

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)

Act 386 of 1998

Part 6

**PERSONAL REPRESENTATIVE AND APPOINTMENT, CONTROL, AND TERMINATION OF
AUTHORITY**

700.3601 Qualification; limitation and procedure with regard to specified assets.

Sec. 3601.

(1) Prior to receiving letters, a personal representative shall qualify by filing with the appointing court any required bond and a statement of acceptance of the duties of the office.

(2) In filing the statement of acceptance, the personal representative may exclude from the scope of the personal representative's responsibility, for a period not to exceed 91 days, real estate or an ownership interest in a business entity if the personal representative reasonably believes the real estate or other property owned by the business entity is or may be contaminated by a hazardous substance, or is or has been used for any activity directly or indirectly involving a hazardous substance, that could result in liability to the estate or otherwise impair the value of property held in the estate. The personal representative must identify the real estate or ownership interest being excluded and shall specify the time period of exclusion.

(3) If the personal representative identifies excluded property under subsection (2), the personal representative's responsibilities extend to the excluded property at the end of the exclusion period or upon the personal representative's notice to the court of acceptance of that property, unless, before the end of the exclusion period, the personal representative requests the court to appoint a special personal representative with respect to the excluded property or to exercise administrative authority over the excluded property by direct judicial order.

(4) In response to a request by the general personal representative under subsection (3), the court may do either of the following:

(a) Appoint a special personal representative with the duty and authority to collect and manage the excluded property, but only to the extent necessary for proper settlement of the estate and to preserve, account with respect to, and distribute or otherwise dispose of the excluded property as directed by the general personal representative or other court order.

(b) Directly administer the excluded property by judicial orders without the appointment of a personal representative with respect to the property.

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

Popular Name: EPIC

700.3602 Acceptance of appointment; consent to jurisdiction.

Sec. 3602.

By accepting appointment, a personal representative submits personally to the court's jurisdiction in a proceeding relating to the estate that may be instituted by an interested person. The interested person instituting the proceeding must give notice of the proceeding to the personal representative by personal service or by ordinary first-class mail mailed to the personal representative's address as stated in the application or petition for appointment, or as otherwise reported to the court, and if different, to the personal representative's address as then known to the interested person.

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

Popular Name: EPIC

700.3603 Bond not required without court order; exceptions.

Sec. 3603.

(1) A bond is not required of a personal representative appointed in informal proceedings, except in any of the following circumstances:

(a) A special personal representative is appointed.

(b) The personal representative is appointed to administer an estate under a will containing an express requirement of bond.

(c) Bond is required under section 3605.

(2) Except as otherwise provided in this subsection, in a formal proceeding, the court may order bond at the time of the personal representative's appointment. The court shall not order bond of the personal representative in the formal proceeding if the will relieves the personal representative of bond, unless an interested person requests bond and the court is satisfied that bond is desirable. If a will in a formal proceeding requires bond, bond may be dispensed with if the court determines it is unnecessary.

(3) Bond is not required of a personal representative who deposits, as determined by the court, cash or collateral with the county treasurer to secure performance of the fiduciary duties.

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

Popular Name: EPIC

700.3604 Bond amount; security; procedure; reduction.

Sec. 3604.

If bond is required and the provisions of the will or order do not specify the amount, unless stated in the person's application or petition, a person qualifying shall file a statement under oath with the register indicating the person's best estimate of the value of the decedent's personal estate and of the income expected from the personal and real estate during the next year, and shall execute and file a bond with the register, or give other suitable security, in an amount not less than the estimate. The register shall determine that the bond is duly executed by a corporate surety, or 1 or more individual sureties whose performance is secured by pledge of personal property, mortgage on real property, or other adequate security. The register may permit the amount of the bond to be reduced by the value of estate property deposited in this state with a financial institution in a manner that prevents the property's unauthorized disposition. On petition of the personal representative or another interested person or on the court's own motion, the court may excuse a requirement of bond, increase or reduce the amount of the bond, release sureties, or permit the substitution of another bond with the same or different sureties.

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

Popular Name: EPIC

700.3605 Demand for bond by interested person.

Sec. 3605.

(1) A person apparently having an interest in the estate worth in excess of \$30,000.00 or a creditor having a claim against the estate in excess of \$30,000.00 may make a written demand that a personal representative give bond. The demand must be filed with the register, and if appointment and qualification have occurred, a copy must be mailed to the personal representative. Upon filing of the demand, bond is required, but the requirement ceases if the person demanding bond ceases to be interested in the estate or if bond is excused as provided in section 3603 or 3604. After receipt of notice and until the filing of the bond or cessation of the requirement of bond, the personal representative shall not exercise any powers of the fiduciary office except as necessary to preserve the estate. Failure of the personal representative to meet a requirement of bond by giving suitable bond within 28 days after receipt of notice is cause for removal and appointment of a successor personal representative.

(2) The dollar amount described in this section must be adjusted as provided in section 1210.

History: 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2024, Act 1, Imd. Eff. Feb. 21, 2024
Popular Name: EPIC

700.3606 Requirements and provisions of bonds.

Sec. 3606.

The following requirements and provisions apply to a bond required by this part:

(a) A bond shall name the state of Michigan as obligee for the benefit of the persons interested in the estate and shall be conditioned upon the faithful discharge by the fiduciary of all duties according to law.

(b) Unless otherwise provided by the terms of the approved bond, sureties are jointly and severally liable with the personal representative and with each other. The address of sureties shall be stated in the bond.

(c) By executing an approved bond of a personal representative, the surety consents to the jurisdiction of the court that issues letters to the primary obligor in a proceeding pertaining to the personal representative's fiduciary duties and naming the surety as a party. The petitioner shall notify a surety of a proceeding by personal service or by registered or certified mail to the surety's address as listed with the court where the bond is filed and to the surety's address as then known to the petitioner.

(d) On petition of a successor personal representative, another personal representative of the same decedent, or an interested person, a proceeding in the court may be initiated against a surety for breach of the obligation of the personal representative's bond. If a fiduciary fails to perform a duty or perform a duty properly, the court may order a surety to perform an act the fiduciary should have performed or to correct an act the fiduciary performed improperly.

(e) The personal representative's bond is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

(f) An action or proceeding shall not be commenced against the surety on a matter as to which an action or proceeding against the primary obligor is barred by adjudication or limitation.

History: 1998, Act 386, Eff. Apr. 1, 2000
Popular Name: EPIC

700.3607 Order restraining personal representative.

Sec. 3607.

(1) On petition of a person who appears to be an interested person or acting on the court's own motion, the court, by temporary order, may restrain a personal representative from performing a specified act of administration, disbursement, or distribution, or from exercising a power or discharging a duty of the personal representative's office, or may make another order to secure proper performance of the personal representative's duty, if it appears to the court that the personal representative otherwise may take some action that would jeopardize unreasonably the interest of the petitioner or of some other interested person. A person with whom the personal representative may transact business may be made a party.

(2) The court shall set a hearing date for a matter described in subsection (1), which hearing date shall be not more than 14 days after the date of the issuance of the temporary order, unless the parties agree otherwise. Notice shall be given as the court directs to the personal representative, to the personal representative's attorney of record, if any, and to any parties named defendant in the petition.

History: 1998, Act 386, Eff. Apr. 1, 2000
Popular Name: EPIC

700.3608 Termination of appointment generally.

Sec. 3608.

Termination of appointment of a personal representative occurs as provided in sections 3609 to 3612. Termination ends the right and power pertaining to the office of personal representative as conferred by this act or a will, except that a personal representative, at any time before distribution or until restrained or enjoined by court order, may perform an act necessary to protect the estate and may deliver property to a successor personal representative. Termination does not discharge a personal representative from liability for a transaction or omission occurring before termination, or relieve the personal representative of the duty to preserve property subject to the personal representative's control, and to account for and deliver that property. Termination does not affect the court's jurisdiction over the personal representative, but does terminate the personal representative's authority to represent the estate in a pending or future proceeding.

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

Popular Name: EPIC

700.3609 Termination of appointment; death or disability.

Sec. 3609.

The personal representative's death or a conservator's appointment for the personal representative's estate terminates the appointment of that individual. Until appointment and qualification of a successor or special personal representative to replace the deceased or protected personal representative, the personal representative of the estate of the deceased or conservator of the protected personal representative has the duty to protect the estate possessed and being administered by the decedent or ward at the time the appointment terminates, has the power to perform acts necessary for that protection, and shall account for and deliver the estate property to a successor or special personal representative upon the successor's appointment and qualification.

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

Popular Name: EPIC

700.3610 Termination of appointment; voluntary.

Sec. 3610.

(1) A personal representative's appointment terminates 1 year after the filing of a closing statement as provided in section 3954.

(2) A personal representative's appointment terminates when the court enters an order closing an estate as provided in section 3952 or 3953.

(3) After giving at least 14 days' written notice to known interested persons, a personal representative may resign by filing a written statement of resignation with the register. If no one applies or petitions for appointment of a successor personal representative within the time indicated in the notice, the filed statement of resignation is ineffective as a termination of appointment and is effective only upon the appointment and qualification of a successor personal representative and delivery of the estate property to the successor personal representative.

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

Popular Name: EPIC

700.3611 Termination of appointment by removal; cause; procedure.

Sec. 3611.

(1) An interested person may petition for removal of a personal representative for cause at any time. Upon filing of the petition, the court shall fix a time and place for hearing. The petitioner shall give notice to the personal representative and to other persons as the court orders. Except as otherwise ordered under section 3607, after receipt of notice of removal proceedings, the personal representative shall not act except to account, to correct maladministration, or preserve the estate. If removal is ordered, the court shall also direct by order the disposition of the property remaining in the name of, or under the control of, the personal representative being removed.

(2) The court may remove a personal representative under any of the following circumstances:

(a) Removal is in the best interests of the estate.

(b) It is shown that the personal representative or the person who sought the personal representative's appointment intentionally misrepresented material facts in a proceeding leading to the appointment.

(c) The personal representative did any of the following:

(i) Disregarded a court order.

(ii) Became incapable of discharging the duties of office.

(iii) Mismanaged the estate.

(iv) Failed to perform a duty pertaining to the office.

(3) Unless the decedent's will directs otherwise, a personal representative appointed at the decedent's domicile, incident to securing appointment of an ancillary personal representative, may obtain removal of another who was appointed personal representative in this state to administer in state assets.

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

Popular Name: EPIC

700.3612 Termination of appointment; change of testacy status.

Sec. 3612.

Except as otherwise ordered in formal proceedings, the probate of a will after the appointment of a personal representative in intestacy or under a will that is superseded by formal probate of another will, or the vacation of an informal probate of a will after the appointment of the personal representative under that will, does not terminate the personal representative's appointment, although the personal representative's powers may be reduced as provided in section 3401. Termination occurs upon appointment in informal or formal appointment proceedings of a person entitled to appointment under the later assumption concerning testacy. If no request for new appointment is made within 28 days after expiration of time for appeal from the order in formal testacy proceedings, or from the informal probate, changing the assumption concerning testacy, the previously appointed personal representative upon request may be appointed personal representative under the subsequently probated will, or as in intestacy as the case may be.

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

Popular Name: EPIC

700.3613 Successor personal representative.

Sec. 3613.

The appointment of a personal representative to succeed a personal representative whose appointment is terminated is governed by parts 3 and 4 of this article. After appointment and qualification, a successor personal representative must be substituted in all actions and proceedings in which the former personal representative was a party. A notice, process, or claim that was given or served upon the terminated personal representative need not be given to or served upon the successor personal representative in order to preserve a position or right the person that gave the notice or filed the claim may have obtained or preserved with reference to the former personal representative. Except as the court otherwise orders, the successor personal representative has the powers and duties in respect to the continued administration that the former personal representative would have had if the appointment had not been terminated.

History: 1998, Act 386, Eff. Apr. 1, 2000
Popular Name: EPIC

700.3614 Special personal representative; appointment.

Sec. 3614.

A special personal representative may be appointed in any of the following circumstances:

(a) Informally by the register on the application of an interested person if necessary to protect the estate of a decedent before the appointment of a general personal representative or if a prior appointment is terminated as provided in section 3609.

(b) By the court on its own motion or in a formal proceeding by court order on the petition of an interested person if in either case, after notice and hearing, the court finds that the appointment is necessary to preserve the estate or to secure its proper administration, including its administration in circumstances in which a general personal representative cannot or should not act. If it appears to the court that an emergency exists, the court may order the appointment without notice.

(c) By the court on its own motion or on petition by an interested person to supervise the disposition of the body of a decedent if section 3206(8) applies. The duties of a special personal representative appointed under this subdivision must be specified in the order of appointment and may include making arrangements with a funeral home, securing a burial plot if needed, obtaining veteran's or pauper's funding if appropriate, and determining the disposition of the body by burial or cremation. The court may waive the bond requirement under section 3603(1)

(a). The court may appoint the county public administrator if the county public administrator is willing to serve. If the court determines that it will not be necessary to open an estate, the court may appoint a special fiduciary under section 1309 instead of a special personal representative to perform duties under this section.

History: 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2004, Act 343, Imd. Eff. Sept. 29, 2004 ;-- Am. 2006, Act 299, Imd. Eff. July 20, 2006 ;-- Am. 2016, Act 57, Eff. June 27, 2016
Popular Name: EPIC

700.3615 Special personal representative; who may be appointed.

Sec. 3615.

(1) If a special personal representative is to be appointed pending the probate of a will that is the subject of a pending application or petition for probate, the person named personal representative in the will shall be appointed as the special personal representative, if available and qualified, unless the court finds the appointment is not in the best interest of the estate or the estate's beneficiaries.

(2) In any other case, the court may appoint any proper person as special personal representative.

History: 1998, Act 386, Eff. Apr. 1, 2000
Popular Name: EPIC

700.3616 Special personal representative; appointed informally; powers and duties.

Sec. 3616.

A special personal representative appointed by the register in informal proceedings as provided in section 3614 has the duty to collect and manage the estate property, to preserve and account for the property, and to deliver the property to the general personal representative upon qualification. This special personal representative has the power of a personal representative under this act necessary to perform his or her duties.

History: 1998, Act 386, Eff. Apr. 1, 2000
Popular Name: EPIC

700.3617 Special personal representative; formal proceedings; power and duties.

Sec. 3617.

A special personal representative appointed by order of the court in a formal proceeding has a general personal representative's power except as limited in the appointment and duties as prescribed in the order. The appointment may be for a specified time, to perform particular acts, or on other terms as the court directs.

History: 1998, Act 386, Eff. Apr. 1, 2000
Popular Name: EPIC

700.3618 Termination of appointment; special personal representative.

Sec. 3618.

A special personal representative's appointment terminates in accordance with the provisions of the order of appointment or on the appointment of a general personal representative. In any other case, a special personal representative's appointment is subject to termination as provided in sections 3608 to 3612.

History: 1998, Act 386, Eff. Apr. 1, 2000
Popular Name: EPIC