:
 15 (i) for expenses; and
 16 (ii) against liabilities; and
 17 (B) take appropriate action to collect the proceeds.
- 18 (23) The power to make loans out of trust property, including
 19 loans to a beneficiary on terms and conditions the trustee
 20 determines fair and reasonable under the circumstances. The
 21 trustee has a lien on future distributions for repayment of the
 22 loans.
- 23 (24) The power to pledge trust property to guarantee loans made
 24 by others to the beneficiary on terms and conditions the trustee
 25 considers to be fair and reasonable under the circumstances. The
 26 trustee has a lien on future distributions for repayment of the
 27 loans.
- 28 (25) The power to:
 29 (A) appoint a trustee to act in another jurisdiction with respect
 30 to trust property located in the other jurisdiction;
 31 (B) confer on the appointed trustee all the appointing trustee's
 32 powers and duties;
 33 (C) require the appointed trustee to furnish security; and
 34 (D) remove the appointed trustee.
- 35 (26) With regard to a beneficiary who is under a legal disability
 36 or whom the trustee reasonably believes is incapacitated, the
 37 power to pay an amount distributable to the beneficiary by:
 38 (A) paying the amount directly to the beneficiary;
 39 (B) applying the amount for the beneficiary's benefit;
 40 (C) paying the amount to the beneficiary's guardian;
 41 (D) paying the amount to the beneficiary's custodian under
 42 IC 30-2-8.5 to create a custodianship or custodial trust;



1 (E) paying the amount to an adult relative or another person
 2 having legal or physical care or custody of the beneficiary to
 3 be expended on the beneficiary's behalf, if the trustee does not
 4 know of a guardian, custodian, or custodial trustee; or
 5 (F) managing the amount as a separate fund on the
 6 beneficiary's behalf, subject to the beneficiary's continuing
 7 right to withdraw the distribution.

8 (27) The power to:

9 (A) combine at least two (2) trusts into one (1) trust; or

10 (B) divide one (1) trust into at least two (2) trusts;

11 after notice to the qualified beneficiaries, if the result does not
 12 impair the rights of any beneficiary or adversely affect
 13 achievement of the purposes of the trust.

14 **(28) Distribute in kind, to a beneficiary, all or part of an**
 15 **interest in a retirement plan or retirement account that is**
 16 **payable to the trust.**

17 (b) Any act under subsection (a)(4), an option under subsection
 18 (a)(5), a lease under subsection (a)(6), an arrangement under
 19 subsection (a)(7), and an encumbrance, mortgage, pledge, or security
 20 interest under subsection (a)(9) may be for a term either within or
 21 extending beyond the term of the trust.

22 (c) In acquiring, investing, reinvesting, exchanging, retaining,
 23 selling, and managing property for any trust, the trustee thereof shall
 24 exercise the judgment and care required by IC 30-4-3.5. Within the
 25 limitations of the foregoing standard, the trustee is authorized to
 26 acquire and retain every kind of property, real, personal, or mixed, and
 27 every kind of investment, including specifically, but without in any way
 28 limiting the generality of the foregoing, bonds, debentures, and other
 29 corporate obligations, stocks, preferred or common, and real estate
 30 mortgages, which persons of prudence, discretion, and intelligence
 31 acquire or retain for their own account, and within the limitations of the
 32 foregoing standard, the trustee is authorized to retain property properly
 33 acquired, without limitation as to time and without regard to its
 34 suitability for original purchase. Within the limitations of the foregoing
 35 standard, the trustee is authorized to sell covered security options and
 36 to purchase back previously sold covered security options.

37 (d) If a distribution of particular trust assets is to be made to two (2)
 38 or more beneficiaries entitled to receive fractional shares in those
 39 assets, the trustee:

40 (1) may distribute the particular assets without distributing to
 41 each beneficiary a pro rata share of each asset;

42 (2) shall distribute to each beneficiary a pro rata share of the total



- 1 fair market value of all of the particular assets as of the date of
 2 distribution; and
 3 (3) is not required to allocate and distribute particular assets
 4 based upon the potential gain or loss that the beneficiaries would
 5 realize if the particular assets were sold.
- 6 (e) If the trust is terminated or partially terminated, the trustee may
 7 send to the beneficiaries a proposal for distribution. If the proposal for
 8 distribution informs the beneficiary that the beneficiary:
 9 (1) has a right to object to the proposed distribution; and
 10 (2) must object not later than thirty (30) days after the proposal
 11 for distribution was sent;
 12 the right of the beneficiary to object to the proposed distribution
 13 terminates if the beneficiary fails to notify the trustee of an objection
 14 within the time limit set forth in subdivision (2).
- 15 (f) When any real or personal property subject to a lien (as defined
 16 by IC 29-1-17-9(a)) is specifically distributable, the distributee shall
 17 take the property subject to the lien unless the terms of the trust provide
 18 expressly or by necessary implication that the lien be otherwise paid.
 19 If:
 20 (1) an event occurs that makes the property distributable; and
 21 (2) the holder of a lien on the property receives payment on a
 22 claim based upon the obligation secured by the lien;
 23 the property subject to the lien shall be charged with the reimbursement
 24 to the trust of the amount of the payment for the benefit of the
 25 beneficiaries entitled to the distribution, unless the terms of the trust
 26 provide expressly or by necessary implication that the payment be
 27 charged against the residue of the trust estate.
- 28 (g) For purposes of subsection (f), a general directive or authority
 29 in the trust for payment of debts does not imply an intent that the
 30 distribution of property subject to a lien be made free from the lien.
- 31 (h) IC 32-39-2-8, IC 32-39-2-9, and IC 32-39-2-10 apply to the right
 32 of a trustee acting under a trust to access:
 33 (1) the content of an electronic communication (as defined in
 34 IC 32-39-1-6);
 35 (2) a catalogue of electronic communications (as defined in
 36 IC 32-39-1-5); or
 37 (3) any other digital asset (as defined in IC 32-39-1-10).
- 38 SECTION 8. IC 30-5-10-4, AS AMENDED BY P.L.238-2005,
 39 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2025]: Sec. 4. (a) Except as provided in subsections (b) and
 41 (c), a power of attorney terminates on the death of the principal.
 42 (b) The death of a principal who has executed a written power of



1 attorney does not revoke or terminate the power of attorney as to the
 2 attorney in fact or other person who, without actual knowledge of the
 3 death of the principal, acts in good faith under the power. Unless
 4 otherwise invalid or unenforceable, an action taken under this
 5 subsection binds the principal and the principal's successors in interest.

6 (c) The death of a principal who executes a written power of
 7 attorney does not revoke or terminate the power of attorney as to
 8 authority granted under **one (1) or more of the following:**

9 **(1) IC 30-5-5-14(a)(2).**

10 **(2) IC 30-5-5-14(a)(3).**

11 **(3) IC 30-5-5-14(a)(5).**

12 **(4) IC 30-5-5-14(a)(7).**

13 **(5) IC 30-5-5-16(b)(5).** through

14 **(6) IC 30-5-5-16(b)(6).**

15 **(7) IC 30-5-5-16(b)(7).**

16 An action taken under this subsection binds the principal and the
 17 principal's successors in interest, unless the action is inconsistent with
 18 a written directive executed by the principal before the principal's
 19 death. **The authority of the attorney in fact under subdivisions (1)**
 20 **through (4) is limited to the tax periods prior to and including the**
 21 **date of the principal's death and terminates upon the appointment**
 22 **of a personal representative under IC 29-1.**

23 (d) Notice from the United States Department of Defense of the
 24 death of a principal who has given a power of attorney is official notice
 25 of the death of the principal. A report or listing of the principal's being
 26 missing or missing in action does not do any of the following:

27 (1) Constitute and may not be interpreted as actual notice of the
 28 death of the principal.

29 (2) Terminate the power of attorney.

