

389A.010 Jurisdiction of District Court -- Adversary proceedings to be in Circuit Court.

- (1) Notwithstanding any other statutory limitation of the jurisdiction of the District Court:
 - (a) Any trustee, guardian, conservator, or personal representative (hereinafter "fiduciary"), not otherwise possessing a power of sale, may move the District Court of the county in which the fiduciary has qualified for an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by his ward, decedent, or trust; and
 - (b) The District Court may enter an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by the ward, decedent or trust.
- (2) The motion shall include an adequate description of the property, a summary of the grounds for the motion, and a request that the bond of the fiduciary be increased in an adequate amount in accordance with KRS 395.130.
- (3) Unless waived in writing, written notice of the hearing with a copy of the motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action upon all persons who have a vested or contingent interest in the property interest sought to be sold. Where the property interest sought to be sold belongs to a person under legal disability, service of notice and defense shall be governed by Civil Rules 4.04(3) and 17.03.
 - (a) In the case where the subject of the action is the property interest of a person under legal disability, unless waived in writing, written notice by certified mail, return receipt requested shall be given to all known adult next of kin of:
 1. The nature and pendency of the action; and
 2. Not less than thirty (30) days' notice of the time, date, and location of the hearing on the motion. At or before the hearing, the fiduciary or his attorney shall file an affidavit on personal knowledge showing compliance with this paragraph and attaching a copy of the notice given and the original of all receipts returned.
 - (b) All such persons shall have standing to present evidence and to be heard at the hearing.
- (4) An aggrieved party may no later than thirty (30) days from the date of the order, institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2) in respect to any order affecting the right of the fiduciary to sell or mortgage. Pending the entry of a final order and expiration of the time for an appeal therefrom, neither the fiduciary nor the owner of any vested interest shall make any conveyance or mortgage of the real estate and any attempt to do so shall be null and void.
- (5) No proceedings under this section shall be conducted by or before a commissioner of the District Court.

Effective: September 1, 1998

History: Amended 1998 Ky. Acts ch. 517, sec. 9, effective September 1, 1998. -- Amended 1988 Ky. Acts ch. 90, sec. 1, effective July 15, 1988. -- Amended 1984

Ky. Acts ch. 111, sec. 157, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 141, sec. 145, effective July 1, 1982; and ch. 277, sec. 4, effective July 15, 1982. -- Created 1980 Ky. Acts ch. 87, sec. 2, effective July 15, 1980.

Legislative Research Commission Note (6/24/2003). Under the authority of KRS 7.136, the Reviser of Statutes has changed a reference in subsection (4) of this section from "KRS 24A.120(1)(b)" to "KRS 24A.120(2)."