

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.1205 Discovery and remedies for fraud, embezzlement, conversion, or withholding of assets.

Sec. 1205.

(1) The court may order a person to appear before the court and be examined upon the matter of a complaint that is filed with the court under oath by a fiduciary, beneficiary, creditor, or another interested person of a decedent's or ward's trust or estate alleging any of the following:

(a) The person is suspected of having, or has knowledge that another may have, concealed, embezzled, conveyed away, or disposed of the trustee's, decedent's, or ward's property.

(b) The person has possession or knowledge of a deed, conveyance, bond, contract, or other writing that contains evidence of, or tends to disclose, the right, title, interest, or claim of the trustee, decedent, or ward to any of the trust or estate.

(c) The person has possession or knowledge of a decedent's last will.

(2) If the person ordered under subsection (1) refuses to appear and be examined, or refuses to answer the interrogatories asked of the person that relate to the complaint, the judge may by warrant commit the person to the county jail to remain in custody until that person submits to the order of the court.

(3) If fraud is perpetrated in connection with a proceeding or in a statement filed under this act or if fraud is used to avoid or circumvent the provisions or purposes of this act, a person injured by the fraud may obtain appropriate relief against the perpetrator of the fraud or restitution from a person, other than a bona fide purchaser, that benefited from the fraud, whether innocent or not. An action under this subsection shall be commenced within 2 years after the discovery of the fraud, but an action shall not be brought against a person that is not a perpetrator of the fraud later than 5 years after the time of the fraud's commission. This section does not affect a remedy relating to fraud perpetrated against a decedent during his or her lifetime that affects the succession of the decedent's estate.

(4) If a person embezzles or wrongfully converts a decedent's property before letters of authority are granted, or refuses, without colorable claim of right, to transfer possession of the decedent's property to the personal representative upon demand, that person is liable in an action brought by the personal representative for the benefit of the estate for double the value of the property embezzled, converted, or withheld.

History: 1998, Act 386, Eff. Apr. 1, 2000

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