

633.78 Fiduciary written request and third-party protection.

1. A fiduciary under [this chapter](#) may present a written request to any person for the purpose of obtaining property owned by a decedent or by a ward of a conservatorship for which the fiduciary has been appointed, or property to which a decedent or ward is entitled, or for information about such property needed to perform the fiduciary's duties. The request must contain statements confirming all of the following:

a. The fiduciary's authority has not been revoked, modified, or amended in any manner which would cause the representations in the request to be incorrect.

b. The request has been signed by all fiduciaries acting on behalf of the decedent or ward.

c. The request has been sworn and subscribed to under penalty of perjury before a notary public as provided in [chapter 9B](#).

d. A photocopy of the fiduciary's letters of appointment is being provided with the request.

2. A person to whom a request is presented under [this section](#) may require that the fiduciary presenting the request provide proof of the fiduciary's identity.

3. A person who in good faith provides the property or information a fiduciary requests under [this section](#), after taking reasonable steps to verify the identity of the fiduciary and who has no knowledge that the representations contained in the request are incorrect, shall not be liable to any person for so acting and may assume without inquiry the existence of the facts contained in the request. The period of time to verify the fiduciary's authority shall not exceed ten business days from the date the person received the request. Any right or title acquired from the fiduciary in consideration of the provision of property or information under [this section](#) is not invalid in consequence of a misapplication by the fiduciary. A transaction, and a lien created by a transaction, entered into by the fiduciary and a person acting in reliance upon a request under [this section](#) is enforceable against the assets for which the fiduciary has responsibility.

4. If a person refuses to provide the requested property or information within ten business days after receiving a request under [this section](#), the fiduciary may bring an action to recover the property or information or compel its delivery against the person to whom the fiduciary presented the written request. An action brought under [this section](#) must be brought within one year after the date of the act or failure to act. If the court finds that the person acted unreasonably in failing to deliver the property or information as requested in the written request, the court may award any or all of the following to the fiduciary:

a. Damages sustained by the decedent's or ward's estate.

b. Costs of the action.

c. A penalty in an amount determined by the court, but not less than five hundred dollars or more than ten thousand dollars.

d. Reasonable attorney fees, as determined by the court, based on the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the fiduciary.

5. [This section](#) does not limit or change the right of beneficiaries, heirs, or creditors to estate property to which they are otherwise entitled.

[C66, 71, 73, 75, 77, 79, 81, §633.78]

[2015 Acts, ch 125, §3, 7](#)

Referred to in [§633.649](#)

2015 amendment applies to written requests presented by a fiduciary on or after July 1, 2015; 2015 Acts, ch 125, §7