

**ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)**  
**Act 386 of 1998**  
Part 7  
**DUTIES AND POWERS OF PERSONAL REPRESENTATIVES**

**700.3701 Powers and duties of personal representative; commencement; accrual.**

Sec. 3701.

A personal representative's duties and powers commence on appointment. A personal representative's powers relate back in time to give acts by the person appointed that are beneficial to the estate occurring before appointment the same effect as those occurring after appointment. Subject to sections 3206 to 3207, before or after appointment, a person named as personal representative in a will may carry out the decedent's written instructions relating to the decedent's body, funeral, and burial arrangements. A personal representative may ratify and accept an act on behalf of the estate done by another if the act would have been proper for a personal representative.

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

**700.3702 Priority among different letters.**

Sec. 3702.

A person to whom general letters are issued first has exclusive authority under the letters until the appointment is terminated or modified. If, through error, general letters are afterwards issued to another person, the first appointed representative may recover estate property in the hands of the representative subsequently appointed, but the acts of the latter done in good faith before notice of the first letters are not void for want of validity of appointment.

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

**700.3703 General duties; relation and liability to persons interested in estate; standing to sue; accounting.**

Sec. 3703.

(1) A personal representative is a fiduciary who shall observe the standard of care applicable to a trustee as described by section 7803. A personal representative is under a duty to settle and distribute the decedent's estate in accordance with the terms of a probated and effective will and this act, and as expeditiously and efficiently as is consistent with the best interests of the estate. The personal representative shall use the authority conferred by this act, the terms of the will, if any, and an order in a proceeding to which the personal representative is party for the best interests of claimants whose claims have been allowed and of successors to the estate.

(2) A personal representative shall not be surcharged for acts of administration or distribution if the conduct in question was authorized at the time. Subject to other obligations of administration, an informally probated will is authority to administer and distribute the estate according to the will's terms. Whether issued in an informal or formal proceeding, an order of appointment of a personal representative is authority to distribute apparently intestate property to the decedent's heirs if, at the time of distribution, the personal representative is not aware of a pending testacy proceeding, a proceeding to vacate an order entered in an earlier testacy proceeding, a formal proceeding questioning the personal representative's appointment or fitness to continue, or a supervised administration proceeding. Nothing in this section affects the personal representative's duty to administer and distribute the estate in accordance with the rights of a claimant whose claim has been allowed, the surviving spouse, a minor or dependent child, or a pretermitted child of the decedent as described elsewhere in this act.

(3) Except as to a proceeding that does not survive the decedent's death, a personal representative of a decedent

domiciled in this state at death has the same standing to sue and be sued in the courts of this state and the courts of another jurisdiction as the decedent had immediately prior to death.

(4) The personal representative shall keep each presumptive distributee informed of the estate settlement. Until a beneficiary's share is fully distributed, the personal representative shall annually, and upon completion of the estate settlement, account to each beneficiary by supplying a statement of the activities of the estate and of the personal representative, specifying all receipts and disbursements and identifying property belonging to the estate.

**History:** 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2009, Act 46, Eff. Apr. 1, 2010

**Popular Name:** EPIC

#### **700.3704 Personal representative to proceed without court order; exception.**

Sec. 3704.

A personal representative shall proceed expeditiously with the settlement and distribution of a decedent's estate and, except as otherwise specified or ordered in regard to a supervised personal representative, do so without adjudication, order, or direction of the court. However, the personal representative may invoke the court's jurisdiction in a proceeding authorized by this act to resolve a question concerning the estate or its administration.

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

**Popular Name:** EPIC

#### **700.3705 Appointment of personal representative; notice requirements.**

Sec. 3705.

(1) Not later than 28 days after a personal representative's appointment or other time specified by court rule, the personal representative, except a special personal representative, shall give notice of the appointment to the decedent's heirs and devisees, except those who have executed a written waiver of notice, including, if there has been no formal testacy proceeding and if the personal representative is appointed on the assumption that the decedent died intestate, the devisees in a will mentioned in the application for appointment of a personal representative and to the trustee of a trust described in section 7605(1) as to which the decedent was settlor. The personal representative shall give the notice by personal service or by ordinary first-class mail to each person required to receive notice under this subsection whose address is reasonably available to the personal representative. However, the personal representative is not required to notify a person who was adjudicated in a prior formal testacy proceeding to have no interest in the estate. The notice required under this subsection must be in a form approved by the supreme court and must include all of the following information:

(a) That the court will not supervise the personal representative. This statement must not be included if the appointment is made in a supervised proceeding under part 5 of this article.

(b) That, unless a person files a written objection to the appointment of the person named as personal representative in the notice or files a demand that bond or higher bond be posted, the person named in the notice is the personal representative without bond or with bond in the amount shown in the notice. This statement must not be included if the personal representative is appointed in a formal appointment proceeding.

(c) The name and address of the person appointed as the estate's personal representative.

(d) That, during the course of administering the estate, the personal representative must provide all interested persons with all of the following:

(i) A copy of the petition for the personal representative's appointment and a copy of the will, if any, with the notice.

(ii) A copy of the inventory.

(iii) A copy of the settlement petition or of the closing statement.

(iv) Unless waived, a copy of the account, including, but not limited to, fiduciary fees and attorney fees charged to the estate.

(v) If the personal representative is the state or county public administrator, a copy of any settlement statements from the sale of real property.

(e) That an interested person may petition the court for a court hearing on any matter at any time during the estate's administration, including, but not limited to, distribution of assets and expenses of administration.

(f) That federal and Michigan estate taxes, if any, must be paid within 9 months after the date of the decedent's death or another time period specified by law, to avoid penalties.

(g) That, if the estate is not settled within 1 year after the personal representative's appointment, within 28 days after the anniversary of the appointment, the personal representative must file with the court and send to each interested person a notice that the estate remains under administration and must specify the reason for the continuation of settlement proceedings. If such a notice is not received, an interested person may petition the court for a hearing on the necessity for continued administration or for closure of the estate.

(h) The identity and location of the court where papers relating to the estate are on file.

(2) The personal representative's failure to give the information required by subsection (1) is a breach of the personal representative's duty to the persons concerned, but does not affect the validity of the personal representative's appointment, powers, or other duties. A personal representative may inform other persons of the appointment by delivery or ordinary first-class mail.

(3) A personal representative shall also give notice that includes the information described in subsection (1) to the attorney general, public administration division, under any of the following circumstances:

(a) It appears from the petition that the decedent died intestate without leaving a known heir.

(b) In the administration of an intestate estate, it appears that the decedent did not leave a known heir.

(c) In the administration of a testate estate, it appears that devisees of the purported will would not be entitled to share in the estate but for the terms of the will and that the decedent died without leaving a known heir.

(4) If notice is required to be given to the attorney general under subsection (3), the attorney general, representing this state, has all the rights of an heir to be heard and to contest the validity of a claim, the appointment of a personal representative, an action of the personal representative, an order, an appointment, or an instrument purporting to be a decedent's contract or will, and has all the rights granted or accruing to an heir, representative, or creditor by a law relating to the settlement of a testate or intestate estate in court, or by way of rehearing or appeal.

(5) Within 28 days after the personal representative's appointment or another time specified by court rule, the personal representative, except a special personal representative, shall notify the decedent's surviving spouse, if any, of the spouse's right to election under part 2 of article II and of the time within which the election must be exercised.

(6) Except as otherwise provided in this subsection, at the same time the notice required by subsection (1) is given, the personal representative shall give notice to the friend of the court for the county in which the estate is being administered, which notice identifies the decedent's surviving spouse and the individuals who are, for a testate estate, the devisees or, for an intestate estate, the heirs. The personal representative is not required to notify the friend of the court of a devise to a trustee of an existing trust or to a trustee under the will. A personal representative incurs no obligation or liability to the friend of the court or to another person for an error or omission made in good faith compliance with this subsection.

(7) If the personal representative is the state or county public administrator, and if the decedent's real property has delinquent property taxes, the personal representative shall also give written notice that includes the information described in subsection (1) to the treasurer of the county in which the real property subject to the tax foreclosure is located. The county treasurer may submit an affidavit to the court regarding the status of the real property for the court to consider in making its determination under section 3715(2)(a).

**History:** 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2004, Act 481, Eff. Oct. 1, 2005 ;-- Am. 2009, Act 46, Eff. Apr. 1, 2010 ;-- Am. 2018, Act 14, Eff. May 7, 2018

**Popular Name:** EPIC

## **700.3706 Duty of personal representative; inventory and appraisalment.**

Sec. 3706.

(1) Within 91 days after appointment or other time specified by court rule, a personal representative, who is not a special personal representative or a successor to another representative who has previously discharged this duty, shall prepare an inventory of property owned by the decedent at the time of death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, and the type and amount of an encumbrance that may exist with reference to each listed item.

(2) The personal representative shall send a copy of the inventory to all presumptive distributees and to all other interested persons who request it, and may also file the original of the inventory with the court. The personal

representative shall submit to the court on a timely basis information necessary to calculate the probate inventory fee.

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

**Popular Name:** EPIC

#### **700.3707 Employment of appraiser.**

Sec. 3707.

The personal representative may employ a qualified and disinterested appraiser to assist in ascertaining the fair market value as of the date of the decedent's death of property, the value of which may be subject to reasonable doubt. Different persons may be employed to appraise different kinds of property included in the estate. Each appraiser's name and address shall be indicated on the inventory with the item or items he or she appraised.

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

**Popular Name:** EPIC

#### **700.3708 Duty of personal representative; supplemental inventory.**

Sec. 3708.

If property not included in the original inventory comes to the knowledge of a personal representative or if the personal representative learns that the value or description indicated in the original inventory for an item is erroneous or misleading, the personal representative shall make a supplementary inventory or appraisal showing the market value as of the date of the decedent's death of the new item or the revised market value or description, and showing the appraiser or other data relied upon, if any. The personal representative shall furnish copies or information of the supplementary inventory to persons interested in the new information, and shall file it with the court if the original inventory was filed or submit the information contained in the supplemental inventory to the court for recalculation of the probate inventory fee.

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

**Popular Name:** EPIC

#### **700.3709 Duty of personal representative; possession of estate.**

Sec. 3709.

Except as otherwise provided by a decedent's will or by this section, a personal representative has a right to, and if necessary for purposes of administration, shall take possession or control of, the decedent's property, except that real property or tangible personal property may be left with or surrendered to the person presumptively entitled to that property unless or until, in the personal representative's judgment, possession of the property will be necessary for purposes of administration. A personal representative's request for delivery of property possessed by an heir or devisee is conclusive evidence, in an action against the heir or devisee for possession of that property, that the possession of the property by the personal representative is necessary for purposes of administration. The personal representative shall pay taxes on, and take all steps reasonably necessary for the management, protection, and preservation of, the estate in the personal representative's possession. The personal representative may maintain an action to recover possession of, or to determine the title to, property.

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

**Popular Name:** EPIC

**700.3710 Power to avoid transfers.**

Sec. 3710.

The property liable for the payment of unsecured debts of a decedent includes all property transferred by the decedent by any means that is in law void or voidable as against the decedent's creditors, and subject to prior liens, the right to recover this property, so far as necessary for the payment of the decedent's unsecured debts, is exclusively in the personal representative.

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

**Popular Name:** EPIC

**700.3711 Powers of personal representatives generally.**

Sec. 3711.

Until termination of the appointment, a personal representative has the same power over the title to estate property that an absolute owner would have, in trust, however, for the benefit of creditors or others interested in the estate. This power may be exercised without notice, hearing, or court order.

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

**Popular Name:** EPIC

**700.3712 Improper exercise of power; breach of fiduciary duty.**

Sec. 3712.

If the exercise or failure to exercise a power concerning the estate is improper, the personal representative is liable to interested persons for damage or loss resulting from breach of fiduciary duty to the same extent as a trustee of an express trust. The right of purchasers and others dealing with a personal representative shall be determined as provided in sections 3713 and 3714.

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

**Popular Name:** EPIC

**700.3713 Sale, encumbrance, or transaction involving conflict of interest; voidable; exceptions; presumption; compliance with Michigan prudent investor rule; exceptions.**

Sec. 3713.

(1) A sale, encumbrance, or other transaction involving the investment or management of estate property in which the personal representative has a substantial beneficial interest or that is otherwise affected by a substantial conflict between the personal representative's fiduciary and personal interests is voidable by an interested person unless any of the following are true:

(a) The will or a contract entered into by the decedent expressly authorized the transaction.

- (b) The transaction is approved by the court after notice to interested persons.
- (c) The transaction involves a contract entered into or claim acquired by the personal representative before the person became or contemplated becoming personal representative.
- (d) The transaction is otherwise permitted by statute.
- (2) A sale, encumbrance, or other transaction involving the investment or management of estate property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the personal representative with any of the following:
  - (a) The personal representative's spouse.
  - (b) The personal representative's descendant, sibling, or parent or the spouse of the personal representative's descendant, sibling, or parent.
  - (c) An agent or attorney of the personal representative.
  - (d) A corporation or other person or enterprise in which the personal representative, or a person that owns a significant interest in the personal representative, has an interest that might affect the personal representative's best judgment.
- (3) A transaction not concerning estate property in which the personal representative engages in the personal representative's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the estate.
- (4) An investment by a personal representative in securities of an investment company or investment trust to which the personal representative, or its affiliate, provides services in a capacity other than as personal representative is not presumed to be affected by a conflict between personal and fiduciary interests if the investment otherwise complies with the Michigan prudent investor rule. In addition to its compensation for acting as personal representative, the personal representative may be compensated by the investment company or investment trust for providing those services out of fees charged to the estate. If the personal representative receives compensation from the investment company or investment trust for providing investment advisory or investment management services, the personal representative shall at least annually notify the interested persons of the rate and method by which that compensation was determined.
- (5) In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the personal representative shall act in the best interests of the beneficiaries. If the estate is the sole owner of a corporation or other form of enterprise, the personal representative shall elect or appoint directors or other managers to manage the corporation or enterprise in the best interest of the beneficiaries.
- (6) This section does not preclude the following transactions, if fair to the beneficiaries:
  - (a) An agreement between the personal representative and the interested persons relating to the compensation of the personal representative.
  - (b) Payment of reasonable compensation to the personal representative.
  - (c) A transaction between the estate and another trust or conservatorship of which the personal representative is a fiduciary or in which a beneficiary has an interest.
  - (d) A deposit of estate money in a financial institution operated by or affiliated with the personal representative.
  - (e) An advance by the personal representative of money for the protection of the estate.

**History:** 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2009, Act 46, Eff. Apr. 1, 2010

**Popular Name:** EPIC

#### **700.3714 Persons dealing with personal representative; protection.**

Sec. 3714.

- (1) A person who in good faith either assists a personal representative or deals with the personal representative for value is protected as if the personal representative properly exercised a power. The fact that a person knowingly deals with a personal representative does not alone require the person to inquire into the existence of a power or the propriety of its exercise.
- (2) Except for restrictions on powers of supervised personal representatives that are endorsed on letters as provided in section 3504, a provision in a will or court order purporting to limit a personal representative's power is not effective except as to a person with actual knowledge of the limit.
- (3) A person is not bound to see to the proper application of estate property paid or delivered to a personal representative.
- (4) The protection under this section extends to instances in which a procedural irregularity or jurisdictional defect occurs in a proceeding leading to the issuance of letters, including a case in which the alleged decedent is

found to be alive. The protection under this section does not substitute for the protection provided by a comparable provision of law relating to a commercial transaction or a law simplifying a transfer of securities by a fiduciary. Nothing in this section discharges a lien for transfer taxes that may affect title to estate property.

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

## **700.3715 Transactions authorized for personal representatives.**

### **Sec. 3715.**

(1) Except as restricted or otherwise provided by the will or by an order in a formal proceeding, and subject to subsection (2) and to the priorities stated in section 3902, a personal representative, acting reasonably for the benefit of interested persons, may properly do any of the following:

(a) Retain property owned by the decedent pending distribution or liquidation, including property in which the personal representative is personally interested or that is otherwise improper for trust investment.

(b) Receive property from a fiduciary or another source.

(c) Perform, compromise, or refuse performance of a contract of the decedent that continues as an estate obligation, as the personal representative determines under the circumstances. If the contract is for a conveyance of land and requires the giving of warranties, the personal representative shall include in the deed or other instrument of conveyance the required warranties. The warranties are binding on the estate as though the decedent made them but do not bind the personal representative except in a fiduciary capacity. In performing an enforceable contract by the decedent to convey or lease land, the personal representative, among other possible courses of action, may do any of the following:

(i) Execute and deliver a deed of conveyance for cash payment of the amount remaining due or for the purchaser's note for the amount remaining due secured by a mortgage on the land.

(ii) Deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the decedent's successors, as designated in the escrow agreement.

(d) If, in the judgment of the personal representative, the decedent would have wanted the pledge satisfied under the circumstances, satisfy a written charitable pledge of the decedent irrespective of whether the pledge constitutes a binding obligation of the decedent or is properly presented as a claim.

(e) If funds are not needed to meet a debt or expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including funds received from the sale of other property, in accordance with the Michigan prudent investor rule.

(f) Acquire or dispose of property, including land in this or another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon estate property.

(g) Make an ordinary or extraordinary repair or alteration in a building or other structure, demolish an improvement, or raze an existing or erect a new party wall or building.

(h) Subdivide, develop, or dedicate land to public use, make or obtain the vacation of a plat or adjust a boundary, adjust a difference in valuation on exchange or partition by giving or receiving consideration, or dedicate an easement to public use without consideration.

(i) Enter into a lease as lessor or lessee for any purpose, with or without an option to purchase or renew, for a term within or extending beyond the period of administration.

(j) Enter into a lease or arrangement for exploration and removal of minerals or another natural resource, or enter into a pooling or unitization agreement.

(k) Abandon property when, in the opinion of the personal representative, it is valueless, or is so encumbered or in such a condition as to be of no benefit to the estate.

(l) Vote stocks or another security in person or by general or limited proxy.

(m) Pay a call, assessment, or other amount chargeable or accruing against or on account of a security, unless barred by a provision relating to claims.

(n) Hold a security in the name of a nominee or in other form without disclosure of the estate's interest.

However, the personal representative is liable for an act of the nominee in connection with the security so held.

(o) Insure the estate property against damage, loss, and liability and insure the personal representative against liability as to third persons.

(p) Borrow property with or without security to be repaid from the estate property or otherwise, and advance money for the estate's protection.

(q) Effect a fair and reasonable compromise with a debtor or obligor, or extend, renew, or in any manner modify



the terms of an obligation owing to the estate. If the personal representative holds a mortgage, pledge, or other lien upon another person's property, the personal representative may, in lieu of foreclosure, accept a conveyance or transfer of encumbered property from the property's owner in satisfaction of the indebtedness secured by lien.

(r) Pay a tax, an assessment, the personal representative's compensation, or another expense incident to the estate's administration.

(s) Sell or exercise a stock subscription or conversion right.

(t) Consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.

(u) Allocate items of income or expense to either estate income or principal, as permitted or provided by law.

(v) Employ, and pay reasonable compensation for reasonably necessary services performed by, a person, including, but not limited to, an auditor, investment advisor, or agent, even if the person is associated with the personal representative, to advise or assist the personal representative in the performance of administrative duties; act on the person's recommendations without independent investigation; and, instead of acting personally, employ 1 or more agents to perform an act of administration, whether or not discretionary.

(w) Employ an attorney to perform necessary legal services or to advise or assist the personal representative in the performance of the personal representative's administrative duties, even if the attorney is associated with the personal representative, and act without independent investigation upon the attorney's recommendation. An attorney employed under this subdivision shall receive reasonable compensation for his or her employment.

(x) Prosecute or defend a claim or proceeding in any jurisdiction for the protection of the estate and of the personal representative in the performance of the personal representative's duties.

(y) Sell, mortgage, or lease estate property or an interest in estate property for cash, credit, or part cash and part credit, and with or without security for unpaid balances.

(z) Continue a business or venture in which the decedent was engaged at the time of death as a sole proprietor or a general partner, including continuation as a general partner by a personal representative that is a corporation, in any of the following manners:

(i) In the same business form for a period of not more than 4 months after the date of appointment of a general personal representative if continuation is a reasonable means of preserving the value of the business, including goodwill.

(ii) In the same business form for an additional period of time if approved by court order in a formal proceeding to which the persons interested in the estate are parties.

(iii) Throughout the period of administration if the personal representative incorporates the business or converts the business to a limited liability company and if none of the probable distributees of the business who are competent adults object to its incorporation or conversion and its retention in the estate.

(aa) Change the form of a business or venture in which the decedent was engaged at the time of death through incorporation or formation as a limited liability company or other entity offering protection against or limiting exposure to liabilities.

(bb) Provide for the personal representative's exoneration from personal liability in a contract entered into on the estate's behalf.

(cc) Respond to an environmental concern or hazard affecting estate property as provided in section 3722.

(dd) Satisfy and settle claims and distribute the estate as provided in this act.

(ee) Make, revise, or revoke an available allocation, consent, or election in connection with a tax matter as appropriate in order to carry out the decedent's estate planning objectives and to reduce the overall burden of taxation, both in the present and in the future. This authority includes, but is not limited to, all of the following:

(i) Electing to take expenses as estate tax or income tax deductions.

(ii) Electing to allocate the exemption from the tax on generation skipping transfers among transfers subject to estate or gift tax.

(iii) Electing to have all or a portion of a transfer for a spouse's benefit qualify for the marital deduction.

(iv) Electing the date of death or an alternate valuation date for federal estate tax purposes.

(v) Excluding or including property from the gross estate for federal estate tax purposes.

(vi) Valuing property for federal estate tax purposes.

(vii) Joining with the surviving spouse or the surviving spouse's personal representative in the execution and filing of a joint income tax return and consenting to a gift tax return filed by the surviving spouse or the surviving spouse's personal representative.

(ff) Divide portions of the estate, including portions to be allocated into trust, into 2 or more separate portions or trusts with substantially identical terms and conditions, and allocate property between them, in order to simplify administration for generation skipping transfer tax purposes, to segregate property for management purposes, or to meet another estate or trust objective.

(2) If the personal representative is the state or county public administrator, all of the following apply:

(a) The personal representative shall not sell the decedent's real property without approval of the court. The court shall only approve the sale if, after a hearing with notice to interested persons as specified in the Michigan court rules, the court considers evidence of the value of the property and considers any information submitted by



the county treasurer under section 3705(7) and otherwise determines that the sale is in the estate's best interest. In determining whether to approve the sale of real property under this subdivision, the court shall consider any information submitted by the county treasurer under section 3705(7).

(b) If the personal representative is the county public administrator, and if the decedent's real property is occupied by an heir of the decedent, the county public administrator shall provide the state public administrator with all pleadings filed in the case.

(c) Unless waived by the court, the personal representative shall advance any of the personal representative's court filing fees associated with the administration of the estate.

(d) If the decedent's estate includes real property subject to tax or mortgage foreclosure, for real estate fees or fees related to identifying real property subject to foreclosure, or both, payable to persons employed by the personal representative, including an attorney, real estate agent, or asset recovery agent, both of the following apply:

(i) Except as otherwise provided by the court, if the net proceeds from the sale of the real property payable to the estate exceed \$30,000.00, the total fees described in this subsection must not exceed 10% of the net proceeds from the sale of the real property payable to the estate.

(ii) If the net proceeds from the sale of real property payable to the estate are less than \$30,000.00, the court shall determine the reasonableness of the fees described in this subsection.

(3) As used in subsection (2), "net proceeds from the sale of the real property" means the sale price of the real property less the amount paid to satisfy the tax or mortgage, or both.

**History:** 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2004, Act 314, Eff. Sept. 1, 2004 ;-- Am. 2005, Act 204, Imd. Eff. Nov. 10, 2005 ;-- Am. 2009, Act 46, Eff. Apr. 1, 2010 ;-- Am. 2018, Act 14, Eff. May 7, 2018

**Popular Name:** EPIC

#### **700.3716 Powers and duties of successor personal representative.**

Sec. 3716.

A successor personal representative has the same powers and duties as the original personal representative to complete the administration and distribution of the estate, as expeditiously as possible, but the successor personal representative shall not exercise a power expressly made personal to the personal representative named in the will.

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

**Popular Name:** EPIC

#### **700.3717 Corepresentatives; concurrence.**

Sec. 3717.

If 2 or more persons are appointed personal corepresentatives and unless the will provides otherwise, the concurrence of all is required on an act connected with the estate's administration or distribution. This restriction does not apply if a personal corepresentative receives and gives a receipt for property due the estate, if the concurrence of all cannot readily be obtained in the time reasonably available for emergency action necessary to preserve the estate, or if a personal corepresentative has been delegated to act for the other. If actually unaware that another also has been appointed to serve or if advised by the personal representative with whom the person deals that 1 personal representative alone has authority to act for a reason mentioned in this section, a person dealing with a personal corepresentative is as fully protected as if the personal corepresentative with whom the person deals is the sole personal representative.

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

**Popular Name:** EPIC

#### **700.3718 Powers of surviving personal representative.**

Sec. 3718.

Unless the will provides otherwise, each power exercisable by personal corepresentatives may be exercised by the 1 or more remaining personal corepresentatives after the appointment of 1 or more is terminated. Unless the will provides otherwise, if 1 of 2 or more persons nominated as personal corepresentatives is not appointed, those or the 1 appointed may exercise all the powers incident to the office.

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

**Popular Name:** EPIC

#### **700.3719 Compensation of personal representative.**

Sec. 3719.

(1) A personal representative is entitled to reasonable compensation for services performed. A personal representative may pay the personal representative's own compensation periodically as earned without prior court approval.

(2) If an attorney serves as personal representative, the attorney shall maintain time records that state the identity of the person performing personal representative services, the date the services are performed, the amount of time expended in performing the services, and a brief description of the services. Upon request of an interested person affected by payment of personal representative fees, the attorney shall send the time records to the interested person.

(3) If a will provides for the personal representative's compensation and there is no contract with the decedent regarding compensation, the personal representative may renounce the provision before qualifying and be entitled to reasonable compensation. A written contract between the decedent and the personal representative regarding compensation for estate settlement services is binding on the personal representative.

(4) A personal representative also may renounce the right to all or a part of the compensation. A written renunciation of fee may be filed with the court and shall be served on all affected interested persons.

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

**Popular Name:** EPIC

#### **700.3720 Expenses in estate litigation.**

Sec. 3720.

If a personal representative or person nominated as personal representative defends or prosecutes a proceeding in good faith, whether successful or not, the personal representative is entitled to receive from the estate necessary expenses and disbursements including reasonable attorney fees incurred.

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

**Popular Name:** EPIC

#### **700.3721 Employment of agents and compensation of personal representatives and employees of estate; proceedings for review.**

Sec. 3721.

After notice to all interested persons, on petition of an interested person, on appropriate motion if administration is supervised, or on the court's own motion, the court may review the propriety of employment of a person by a personal representative, including, but not limited to, an attorney, accountant, investment advisor, or other specialized agent or assistant, the reasonableness of such a person's compensation, or the reasonableness of the compensation determined by the personal representative for the personal representative's own services. If the court determines that a person received excessive compensation from an estate for services rendered, the court shall order the person to pay an appropriate refund and may include in the refund amount interest and penalties as the court considers just.

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

**Popular Name:** EPIC

#### **700.3722 Authority regarding environmental matters.**

Sec. 3722.

(1) In response to an environmental concern or hazard, a personal representative may do any of the following:

(a) Inspect property or the operation of a business activity on property held by the personal representative, including property held in or operated by a sole proprietorship, partnership, corporation, or limited liability company or any other type of entity, for the purpose of determining compliance with environmental law affecting the property and to respond to an actual or threatened violation of an environmental law affecting property held by the personal representative.

(b) Take action necessary to prevent, abate, or otherwise remedy an actual or threatened violation of an environmental law affecting property held by the personal representative, either before or after a governmental body initiates an enforcement action.

(c) Settle or compromise at any time a claim against the estate that a governmental body or private party may assert involving the alleged violation of an environmental law affecting property held in the trust or estate.

(d) Disclaim a power granted by a document, statute, or rule of law that, in the sole discretion of the personal representative, may cause the personal representative to incur personal liability under an environmental law.

(e) Decline to serve or resign as a personal representative if the personal representative reasonably believes that there is or may be a conflict of interest between it in its fiduciary capacity and in its individual capacity because of a potential claim or liability that may be asserted against the personal representative on the estate's behalf because of the type or condition of property held in the estate.

(f) Charge the cost of an inspection, review, abatement, response, cleanup, settlement of claim, or remedial action authorized by this section against the income or principal of the estate.

(2) A personal representative is not personally liable to a beneficiary or other party for a decrease in value of estate property by reason of the personal representative's compliance with an environmental law, specifically including a reporting requirement under that law. The personal representative's acceptance of property or failure to inspect property or a business operation does not create an inference that there is or may be liability under an environmental law with respect to the property or business operation. The authority granted by this section is solely to facilitate the administration and protection of estate property and is not to impose greater responsibility or liability on the personal representative than imposed by law absent this section.

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

**Popular Name:** EPIC