

IC 29-1-16

Chapter 16. Accounting

IC 29-1-16-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 6 of this chapter by P.L.118-1997 do not apply to an individual whose death occurs before July 1, 1997.

(2) The amendments made to section 6 of this chapter by P.L.252-2001 apply to the estate of an individual who dies after June 30, 2001.

As added by P.L.220-2011, SEC.478.

IC 29-1-16-1

Personal liability, loss to estate

Sec. 1. (a) Every personal representative shall be liable for and chargeable in his accounts with all of the estate of the decedent which comes into his possession at any time, including all the income therefrom; but he shall not be accountable for any debts due to the decedent or other assets of the estate which remain uncollected without his fault. He shall not be entitled to any profit by the increase, nor be chargeable with loss by the decrease in value or destruction without his fault, of any part of the estate.

(b) Every personal representative shall be chargeable in his accounts with property not a part of the estate which comes into his hands at any time and shall be liable to the persons entitled thereto, if:

(1) the property was received, under a duty imposed on him by law in the capacity of personal representative; or

(2) he has commingled such property with the assets of the estate.

(c) Every personal representative shall be liable for any loss to the estate arising from his neglect or unreasonable delay in collecting the credits or other assets of the estate or in selling, mortgaging or leasing the property of the estate; for neglect in paying over money or delivering property of the estate he shall have in his hands; for failure to account for or to close the estate within the time provided by this article; for any loss to the estate arising from his embezzlement or commingling of the assets of the estate with other property; for loss to the estate through self-dealing; for any loss to the estate arising from wrongful acts or omissions of his co-representatives which he could have prevented by the exercise of ordinary care; and for any other negligent or wilful act or nonfeasance in his administration of the estate by which loss to the estate arises.

(Formerly: Acts 1953, c.112, s.1601.) As amended by Acts 1982, P.L.171, SEC.46.

IC 29-1-16-2

Closing estate; final account

Sec. 2. Every personal representative shall close the estate as promptly as possible. Unless for good cause shown the time for filing the final account in the estate shall not exceed one (1) year from the appointment of a personal representative.

(Formerly: Acts 1953, c.112, s.1602.)

IC 29-1-16-3**Verified account; filing; time**

Sec. 3. Every personal representative may file in the court a verified account of his administration at any time prior to final settlement and distribution but every personal representative must file in the court a verified account of his administration.

(a) Upon filing a petition for final settlement;

(b) Upon the revocation of his letters;

(c) Upon his application to resign and before his resignation is accepted by the court;

(d) At any other time when directed by the court either of its own motion or on the application of any interested person.

(Formerly: Acts 1953, c.112, s.1603.)

IC 29-1-16-4**Schedules; verification; certified public accountant**

Sec. 4. Accounts rendered to the court by a personal representative shall be for a period distinctly stated and shall consist of three (3) schedules, of which the first shall show the amount of the property chargeable to the personal representative; the second shall show payments, charges, losses and distributions; the third shall show the property on hand constituting the balance of such account, if any. When an account is filed, the personal representative shall also file receipts for disbursements of assets made during the period covered by the account. Whenever the personal representative is unable to file receipts for any disbursements, the court may permit him to substantiate them by other proof. The court may provide for an inspection of the balance of assets on hand. The court may, upon its own motion, or upon petition, provide that verification of accounts or credits thereon may be made by the unqualified certificate of a certified public accountant in lieu of receipts or other proof.

(Formerly: Acts 1953, c.112, s.1604; Acts 1975, P.L.288, SEC.34.)

IC 29-1-16-5**Petition to settle and allow; petition to distribute**

Sec. 5. At the time of filing of an account the personal representative shall petition the court to settle and allow his account; and if the estate is in a proper condition to be closed, he shall also petition the court for an order authorizing him to distribute the estate, and shall specify in the petition the persons to whom distribution is to be made and the proportions or parts of the estate to which each is entitled. Petitions to settle or to distribute may be incorporated in the account in the absence of a court rule or order to the contrary.

(Formerly: Acts 1953, c.112, s.1605.)

IC 29-1-16-6

Hearing and notice; final distribution; unknown heirs; intermediate account

Sec. 6. (a) Upon the filing of any account in a decedent's estate, hearing and notice thereof shall be had as set forth in this section.

(b) If the account is for final settlement the court or clerk shall set a date by which all objections to such final account and petition for distribution must be filed in writing and the clerk shall give notice to all persons entitled to share in the final distribution of said estate that a final report has been filed and will be acted upon by the court on the date set unless written objections are presented to the court on or before that date. The personal representative shall at the time said account is filed furnish to the clerk the names and addresses of all persons entitled to share in the distribution of the residue of said estate, whose names and addresses are known to the personal representative or may by reasonable diligence be ascertained as set forth in the personal representative's petition for distribution, together with sufficient copies of said notice prepared for mailing. The clerk shall send a copy of said notice by ordinary mail to each of said parties at least fourteen (14) days prior to such date. Said parties or their attorney of record may waive the service by mail of this notice and where there is an attorney of record, service upon said attorney shall be sufficient as to the parties represented by said attorney. Neither a notice nor a hearing is required if all persons entitled to share in the final distribution of the estate waive the service of notice by mail and consent to the final account and petition for distribution without a hearing.

(c) If a person entitled to share in the distribution of the residue of the estate is unknown or cannot be located, the personal representative may give notice by one (1) publication in a newspaper of general circulation, published in the county in which the administration is pending. The deadline for filing an objection is fourteen (14) days before the hearing date. The notice shall state that objections to the final account and petition for distribution must be filed in writing before the hearing date.

(d) If the account is intermediate, but the personal representative has therein petitioned the court that said account be made final as to the matters and things reported in said account, the same procedure as to hearing and notice shall be followed as in the case of a final account.

(e) If the account is intermediate and the personal representative makes no request that said account may be made final as to the matters and things reported in said account, the court may order such notice as the court deems necessary or approve the same ex parte and without notice. Every such intermediate account approved without notice shall be subject to review by the court at any time and shall not become final until the personal representative's account in final settlement is approved by the court.

(Formerly: Acts 1953, c.112, s.1606; Acts 1955, c.258, s.8; Acts 1975, P.L.288, SEC.35.) As amended by P.L.118-1997, SEC.24; P.L.252-2001, SEC.24; P.L.1-2002, SEC.125.

IC 29-1-16-7

Objections; modification

Sec. 7. At any time prior to the hearing on an account of a personal representative, any interested person may file written objections to any item or omission in the account. All such objections shall be specific and shall indicate the modification desired.

(Formerly: Acts 1953, c.112, s.1607.)

IC 29-1-16-8

Approval or disapproval; appeals; relief from liability

Sec. 8. Upon the approval of the account of a personal representative, the personal representative and his sureties shall, subject to the right of appeal and to the power of the court to vacate its final orders, be relieved from liability for the administration of his trust during the accounting period, including the investment of the assets of the estate. The court may disapprove the account in whole or in part and surcharge the personal representative for any loss caused by any breach of duty.

(Formerly: Acts 1953, c.112, s.1608.)

IC 29-1-16-9

Death or incompetency of personal representative; out-of-state residency

Sec. 9. (a) If the personal representative dies or becomes incompetent, his account shall be presented by his personal representative or the guardian of his estate to, and settled by, the court in which the estate of which he was personal representative is being administered and the the court shall settle the account as in other cases. The personal representative of the deceased personal representative shall have no authority as such to proceed with the administration.

(b) Where the deceased or incompetent person has no personal representative or guardian, the surety upon his bond shall file such account on his behalf.

(c) Where a personal representative is without the state, and fails to account as provided in this article, such account may be filed by his resident agent or by his surety or its resident agent and the court may compel the surety or its resident agent to file such account.

(Formerly: Acts 1953, c.112, s.1609.) As amended by Acts 1982, P.L.171, SEC.47.

IC 29-1-16-10

Noncompliance with orders; attachment; imprisonment

Sec. 10. Any person who has been ordered to account as herein provided, and who fails to comply with such order, may be attached and imprisoned in order to enforce such compliance therewith.

(Formerly: Acts 1953, c.112, s.1610.)