

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1252

AN ACT to amend the Indiana Code concerning probate.

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

SECTION 1. IC 29-1-7-15.1, AS AMENDED BY P.L.231-2019, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 15.1. (a) When it has been determined that a decedent died intestate and letters of administration have been issued upon the decedent's estate, no will shall be probated unless it is presented for probate:

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

(b) No real **estate property** located in Indiana of which any person may die seized shall be sold by the executor or administrator of the deceased person's estate to pay any debt or obligation of the deceased person, which is not a lien of record in the county in which the real **estate property** is located or to pay any costs of administration of any decedent's estate, unless a petition for administration is filed in court under section 5 of this chapter not later than five (5) months after the decedent's death and the clerk issues letters testamentary or letters of administration not later than seven (7) months after the decedent's death.

(c) If:

- (1) a petitioner files a petition for administration filed in an estate to which subsection (b) may apply; and

HEA 1252 — Concur



(2) the clerk of the court does not issue letters testamentary or of administration and publish notice of the estate administration under subsection (a) not later than thirty (30) days after the petition for administration has been filed;

the petitioner shall serve the following notice on each creditor in the manner provided under section 7(d) of this chapter not later than forty-five (45) days after the petition for administration has been filed:

NOTICE OF PETITION FOR ADMINISTRATION

In the _____ Court of _____ County, Indiana.

Notice is hereby given that a petition for administration was filed on the ___ day of ___, 20___, in cause number _____, concerning the estate of _____, deceased, who died on the ___ day of ___, 20___, but the clerk of the court has not issued letters testamentary or of administration.

The estate includes real **estate property** that may be subject to sale restrictions under IC 29-1-7-15.1.

All persons who have claims against this estate, whether or not now due, must file their claims in the office of the clerk of this court not later than seventy-five (75) days after the date on which the petition for administration was filed, or not later than thirty (30) days after the date on which the petitioner serves this notice, to prevent the application of real **estate property** sale restrictions to the claims, whichever is later.

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

_____ as the Petitioner.

(d) The limitation described in subsection (b) on the sale of real **estate property** does not apply to a claim if:

(1) a petition for administration is filed in court under section 5 of this chapter not later than five (5) months after the decedent's death;

(2) the claimant files the claim in the office of the clerk of the court not later than:

(A) seventy-five (75) days after the date on which the petition for administration was filed; or

(B) thirty (30) days after the date on which the petitioner serves the notice required in subsection (c);

whichever is later; and

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

(A) this article;



(B) the Indiana Rules of Trial Procedure; or

(C) the local rules of the court.

(e) The court shall order the limitation described in subsection (b) inapplicable to a claimant's claim concerning the sale of real **estate property** if any interested person files a motion for findings under this subsection and the court finds that the following conditions apply:

(1) A petition for administration was filed in court under section 5 of this chapter not later than five (5) months after the decedent's death.

(2) More than thirty (30) days have elapsed since the petition was filed.

(3) The claimant is a reasonably ascertainable creditor under section 7 of this chapter.

(4) The claimant filed a claim in the estate not later than seventy-five (75) days after the date on which the petition for administration was filed, or not later than thirty (30) days after the date on which the petitioner serves the notice required in subsection (c), whichever is later.

(5) The petitioner has not satisfied the provisions of subsection (c).

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

(1) the will containing the devise has been probated and recorded in the office of the clerk of the court having jurisdiction within five (5) months after the death of the testator; or

(2) an action to contest the will's validity is commenced within the time provided by law and, as a result, the will is ultimately probated.

(g) Except as provided in subsection (h), the will of the decedent shall not be admitted to probate unless the will is presented for probate before the latest of the following dates:

(1) Three (3) years after the individual's death.

(2) Sixty (60) days after the entry of an order denying the probate of a will of the decedent previously offered for probate and objected to under section 16 of this chapter.

(3) Sixty (60) days after entry of an order revoking probate of a will of the decedent previously admitted to probate and contested under section 17 of this chapter.

However, in the case of an individual presumed dead under



IC 29-2-5-1, the three (3) year period commences with the date the individual's death has been established by appropriate legal action.

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

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

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

SECTION 2. IC 29-1-7-15.2, AS ADDED BY P.L.163-2018, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 15.2. (a) This section applies to real **estate property** subject to section 15.1(b) of this chapter, if **the personal representative sells the real property to:**

- (1) satisfy a lien of record in the county in which the real property is located;**
- (2) pay costs of administration; or**
- (3) use the sale proceeds for any other payment or distribution approved by the written consent of a majority in interest of all the distributees consent to the sale of the real estate under IC 29-1-10-21.**

(b) The proceeds of the sale of real **estate property** described in subsection (a) will retain the same protection that section 15.1(b) of this chapter provides to real ~~estate: property with respect to payment of any debt or obligation of the deceased person not described in subsection (a).~~ Such ~~proceeds can only be used to satisfy a debt or obligation of the deceased person or costs of administration of the decedent's estate if the distributees consent to the personal representative's use of the proceeds to satisfy the debts, obligations, or costs of administration.~~

SECTION 3. IC 29-1-8-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 11. (a) A tenant's representative who accepts appointment under IC 32-31-1-23 may represent the deceased residential lease tenant's distributees for the following purposes:**

- (1) Collecting all or part of the tenant's security deposit from the tenant's landlord.**



(2) Collecting the tenant's tangible personal property from the tenant's residence.

(3) Distributing among the tenant's distributees any portion of the tenant's security deposit that the tenant's representative has collected from the tenant's landlord.

(4) Distributing among the tenant's distributees any portion of the tenant's tangible personal property that the tenant's representative has collected from the tenant's residence.

(5) Signing and issuing on behalf of the tenant's distributees any affidavit described in IC 29-1-8 that the tenant's landlord may require before releasing the tenant's security deposit or tangible personal property to the tenant's representative.

(b) Upon presentation of letters testamentary or letters of administration by the personal representative of the tenant's estate to the tenant's representative, the tenant's representative shall deliver to the personal representative any portion of the tenant's tangible personal property that the tenant's representative has collected from the tenant's landlord.

(c) The tenant's representative shall keep complete records of all transactions entered into by the tenant's representative on behalf of the tenant for:

- (1) nine (9) months after the tenant's death date; or
- (2) three (3) months after the records are delivered to the tenant's personal representative;

whichever occurs first.

(d) Except as otherwise required by subsection (e), the tenant's representative is not required to render an accounting.

(e) Except as provided in subsection (h), the tenant's representative shall render a written accounting if an accounting is:

- (1) ordered by a court; or
- (2) demanded by:
 - (A) a child of the tenant;
 - (B) the personal representative of the tenant's estate; or
 - (C) an heir or legatee of the tenant.

(f) Except as provided in subsection (h), a tenant's representative shall deliver an accounting required under subsection (e) to:

- (1) the court;
- (2) the personal representative of the tenant's estate;
- (3) an heir of the tenant;
- (4) a legatee of the tenant; or



(5) a child of the tenant.

(g) Except as provided in subsection (h), a tenant's representative shall deliver an accounting ordered or demanded under subsection (e) to the court or the person demanding the accounting not later than sixty (60) days after the date the tenant's representative receives the court order or written demand for an accounting.

(h) The court may order an accounting under subsection (e) at any time. In the absence of a court ordered accounting, a tenant's representative is not required to deliver an accounting to a person described in subsection (f)(1) through (f)(4) unless the person demands the accounting not later than nine (9) months after the date of the tenant's death. The delivery deadline provided in subsection (g) applies to a written demand for an accounting that is timely submitted under this subsection.

(i) Not more than one (1) accounting is required under this section in each twelve (12) month period unless the court, in its discretion, orders additional accountings.

(j) If a tenant's representative fails to deliver an accounting as required under this section, the court or the person demanding the accounting may initiate an action in mandamus to compel the tenant's representative to render the accounting. The court may award the attorney's fees and court costs incurred under this subsection to the person demanding the accounting if the court finds that the tenant's representative failed to render an accounting as required under this section without just cause.

(k) A tenant's representative is entitled to judicial review and settlement of an account of all transactions entered into by the tenant's representative, regardless of whether:

- (1) the tenant's representative's authority has been revoked;**
- or**
- (2) a demand for an accounting is made under subsection (e).**

(l) Judicial review and settlement of an account is initiated upon the filing of a petition to settle and allow an account. The petition must be filed with the court exercising probate jurisdiction for the county in which the tenant resided. Except as otherwise provided by this section, the procedures in IC 30-4-5-14(b), IC 30-4-5-14(c), IC 30-4-5-14(d), and IC 30-4-5-15 that are applicable to judicial settlement of a trustee's account govern:

- (1) the filing of objections; and**
 - (2) all proceedings;**
- on the petition.**



(m) A petition to settle and allow an account must be served upon all the following that are applicable:

- (1) The tenant's personal representative.**
- (2) Any person beneficially interested in the decedent's estate.**
- (3) The tenant's heirs at law.**
- (4) If the tenant's will is probated without administration:**
 - (A) the personal representative named in the probated will; and**
 - (B) all persons or entities beneficially interested in the probated will.**
- (5) Any other person that the court directs.**

(n) A tenant's representative is discharged from liability as to the transactions disclosed in the accounting if:

- (1) the court reviews and approves the accounting; and**
- (2) notice of the court's approval of the accounting is provided to the persons identified in subsection (m).**

(o) In the absence of fraud, misrepresentation, inadequate disclosure, or failure to provide proper notice related to the power of attorney transactions, the discharge from liability under subsection (n) is lawful and binding upon all interested persons:

- (1) who would assert an interest on behalf of or through the tenant; and**
- (2) who are:**
 - (A) born or unborn;**
 - (B) notified or not notified; or**
 - (C) represented or not represented.**

(p) The filing fee for a petition to settle and allow an account filed under this section is a legitimate expense of the tenant's estate.

SECTION 4. IC 29-1-10-21, AS ADDED BY P.L.99-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 21. (a) All authority to act with respect to an estate administered under IC 29-1-7 and IC 29-1-7.5 is vested exclusively in the personal representative.

(b) If this article prohibits an action by the personal representative, the prohibition restricts the personal representative, regardless of court order, unless:

- (1) a majority in interest of the distributees expressly consent in writing to the proposed action; or**
- (2) the statute imposing the restriction expressly permits a court to approve the prohibited action.**

SECTION 5. IC 29-1-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. **Subject to the**



provisions of IC 29-1-7-15.1 concerning the sale of real property, any real or personal property belonging to an estate may be sold, mortgaged, leased or exchanged under court order when necessary for any of the following purposes:

- (a) For the payment of claims allowed against the estate.
- (b) For the payment of any allowances made under IC 29-1-4-1.
- (c) For the payment of any legacy given by the will of the decedent.
- (d) For the payment of expenses of administration.
- (e) For the payment of any gift, estate, inheritance or transfer taxes assessed upon the transfer of the estate or due from the decedent or ~~his~~ **the decedent's** estate.
- (f) For making distribution of the estate or any part thereof.
- (g) For any other purpose in the best interests of the estate.

SECTION 6. IC 29-1-15-11, AS AMENDED BY P.L.86-2018, SECTION 212, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 11. **(a) This section is subject to the provisions of IC 29-1-7-15.1 concerning the sale of real property.**

(b) A personal representative may file a petition to sell, mortgage or lease any real property belonging to the estate. The petition shall set forth the reasons for the application and describe the property involved. The personal representative may apply for different authority as to separate parts of the property; or the personal representative may apply in the alternative for authority to sell, mortgage or lease. Upon the filing of the petition, the court shall fix the time and place for the hearing thereof. Notice of the hearing, unless waived, shall be given to all heirs and lienholders, except holders of liens created by said heirs, whose liens are to be extinguished or transferred to the proceeds of said sale in case of intestacy and to all devisees and lienholders, except holders of liens created by said devisees, whose liens are to be extinguished or transferred to the proceeds of said sale in case of testacy, and the notice shall state briefly the nature of the application and shall be given as provided in IC 29-1-1-12. However, as to any real property valued at not more than one thousand dollars ~~(\$1000.00)~~ **(\$1,000)** exclusive of any liens the court may, in its discretion, hear and act upon the petition without notice to heirs or devisees. At the hearing and upon satisfactory proofs, the court may order the sale, mortgage or lease of the property described or any part thereof. When a claim secured by a mortgage on real property is, under the provisions of this probate code, payable at the time of distribution of the estate or prior thereto, the court with the consent of the mortgagee may, nevertheless,

HEA 1252 — Concur



order the sale of the real property subject to the mortgage, but such consent shall release the estate should a deficiency later appear.

SECTION 7. IC 29-3-3-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 8. (a) A tenant's representative who accepts appointment under IC 32-31-1-23 may represent the tenant for the following purposes:**

- (1) Collecting all or part of the tenant's security deposit from the tenant's landlord.**
- (2) Collecting the tenant's tangible personal property from the tenant's residence.**
- (3) Distributing among the tenant's distributees any portion of the tenant's security deposit that the tenant's representative has collected from the tenant's landlord.**
- (4) Distributing among the tenant's distributees any portion of the tenant's tangible personal property that the tenant's representative has collected from the tenant's residence.**
- (5) Signing and issuing on behalf of the tenant's distributees any affidavit described in IC 29-1-8 that the tenant's landlord may require before releasing the tenant's security deposit or tangible personal property to the tenant's representative.**

(b) Upon presentation of letters testamentary or letters of administration by the personal representative of the tenant's estate to the tenant's representative, the tenant's representative will deliver to the personal representative any portion of the tenant's tangible personal property that the tenant's representative has collected from the tenant's landlord.

(c) The tenant's representative shall keep complete records of all transactions entered into by the tenant's representative on behalf of the tenant for:

- (1) nine (9) months after the tenant's death date; or**
- (2) three (3) months after the records are delivered to the tenant's personal representative;**

whichever occurs first.

(d) Except as otherwise required by subsection (e), the tenant's representative is not required to render an accounting.

(e) Except as provided in subsection (h), the tenant's representative shall render a written accounting if an accounting is:

- (1) ordered by a court; or**
- (2) demanded by:**
 - (A) a child of the tenant;**



(B) the personal representative of the tenant's estate; or

(C) an heir or legatee of the tenant.

(f) Except as provided in subsection (h), a tenant's representative shall deliver an accounting required under subsection (e) to:

- (1) the court;**
- (2) the personal representative of the tenant's estate;**
- (3) an heir of the tenant;**
- (4) a legatee of the tenant; or**
- (5) a child of the tenant.**

(g) Except as provided in subsection (h), a tenant's representative shall deliver an accounting ordered or demanded under subsection (e) to the court or the person demanding the accounting not later than sixty (60) days after the date the tenant's representative receives the court order or written demand for an accounting.

(h) The court may order an accounting under subsection (e) at any time. In the absence of a court ordered accounting, a tenant's representative is not required to deliver an accounting to a person described in subsection (f)(1) through (f)(4) unless the person demands the accounting not later than nine (9) months after the date of the tenant's death. The delivery deadline set forth in subsection (g) applies to a written demand for an accounting that is timely submitted under this subsection.

(i) Not more than one (1) accounting is required under this section in each twelve (12) month period unless the court, in its discretion, orders additional accountings.

(j) If a tenant's representative fails to deliver an accounting as required under this section, the court or the person demanding the accounting may initiate an action in mandamus to compel the tenant's representative to render the accounting. The court may award the attorney's fees and court costs incurred under this subsection to the person demanding the accounting if the court finds that the tenant's representative failed to render an accounting as required under this section without just cause.

(k) A tenant's representative is entitled to judicial review and settlement of an account of all transactions entered into by the tenant's representative, regardless of whether:

- (1) the tenant's representative's authority has been revoked;**
 - or**
 - (2) a demand for an accounting is made under subsection (e).**
- (l) Judicial review and settlement of an account is initiated upon**



the filing of a petition to settle and allow an account. The petition must be filed with the court exercising probate jurisdiction for the county in which the tenant resided. Except as otherwise provided by this section, the procedures in IC 30-4-5-14(b), IC 30-4-5-14(c), IC 30-4-5-14(d), and IC 30-4-5-15 that are applicable to judicial settlement of a trustee's account govern:

- (1) the filing of objections; and
- (2) all proceedings;

on the petition.

(m) A petition to settle and allow an account must be served upon all the following that are applicable:

- (1) The tenant's personal representative.
- (2) Any person beneficially interested in the decedent's estate.
- (3) The tenant's heirs at law.
- (4) If the tenant's will is probated without administration:
 - (A) the personal representative named in the probated will; and
 - (B) all persons or entities beneficially interested in the probated will.
- (5) Any other person that the court directs.

(n) A tenant's representative is discharged from liability as to the transactions disclosed in the accounting if:

- (1) the court reviews and approves the accounting; and
- (2) notice of the court's approval of the accounting is provided to the persons identified in subsection (m).

(o) In the absence of fraud, misrepresentation, inadequate disclosure, or failure to provide proper notice related to the power of attorney transactions, the discharge from liability under subsection (n) is lawful and binding upon all interested persons:

- (1) who would assert an interest on behalf of or through the tenant; and
- (2) who are:
 - (A) born or unborn;
 - (B) notified or not notified; or
 - (C) represented or not represented.

(p) The filing fee for a petition to settle and allow an account filed under this section is a legitimate expense of the tenant's estate.

SECTION 8. IC 29-3-12-1, AS AMENDED BY SEA 276-2021, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) Except as provided in section 6 or 7 of this chapter, the court shall terminate the guardianship of a minor upon:

- (1) the minor's attaining eighteen (18) years of age; or



(2) the minor's death.

The court may terminate the guardianship of a minor upon the minor's adoption or marriage.

(b) The court shall terminate the guardianship of an incapacitated person upon:

(1) adjudication by the court that the protected person is no longer an incapacitated person; or

(2) the death of the protected person.

(c) The court may terminate any guardianship if:

(1) the guardianship property does not exceed the value of three thousand five hundred dollars (\$3,500);

(2) the guardianship property is reduced to three thousand five hundred dollars (\$3,500);

(3) the domicile or physical presence of the protected person is changed to another state and a guardian has been appointed for the protected person and the protected person's property in that state; or

(4) the guardianship is no longer necessary for any other reason.

(d) When a guardianship terminates otherwise than by the death of the protected person, the powers of the guardian cease, except that the guardian may pay the claims and expenses of administration that are approved by the court and exercise other powers that are necessary to complete the performance of the guardian's trust, including payment and delivery of the remaining property for which the guardian is responsible:

(1) to the protected person;

(2) in the case of an unmarried minor, to a person having care and custody of the minor with whom the minor resides;

(3) to a trust approved by the court, including a trust created by the guardian, in which:

(A) the protected person is the sole beneficiary of the trust; and

(B) the terms of the trust satisfy the requirements of Section 2503(c) of the Internal Revenue Code and the regulations under that Section;

(4) to a custodian under the Uniform Transfers to Minors Act (IC 30-2-8.5); or

(5) to another responsible person as the court orders.

(e) When a guardianship terminates by reason of the death of the protected person, the powers of the guardian cease, except as follows:

(1) The guardian may do the following:

(A) Pay the expenses of administration that are approved by



the court.

(B) Exercise all other powers that are necessary to complete the performance of the guardian's trust. Permitted performances under this clause include the following:

- (i) The power to control the disposition of the deceased protected person's body.
- (ii) The power to make anatomical gifts.
- (iii) The power to request an autopsy.
- (iv) The power to make arrangements for funeral services.
- (v) The power to make other ceremonial arrangements as provided under IC 29-2-19-17.

(C) Deliver the remaining property for which the guardian is responsible to the protected person's personal representative or to a person who presents the guardian with an affidavit under IC 29-1-8-1 or IC 29-2-1-2.

(D) Request the health records of the protected person under IC 16-39-1-3(c)(4), except as provided in IC 16-39-1-3(d), if the protected person was an incapacitated person. The power of a guardian under this clause terminates sixty (60) days after the date of the protected person's death.

(2) ~~If approved by the court the guardian may pay directly the following:~~ **approves the payment of expenses and obligations under this subdivision, then before the guardian delivers the remaining property under subdivision (1)(C), the guardian shall pay the following expenses and obligations in the amounts approved by the court and in decreasing order of priority:**

(A) Final administration expenses of the guardianship as approved by the court under subdivision (1)(A).

(B) Unless prepaid by means of a funeral trust or before the protected person's death, the reasonable expenses for:

- (i) the protected person's funeral;**
- (ii) a tombstone, monument, or other marker; and**
- (iii) the disposition of the protected person's bodily remains;**

subject to the limitations provided in IC 29-1-14-9(a)(2).

~~(A) Reasonable funeral and burial expenses of the protected person.~~

~~(B) Reasonable expenses of the protected person's last illness.~~

(C) Any statutory allowances payable to the protected person's surviving spouse or surviving child under IC 29-1-4-1.



~~(D)~~ **(D) The protected person's federal and state taxes: debts disclosed to the court and which could be filed and allowed as claims under IC 29-1-14, having the priority and preference established under IC 29-1-14-9(a)(4).**

~~(D)~~ Any statutory allowances payable to the protected person's surviving spouse or surviving children.

(E) Reasonable expenses of the protected person's last illness disclosed to the court and which could be filed and allowed as claims under IC 29-1-14, having the priority and preference established under IC 29-1-14-9(a)(5).

(F) The protected person's debts disclosed to the court and which could be filed and allowed as claims under IC 29-1-14, having priority and preference established under IC 29-1-14-9(a)(6).

~~(E)~~ **(G) Any other obligations of the protected person disclosed to the court and which could be filed and allowed as claims under IC 29-1-14, having the priority established under IC 29-1-14-9(a)(7).**

SECTION 9. IC 30-5-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. "Principal" means:

(1) an individual:

(A) who is:

(i) at least eighteen (18) years of age;

(ii) emancipated; or

(iii) currently serving in the United States military; and

(B) including includes an individual acting as a:

~~(A)~~ **(i) trustee;**

~~(B)~~ **(ii) personal representative; or**

~~(C)~~ **(iii) fiduciary;**

(2) a corporation;

(3) a limited liability company;

(4) a trust; or

(5) a partnership;

who signs a power of attorney granting powers to an attorney in fact.

SECTION 10. IC 32-31-1-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 23. **(a) If a landlord knows of the death of a tenant who, at the time of death, was the sole occupant of the dwelling unit under a lease, the landlord:**

(1) shall notify a tenant's representative of the death;

(2) shall give the tenant's representative access to the premises

at a reasonable time to remove any personal property from



the unit and other personal property of the tenant elsewhere on the premises;

(3) may require the tenant's representative to prepare and sign an inventory of the property being removed; and

(4) shall pay the tenant's representative the deceased tenant's security deposit and unearned rent to which the tenant would otherwise have been entitled under IC 32-31-3-12.

(b) If a landlord believes that a tenant, who is the sole occupant of the dwelling unit under a lease, is incapacitated and absent from the dwelling unit, the landlord:

(1) shall notify a tenant's representative of the tenant's possible incapacity;

(2) shall give the tenant's representative access to the premises at a reasonable time to remove any personal property from the unit and other personal property of the tenant elsewhere on the premises;

(3) may require the tenant's representative to prepare and sign an inventory of the property being removed; and

(4) shall pay the tenant's representative the incapacitated tenant's security deposit and unearned rent to which the tenant would otherwise have been entitled under IC 32-31-3-12.

(c) Any of the following persons, in decreasing order of priority, may accept an appointment and serve as a tenant's representative under this article:

(1) A person designated by the tenant in a written document delivered to the landlord.

(2) A person designated, in writing, by the tenant in a written lease between the tenant and the landlord.

(3) An attorney in fact named by the tenant in a power of attorney during the tenant's lifetime.

(4) A temporary guardian or guardian of the person of a tenant.

(5) A tenant's heir.

(6) A person selected and appointed by a probate court upon a petition by any interested person under this section.

If a dispute exists between two (2) or more persons claiming to be a tenant's representative, the probate court's decision controls after a hearing held upon notice to the interested persons.

(d) A person who is authorized to serve as a tenant's representative under subsection (c) accepts appointment by:

(1) providing written notice to the tenant's landlord of the



tenant representative's acceptance of appointment; and
(2) if the tenant is appointed under subsection (c)(6),
complying with the conditions stated in the probate court's
order.

(e) The authority of a deceased tenant's heir, a deceased tenant's
attorney in fact, a temporary guardian, or a guardian of the person
to act under this article terminates when the heir, the guardian, or
the landlord knows that:

- (1) a personal representative has been appointed for the
deceased tenant's estate;
- (2) a tenant's attorney in fact is acting on the living tenant's
behalf; or
- (3) a guardian has been appointed for the living incapacitated
tenant's property.

(f) A landlord that complies with this section is not liable:

- (1) to the tenant, if the tenant is living;
- (2) to the tenant's estate, if the tenant is deceased; or
- (3) to any other person that has a claim or interest in the
personal property removed from the premises, unearned rent,
or security deposit.

(g) A landlord that willfully violates subsection (a) or (b) is
liable:

- (1) to the tenant, if the tenant is living; or
- (2) to the tenant's estate, if the tenant is deceased;

for actual damages.

(h) In addition to the rights provided in this section, the tenant's
representative has the incapacitated or deceased tenant's rights
and responsibilities under IC 32-31-4.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1252 — Concur

