ESTATES
(755 ILCS 5/) Probate Act of 1975.

(755 ILCS 5/Art. I heading)

ARTICLE I.
GENERAL PROVISIONS

(755 ILCS 5/1-1) (from Ch. 110 1/2, par. 1-1)
Sec. 1-1. Title.) This Act may be cited as the Probate Act of 1975.
(Source: P.A. 79-328.)

(755 ILCS 5/1-2) (from Ch. 110 1/2, par. 1-2)
Sec. 1-2. Definitions. As used in this Act, unless the context requires otherwise, the terms defined and the words construed in the following Sections have the meanings ascribed to them in those Sections.
(Source: P.A. 88-202; 88-529.)

(755 ILCS 5/1-2.01) (from Ch. 110 1/2, par. 1-2.01)
Sec. 1-2.01. "Administrator" includes administrator de bonis non and administrator with the will annexed.
(Source: P.A. 79-328.)

(755 ILCS 5/1-2.02) (from Ch. 110 1/2, par. 1-2.02)
Sec. 1-2.02. "Administrator with the will annexed" includes administrator de bonis non with the will annexed.
(Source: P.A. 79-328.)

(755 ILCS 5/1-2.03) (from Ch. 110 1/2, par. 1-2.03)
Sec. 1-2.03. "Authenticated copy" means (1) a certified copy if the office in which the record of the original is kept is in this State or (2) a copy exemplified in pursuance of the law of Congress in relation to records in foreign states if the office in which the record of the original is kept is not in this State.
(Source: P.A. 79-328.)

(755 ILCS 5/1-2.04) (from Ch. 110 1/2, par. 1-2.04)
Sec. 1-2.04. "Bequeath" means to dispose of real or personal property by will and includes devise.
(Source: P.A. 79-328.)

(755 ILCS 5/1-2.05) (from Ch. 110 1/2, par. 1-2.05)
Sec. 1-2.05. "Claim" includes any cause of action.
(Source: P.A. 79-328.)

(755 ILCS 5/1-2.06) (from Ch. 110 1/2, par. 1-2.06)
Sec. 1-2.06. "Dependent" means a person who is unable to maintain himself and is likely to become a public charge.
(Source: P.A. 79-328.)

(755 ILCS 5/1-2.07) (from Ch. 110 1/2, par. 1-2.07)
Sec. 1-2.07. "Encumbrance" includes mortgage, real estate tax or special assessment, deed of trust, vendor's lien, security agreement and other lien.
(Source: P.A. 79-328.)

(755 ILCS 5/1-2.08) (from Ch. 110 1/2, par. 1-2.08)
Sec. 1-2.08. "Guardian" includes a representative of a minor and a representative of a person under legal disability.
(Source: P.A. 83-706.)

(755 ILCS 5/1-2.09) (from Ch. 110 1/2, par. 1-2.09)
Sec. 1-2.09. "Independent administration" means administration of a decedent's estate pursuant to Article XXVIII.
(Source: P.A. 81-213.)

(755 ILCS 5/1-2.10) (from Ch. 110 1/2, par. 1-2.10)
Sec. 1-2.10. "Independent representative" means an executor or administrator acting pursuant to Article XXVIII.
(Source: P.A. 81-213.)

(755 ILCS 5/1-2.11) (from Ch. 110 1/2, par. 1-2.11)

Sec. 1-2.11. "Interested person" in relation to any particular action, power or proceeding under this Act means one who has or represents a financial interest, property right or fiduciary status at the time of reference which may be affected by the action, power or proceeding involved, including without limitation an heir, legatee, creditor, person entitled to a spouse's or child's award and the representative. Whenever any provision of this Act requires notice or accounting to or action by an interested person, including without limitation Sections 24-2 and 28-11 of this Act, and a trustee of a trust is an interested person, no notice or accounting to or action by a beneficiary of the trust in his capacity as beneficiary shall be required. When a ward would be an interested person but a personal fiduciary is then acting for him pursuant to Section 28-3, the personal fiduciary is the interested person instead of the ward, but any notice required to be given to the ward under this Act shall be given to both the personal fiduciary and the ward. This definition also applies to the following terms: "interested party", "person (or party) interested" and "person (or party) in interest".
(Source: P.A. 85-994.)

(755 ILCS 5/1-2.12) (from Ch. 110 1/2, par. 1-2.12)

Sec. 1-2.12. "Legacy" means a testamentary disposition of real or personal property and includes devise and bequest. "Legatee" includes devisee.
(Source: P.A. 81-213.)

(755 ILCS 5/1-2.13) (from Ch. 110 1/2, par. 1-2.13)

Sec. 1-2.13. "Mortgage" includes trust deed in the nature of a mortgage.
(Source: P.A. 81-213.)

(755 ILCS 5/1-2.14) (from Ch. 110 1/2, par. 1-2.14)

Sec. 1-2.14. "Personal fiduciary" means one acting on behalf of a ward pursuant to Section 28-3 during independent administration.
(Source: P.A. 81-213.)

(755 ILCS 5/1-2.15) (from Ch. 110 1/2, par. 1-2.15)

Sec. 1-2.15. "Representative" includes executor, administrator, administrator to collect, standby guardian, guardian and temporary guardian.
(Source: P.A. 88-529.)

(755 ILCS 5/1-2.16) (from Ch. 110 1/2, par. 1-2.16)
Sec. 1-2.16. "Supervised administration" means administration of a decedent's estate pursuant to the provisions of this Act other than Article XXVIII.
(Source: P.A. 81-213.)

(755 ILCS 5/1-2.17) (from Ch. 110 1/2, par. 1-2.17)
Sec. 1-2.17. "Ward" includes a minor or a person with a disability.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/1-2.18) (from Ch. 110 1/2, par. 1-2.18)
Sec. 1-2.18. "Will" includes testament and codicil.
(Source: P.A. 81-213.)

(755 ILCS 5/1-2.19) (from Ch. 110 1/2, par. 1-2.19)
Sec. 1-2.19. Words importing the masculine, feminine or neuter gender include each of the other genders where applicable.
(Source: P.A. 81-213.)

(755 ILCS 5/1-2.20) (from Ch. 110 1/2, par. 1-2.20)
Sec. 1-2.20. Words importing the singular number include the plural and words importing the plural number include the singular.
(Source: P.A. 81-213.)

(755 ILCS 5/1-2.21) (from Ch. 110 1/2, par. 1-2.21)
Sec. 1-2.21. Words referring to the property or estate of a person under the age of 18 years exclude "custodial property" as defined in the Illinois Uniform Transfers to Minors Act.
(Source: P.A. 84-915.)

(755 ILCS 5/1-2.22) (from Ch. 110 1/2, par. 1-2.22)
Sec. 1-2.22. In any proceeding under this Act the words "executor", "administrator", "guardian" and "testator" may be used without regard to the sex of the person.
(Source: P.A. 81-795.)

(755 ILCS 5/1-2.23)
Sec. 1-2.23. "Standby guardian" means: (i) a guardian of the person or estate, or both, of a minor, as appointed by the court under Section 11-5.3, to become effective at a later date under Section 11-13.1 or (ii) a guardian of the person or estate, or both, of a person with a disability, as appointed by the court under Section 11a-3.1, to become effective at a later date under Section 11a-18.2.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/1-2.24)
Sec. 1-2.24. "Short-term guardian" means a guardian of the person of a minor as appointed by a parent of the minor under Section 11-5.4 or a guardian of the person of a person with a disability as appointed by the guardian of the person with a disability under Section 11a-3.2.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/1-3) (from Ch. 110 1/2, par. 1-3)
Sec. 1-3. Corporation as representative.) Any corporation qualified to accept and execute trusts in this State is qualified to act as representative of the estate of a decedent or ward.
(Source: P.A. 79-328.)

(755 ILCS 5/1-4) (from Ch. 110 1/2, par. 1-4)
Sec. 1-4. Pleadings.) On the court's own motion or on motion of any interested person, before or during any hearing, any person who desires to oppose the entry of an order or judgment shall file, as directed by the court, a pleading disclosing the grounds of opposition.
(Source: P.A. 79-328.)

(755 ILCS 5/1-5) (from Ch. 110 1/2, par. 1-5)
Sec. 1-5. Petition under oath.) Every petition under this Act, except a petition under Section 8-1 or Section 8-2, shall be under oath or affirmation. If a statement is known to petitioner only upon information and belief, or is unknown to

him, the petition shall so state. Whenever any instrument is required to be verified or under oath, a statement that is made under the penalties of perjury has the same effect as if the instrument were verified or made under oath. A fraudulent statement so made is perjury, as defined in Section 32-2 of the Criminal Code of 2012.
(Source: P.A. 97-1150, eff. 1-25-13.)

(755 ILCS 5/1-6) (from Ch. 110 1/2, par. 1-6)
Sec. 1-6. Civil Practice Law applies.) The Civil Practice Law and all existing and future amendments and modifications thereof and the Supreme Court Rules now or hereafter adopted in relation to that Law shall apply to all proceedings under this Act, except as otherwise provided in this Act. Paragraph (g) of Section 2-1301 of the Code of Civil Procedure, and all existing and future amendments and modifications of paragraph (g) do not apply to proceedings under Sections 20-3, 20-4 and 22-4 of this Act for the sale or mortgage of real estate or an interest therein.
(Source: P.A. 82-783.)

(755 ILCS 5/1-7) (from Ch. 110 1/2, par. 1-7)
Sec. 1-7. Mispleading - representative not liable beyond assets.) No representative or his surety is chargeable beyond the assets of the estate administered by reason of any omission or mistake in pleading or any false pleading of the representative.
(Source: P.A. 79-328.)

(755 ILCS 5/1-8) (from Ch. 110 1/2, par. 1-8)
Sec. 1-8. Penalty for false affidavit.) A person who makes a false affidavit under this Act is guilty of perjury and upon conviction shall be punished as provided by the statutes of this State in relation to the crime of perjury.
(Source: P.A. 79-328.)

(755 ILCS 5/1-9) (from Ch. 110 1/2, par. 1-9)
Sec. 1-9. Act to be liberally construed.) This Act and the rules now or hereafter applicable thereto shall be liberally construed to the end that controversies and the rights of the parties may be speedily and finally determined and the rule that statutes in derogation of the common law shall be strictly construed does not apply.
(Source: P.A. 79-328.)

(755 ILCS 5/1-10) (from Ch. 110 1/2, par. 1-10)

Sec. 1-10. Partial invalidity.) The invalidity of any provision of this Act does not affect the remainder of this Act.

(Source: P.A. 79-328.)

(755 ILCS 5/1-11) (from Ch. 110 1/2, par. 1-11)

Sec. 1-11. Nonresident representative. If a representative is or becomes a nonresident of this State, the representative shall file in the court in which the estate is pending a designation of a resident agent to accept service of process, notice or demand required or permitted by law to be served upon the representative. If the representative fails to do so, the clerk of the court is constituted as agent of the representative upon whom the process, notice or demand may be served. If service is made upon the clerk of the court, the clerk of the court shall mail a copy of the process, notice or demand to the representative at the representative's last known post office address and to the representative's attorney of record.

(Source: P.A. 90-430, eff. 8-16-97; 90-472, eff. 8-17-97.)

(755 ILCS 5/Art. II heading)

ARTICLE II
DESCENT AND DISTRIBUTION

(755 ILCS 5/2-1) (from Ch. 110 1/2, par. 2-1)

Sec. 2-1. Rules of descent and distribution. The intestate real and personal estate of a resident decedent and the intestate real estate in this State of a nonresident decedent, after all just claims against his estate are fully paid, descends and shall be distributed as follows:

(a) If there is a surviving spouse and also a descendant of the decedent: 1/2 of the entire estate to the surviving spouse and 1/2 to the decedent's descendants per stirpes.

(b) If there is no surviving spouse but a descendant of the decedent: the entire estate to the decedent's descendants per stirpes.

(c) If there is a surviving spouse but no descendant of the decedent: the entire estate to the surviving spouse.

(d) If there is no surviving spouse or descendant but a parent, brother, sister or descendant of a brother or sister of the decedent: the entire estate to the parents, brothers and sisters of the decedent in equal parts, allowing to the surviving parent if one is dead a double portion and to the descendants of a deceased brother or sister per stirpes the portion which the deceased brother or

sister would have taken if living.

(e) If there is no surviving spouse, descendant, parent, brother, sister or descendant of a brother or sister of the decedent but a grandparent or descendant of a grandparent of the decedent: (1) 1/2 of the entire estate to the decedent's maternal grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes, and (2) 1/2 of the entire estate to the decedent's paternal grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes. If there is no surviving paternal grandparent or descendant of a paternal grandparent, but a maternal grandparent or descendant of a maternal grandparent of the decedent: the entire estate to the decedent's maternal grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes. If there is no surviving maternal grandparent or descendant of a maternal grandparent, but a paternal grandparent or descendant of a paternal grandparent of the decedent: the entire estate to the decedent's paternal grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes.

(f) If there is no surviving spouse, descendant, parent, brother, sister, descendant of a brother or sister or grandparent or descendant of a grandparent of the decedent: (1) 1/2 of the entire estate to the decedent's maternal great-grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes, and (2) 1/2 of the entire estate to the decedent's paternal great-grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes. If there is no surviving paternal great-grandparent or descendant of a paternal great-grandparent, but a maternal great-grandparent or descendant of a maternal great-grandparent of the decedent: the entire estate to the decedent's maternal great-grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes. If there is no surviving maternal great-grandparent or descendant of a maternal great-grandparent, but a paternal great-grandparent or descendant of a paternal great-grandparent of the decedent: the entire estate to the decedent's paternal great-grandparents in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes.

(g) If there is no surviving spouse, descendant, parent, brother, sister, descendant of a brother or sister, grandparent, descendant of a grandparent, great-grandparent or descendant of a great-grandparent of the decedent: the entire estate in equal parts to the nearest kindred of the decedent in equal degree (computing by the rules of the civil law) and without representation.

(h) If there is no surviving spouse and no known kindred of the decedent: the real estate escheats to the county in which it is located; the personal estate physically located within this State and the personal estate physically located or held outside this State which is the subject of ancillary administration of an estate being administered within this State escheats to the county of which the decedent was a resident, or, if the decedent was not a resident of this State, to the county in which it is located; all other personal property of the decedent of every class and character, wherever situate, or the proceeds thereof, shall escheat to this State and be delivered to the State Treasurer pursuant to the Uniform Disposition of Unclaimed Property Act.

In no case is there any distinction between the kindred of the whole and the half blood.

(Source: P.A. 91-16, eff. 7-1-99.)

(755 ILCS 5/2-2) (from Ch. 110 1/2, par. 2-2)

Sec. 2-2. Children born out of wedlock. The intestate real and personal estate of a resident decedent who was a child born out of wedlock at the time of death and the intestate real estate in this State of a nonresident decedent who was a child born out of wedlock at the time of death, after all just claims against his estate are fully paid, descends and shall be distributed as provided in Section 2-1, subject to Section 2-6.5 of this Act, if both parents are eligible parents. As used in this Section, "eligible parent" means a parent of the decedent who, during the decedent's lifetime, acknowledged the decedent as the parent's child, established a parental relationship with the decedent, and supported the decedent as the parent's child. "Eligible parents" who are in arrears of in excess of one year's child support obligations shall not receive any property benefit or other interest of the decedent unless and until a court of competent jurisdiction makes a determination as to the effect on the deceased of the arrearage and allows a reduced benefit. In no event shall the reduction of the benefit or other interest be less than the amount of child support owed for the support of the decedent at the time of death. The court's considerations shall include but are not limited to the considerations in subsections (1) through (3) of Section 2-6.5 of this Act.

If neither parent is an eligible parent, the intestate real and personal estate of a resident decedent who was a child born out of wedlock at the time of death and the intestate real estate in this State of a nonresident decedent who was a child born out of wedlock at the time of death, after all just claims against his or her estate are fully paid, descends and shall be distributed as provided in Section 2-1, but the parents of the decedent shall be treated as having predeceased the decedent.

If only one parent is an eligible parent, the intestate real and personal estate of a resident decedent who was a child born out of wedlock at the time of death and the intestate real estate in this State of a nonresident decedent who was a child born out of wedlock at the time of death, after all just claims against his or her estate are fully paid, subject to Section 2-6.5 of this Act, descends and shall be distributed as follows:

(a) If there is a surviving spouse and also a descendant of the decedent: 1/2 of the entire estate to the surviving spouse and 1/2 to the decedent's descendants per stirpes.

(b) If there is no surviving spouse but a descendant of the decedent: the entire estate to the decedent's descendants per stirpes.

(c) If there is a surviving spouse but no descendant of the decedent: the entire estate to the surviving spouse.

(d) If there is no surviving spouse or descendant but the eligible parent or a descendant of the eligible parent of the decedent: the entire estate to the eligible parent and the eligible parent's descendants, allowing 1/2 to the eligible parent and 1/2 to the eligible parent's descendants per stirpes.

(e) If there is no surviving spouse, descendant, eligible parent, or descendant of the eligible parent of the decedent, but a grandparent on the eligible parent's side of the family or descendant of such grandparent of the decedent: the entire estate to the decedent's grandparents on the eligible parent's side of the family in equal parts, or to the survivor of them, or if there is none surviving, to their descendants per stirpes.

(f) If there is no surviving spouse, descendant, eligible parent, descendant of the eligible parent, grandparent on the eligible parent's side of the family, or descendant of such grandparent of the decedent: the entire estate to the decedent's great-grandparents on the eligible parent's side of the family in equal parts or to the survivor of them, or if there is none surviving, to their descendants per stirpes.

(g) If there is no surviving spouse, descendant, eligible parent, descendant of the eligible parent, grandparent on the eligible parent's side of the family,

descendant of such grandparent, great-grandparent on the eligible parent's side of the family, or descendant of such great-grandparent of the decedent: the entire estate in equal parts to the nearest kindred of the eligible parent of the decedent in equal degree (computing by the rules of the civil law) and without representation.

(h) If there is no surviving spouse, descendant, or eligible parent of the decedent and no known kindred of the eligible parent of the decedent: the real estate escheats to the county in which it is located; the personal estate physically located within this State and the personal estate physically located or held outside this State which is the subject of ancillary administration within this State escheats to the county of which the decedent was a resident or, if the decedent was not a resident of this State, to the county in which it is located; all other personal property of the decedent of every class and character, wherever situate, or the proceeds thereof, shall escheat to this State and be delivered to the State Treasurer of this State pursuant to the Uniform Disposition of Unclaimed Property Act.

For purposes of inheritance, the changes made by this amendatory Act of 1998 apply to all decedents who die on or after the effective date of this amendatory Act of 1998. For the purpose of determining the property rights of any person under any instrument, the changes made by this amendatory Act of 1998 apply to all instruments executed on or after the effective date of this amendatory Act of 1998.

A child born out of wedlock is heir of his mother and of any maternal ancestor and of any person from whom his mother might have inherited, if living; and the descendants of a person who was a child born out of wedlock shall represent such person and take by descent any estate which the parent would have taken, if living. If a decedent has acknowledged paternity of a child born out of wedlock or if during his lifetime or after his death a decedent has been adjudged to be the father of a child born out of wedlock, that person is heir of his father and of any paternal ancestor and of any person from whom his father might have inherited, if living; and the descendants of a person who was a child born out of wedlock shall represent that person and take by descent any estate which the parent would have taken, if living. If during his lifetime the decedent was adjudged to be the father of a child born out of wedlock by a court of competent jurisdiction, an authenticated copy of the judgment is sufficient proof of the paternity; but in all other cases paternity must be proved by clear and convincing evidence. A person who was a child born out of wedlock whose parents intermarry and who is acknowledged by the father as the father's child is a lawful child of the father. After a child born out of wedlock is adopted, that person's relationship to his or her adopting and natural parents shall be governed by Section 2-4 of this Act. For purposes of inheritance, the changes made by this amendatory Act of 1997 apply to all decedents who die on or after January 1, 1998. For the purpose of determining the property rights of any person under any instrument, the changes made by this amendatory Act of 1997 apply to all instruments executed on or after January 1, 1998.
(Source: P.A. 94-229, eff. 1-1-06.)

(755 ILCS 5/2-3) (from Ch. 110 1/2, par. 2-3)

Sec. 2-3. Posthumous child. A posthumous child of a decedent shall receive the same share of an estate as if the child had been born in the decedent's lifetime; provided that such posthumous child shall have been in utero at the decedent's death.
(Source: P.A. 99-85, eff. 1-1-16.)

(755 ILCS 5/2-4) (from Ch. 110 1/2, par. 2-4)

Sec. 2-4. Adopted child.

(a) An adopted child is a descendant of the adopting parent for purposes of inheritance from the adopting parent and from the lineal and collateral kindred of the adopting parent and for the purpose of determining the property rights of any person under any instrument, unless the adopted child is adopted after attaining the age of 18 years and the child never resided with the adopting parent before attaining the age of 18 years, in which case the adopted child is a child of the adopting parent but is not a descendant of the adopting parent for the purposes of inheriting from the lineal or collateral kindred of the adopting parent. An adopted child and the descendants of the child who is related to a decedent through more than one line of relationship shall be entitled only to the share based on the relationship which entitles the child or descendant to the largest share. The share to which the child or descendant is not entitled shall be distributed in the same manner as if the child or descendant never existed. For purposes of inheritance, the changes made by this amendatory Act of 1997 apply to all decedents who die on or after January 1, 1998. For the purpose of determining the property rights of any person under any instrument, the changes made by this amendatory Act of 1997 apply to all instruments executed on or after January 1, 1998.

(b) An adopting parent and the lineal and collateral kindred of the adopting parent shall inherit property from an adopted child to the exclusion of the natural parent and the lineal and collateral kindred of the natural parent in the same manner as though the adopted child were a natural child of the adopting parent, except that the natural parent and the lineal or collateral kindred of the natural parent shall take from the child and the child's kindred the property that the child has taken from or through the natural parent or the lineal or collateral kindred of the natural parent by gift, by will or under intestate laws.

(c) For purposes of inheritance from the child and his or her kindred (1) the person who at the time of the adoption is the spouse of an adopting parent is an adopting parent and (2) a child is adopted when the child has been or is declared by any court to have been adopted or has been or is declared or assumed to be the adopted child of the testator or grantor in any instrument bequeathing or giving property to the child.

(d) For purposes of inheritance from or through a natural parent and for determining the property rights of any person under any instrument, an adopted child is not a child of a natural parent, nor is the child a descendant of a natural parent or of any lineal or collateral kindred of a natural parent, unless one or more of the following conditions apply:

(1) The child is adopted by a descendant or a spouse of a descendant of a great-grandparent of the child, in which case the adopted child is a child of both natural parents.

(2) A natural parent of the adopted child died before the child was adopted, in which case the adopted child is a child of that deceased parent and an heir of the lineal and collateral kindred of that deceased parent.

(3) The contrary intent is demonstrated by the terms of the instrument by clear and convincing evidence.

An heir of an adopted child who, by reason of this subsection (d), is not a child of a natural parent is also not an heir of that natural parent or of the lineal or collateral kindred of that natural parent. A fiduciary who has actual knowledge that a person has been adopted, but who has no actual knowledge that any of paragraphs (1), (2), or (3) of this subsection apply to the adoption, shall have

no liability for any action taken or omitted in good faith on the assumption that the person is not a descendant or heir of the natural parent. The preceding sentence is intended to affect only the liability of the fiduciary and shall not affect the property rights of any person.

For purposes of inheritance, the changes made by this amendatory Act of 1997 apply to all decedents who die on or after January 1, 1998. For the purpose of determining the property rights of any person under any instrument, the changes made by this amendatory Act of 1997 apply to all instruments executed on or after January 1, 1998.

(e) For the purpose of determining the property rights of any person under any instrument executed on or after September 1, 1955, an adopted child is deemed a child born to the adopting parent unless the contrary intent is demonstrated by the terms of the instrument by clear and convincing evidence.

(f) After September 30, 1989, a child adopted at any time before or after that date is deemed a child born to the adopting parent for the purpose of determining the property rights of any person under any instrument executed before September 1, 1955, unless one or more of the following conditions applies:

(1) The intent to exclude such child is demonstrated by the terms of the instrument by clear and convincing evidence.

(2) An adopting parent of an adopted child, in the belief that the adopted child would not take property under an instrument executed before September 1, 1955, acted to substantially benefit such adopted child when compared to the benefits conferred by such parent on the child or children born to the adopting parent. For purposes of this paragraph:

(i) "Acted" means that the adopting parent made one or more gifts during life requiring the filing of a federal gift tax return or at death (including gifts which take effect at death), or exercised or failed to exercise powers of appointment or other legal rights, or acted or failed to act in any other way.

(ii) Any action which substantially benefits the adopted child shall be presumed to have been made in such a belief unless a contrary intent is demonstrated by clear and convincing evidence.

(g) No fiduciary or other person shall be liable to any other person for any action taken or benefit received prior to October 1, 1989, under any instrument executed before September 1, 1955, that was based on a good faith interpretation of Illinois law regarding the right of adopted children to take property under such an instrument.

(h) No fiduciary under any instrument executed before September 1, 1955, shall have any obligation to determine whether any adopted child has become a taker under such instrument due to the application of subsection (f) unless such fiduciary has received, on or before the "notice date", as defined herein, written evidence that such adopted child has become a taker of property. A fiduciary who has received such written evidence shall determine in good faith whether or not any of the conditions specified in subsection (f) exists but shall have no obligation to inquire further into whether such adopted child is a taker of property pursuant to such subsection. Such written evidence shall include a sworn statement by the adopted child or his or her parent or guardian that such child is adopted and to the best of the knowledge and belief of such adopted child or such parent or guardian, none of the conditions specified in such subsection exists. The "notice date" shall be the later of February 1, 1990, or the expiration of 90 days after the date on which the adopted child becomes a taker of property pursuant to the terms of any instrument executed before September 1, 1955.

(i) A fiduciary shall advise all persons known to him or her to be subject to these provisions of the existence of the right to commence a judicial proceeding to prevent the adopted child from being a taker of property under the instrument.
(Source: P.A. 90-237, eff. 1-1-98.)

(755 ILCS 5/2-5) (from Ch. 110 1/2, par. 2-5)

Sec. 2-5. Advancements.) (a) In the division and distribution of the estate of an intestate decedent, real or personal estate given by him in his lifetime as an advancement to a descendant is considered as part of the decedent's estate to be applied on the share of the person to whom the advancement was made or, if he died before the decedent, on the share of the descendants of the person to whom the advancement was made. A gift is not an advancement unless so expressed in writing by the decedent or unless so acknowledged in writing by the person to whom the gift was made.

(b) If the value of the advancement is expressed in the writing made by the decedent or, if not so expressed, in the written acknowledgment by the person to whom the advancement was made, it shall be considered as of that value; otherwise it shall be considered as of the value when given. The person to whom the advancement was made shall not be required to refund any part of it, although it exceeds his share in the entire estate.

(Source: P.A. 79-328.)

(755 ILCS 5/2-6) (from Ch. 110 1/2, par. 2-6)

Sec. 2-6. Person causing death. A person who intentionally and unjustifiably causes the death of another shall not receive any property, benefit, or other interest by reason of the death, whether as heir, legatee, beneficiary, joint tenant, survivor, appointee or in any other capacity and whether the property, benefit, or other interest passes pursuant to any form of title registration, testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance. The property, benefit, or other interest shall pass as if the person causing the death died before the decedent, provided that with respect to joint tenancy property the interest possessed prior to the death by the person causing the death shall not be diminished by the application of this Section. A determination under this Section may be made by any court of competent jurisdiction separate and apart from any criminal proceeding arising from the death, provided that no such civil proceeding shall proceed to trial nor shall the person be required to submit to discovery in such civil proceeding until such time as any criminal proceeding has been finally determined by the trial court or, in the event no criminal charge has been brought, prior to one year after the date of death. A person convicted of first degree murder or second degree murder of the decedent is conclusively presumed to have caused the death intentionally and unjustifiably for purposes of this Section.

The holder of any property subject to the provisions of this Section shall not be liable for distributing or releasing said property to the person causing the death if such distribution or release occurs prior to a determination made under this Section.

If the holder of any property subject to the provisions of this Section knows or has reason to know that a potential beneficiary caused the death of a person within the scope of this Section, the holder shall fully cooperate with law enforcement authorities and judicial officers in connection with any investigation of such death.

(Source: P.A. 86-749.)

(755 ILCS 5/2-6.2)

Sec. 2-6.2. Financial exploitation, abuse, or neglect of an elderly person or a person with a disability.

(a) In this Section:

"Abuse" means any offense described in Section 12-21 or subsection (b) of Section 12-4.4a of the Criminal Code of 1961 or the Criminal Code of 2012.

"Financial exploitation" means any offense or act described or defined in Section 16-1.3 or 17-56 of the Criminal Code of 1961 or the Criminal Code of 2012, and, in the context of civil proceedings, the taking, use, or other misappropriation of the assets or resources of an elderly person or a person with a disability contrary to law, including, but not limited to, misappropriation of assets or resources by undue influence, breach of a fiduciary relationship, fraud, deception, extortion, and conversion.

"Neglect" means any offense described in Section 12-19 or subsection (a) of Section 12-4.4a of the Criminal Code of 1961 or the Criminal Code of 2012.

(b) Persons convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability or persons who have been found by a preponderance of the evidence to be civilly liable for financial exploitation shall not receive any property, benefit, or other interest by reason of the death of that elderly person or person with a disability, whether as heir, legatee, beneficiary, survivor, appointee, claimant under Section 18-1.1, or in any other capacity and whether the property, benefit, or other interest passes pursuant to any form of title registration, testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance. Except as provided in subsection (f) of this Section, the property, benefit, or other interest shall pass as if the person convicted of the financial exploitation, abuse, or neglect or person found civilly liable for financial exploitation died before the decedent, provided that with respect to joint tenancy property the interest possessed prior to the death by the person convicted of the financial exploitation, abuse, or neglect shall not be diminished by the application of this Section. Notwithstanding the foregoing, a person convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability or a person who has been found by a preponderance of the evidence to be civilly liable for financial exploitation shall be entitled to receive property, a benefit, or an interest in any capacity and under any circumstances described in this subsection (b) if it is demonstrated by clear and convincing evidence that the victim of that offense knew of the conviction or finding of civil liability and subsequent to the conviction or finding of civil liability expressed or ratified his or her intent to transfer the property, benefit, or interest to the person convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability or the person found by a preponderance of the evidence to be civilly liable for financial exploitation in any manner contemplated by this subsection (b).

(c)(1) The holder of any property subject to the provisions of this Section shall not be liable for distributing or releasing the property to the person convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability or the person who has been found by a preponderance of the evidence to be civilly liable for financial exploitation if the distribution or release occurs prior to the conviction or finding of civil liability.

(2) If the holder is a financial institution, trust company, trustee, or similar entity or person, the holder shall not be liable for any distribution or release of the property, benefit, or other interest to the person convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of

Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or the person who has been found by a preponderance of the evidence to be civilly liable for financial exploitation unless the holder knowingly distributes or releases the property, benefit, or other interest to the person so convicted or found civilly liable after first having received actual written notice of the conviction in sufficient time to act upon the notice.

(d) If the holder of any property subject to the provisions of this Section knows that a potential beneficiary has been convicted of financial exploitation, abuse, or neglect of an elderly person or a person with a disability or has been found by a preponderance of the evidence to be civilly liable for financial exploitation within the scope of this Section, the holder shall fully cooperate with law enforcement authorities and judicial officers in connection with any investigation of the financial exploitation, abuse, or neglect. If the holder is a person or entity that is subject to regulation by a regulatory agency pursuant to the laws of this or any other state or pursuant to the laws of the United States, including but not limited to the business of a financial institution, corporate fiduciary, or insurance company, then such person or entity shall not be deemed to be in violation of this Section to the extent that privacy laws and regulations applicable to such person or entity prevent it from voluntarily providing law enforcement authorities or judicial officers with information.

(e) A civil action against a person for financial exploitation may be brought by an interested person, pursuant to this Section, after the death of the victim or during the lifetime of the victim if the victim is adjudicated a person with a disability. A guardian is under no duty to bring a civil action under this subsection during the ward's lifetime, but may do so if the guardian believes it is in the best interests of the ward.

(f) The court may, in its discretion, consider such facts and circumstances as it deems appropriate to allow the person found civilly liable for financial exploitation to receive a reduction in interest or benefit rather than no interest or benefit as stated under subsection (b) of this Section.

(Source: P.A. 98-833, eff. 8-1-14; 99-143, eff. 7-27-15.)

(755 ILCS 5/2-6.5)

Sec. 2-6.5. Parent neglecting child. A parent who, for a period of one year or more immediately before the death of the parent's minor or dependent child, has willfully neglected or failed to perform any duty of support owed to the minor or dependent child or who, for a period of one year or more, has willfully deserted the minor or dependent child shall not receive any property, benefit, or other interest by reason of the death, whether as heir, legatee, beneficiary, survivor, appointee, or in any other capacity (other than joint tenant) and whether the property, benefit, or other interest passes pursuant to any form of title registration (other than joint tenancy), testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance, unless and until a court of competent jurisdiction makes a determination as to the effect on the deceased minor or dependent child of the parent's neglect, failure to perform any duty of support owed to the minor or dependent child, or willful desertion of the minor or dependent child and allows a reduced benefit or other interest that the parent was to receive by virtue of the death of the minor or dependent child, as the interests of justice require. In no event shall the reduction of the benefit or other interest be less than the amount of child support owed to the minor or dependent child at the time of the death of the minor or dependent child. The court's considerations in determining the amount to be deducted from the parent's

award shall include, but not be limited to:

(1) the deceased minor's or dependent child's loss of opportunity as a result of the parent's willful neglect, failure to perform any duty of support owed to the minor or dependent child, or willful desertion of the minor or dependent child;

(2) the effect of the parent's willful neglect, failure to perform any duty of support owed to the minor or dependent child, or willful desertion of the minor or dependent child on the deceased minor's or dependent child's overall quality of life; and

(3) the ability of the parent to avoid the willful neglect, failure to perform any duty of support owed to the minor or dependent child, or willful desertion of the minor or dependent child.

A determination under this Section may be made by any court of competent jurisdiction separate and apart from any civil or criminal proceeding arising from the duty of support owed to or desertion of the minor or dependent child. A petition for adjudication of an allegation under this Section must be filed within 6 months after the date of the death of the minor or dependent child.

The holder of any property subject to the provisions of this Section shall not be liable for distributing, releasing, or transferring the property to the person who neglected, failed to perform any duty of support owed to the minor or dependent child, or willfully deserted the minor or dependent child if the distribution or release occurs before a determination has been made under this Section or if the holder of the property has not received written notification of the determination before the distribution or release, accompanied by a certified copy of the determination.

If the property in question is an interest in real property, that interest may be distributed, released, or transferred at any time by a holder of property, the parent, or any other person or entity before a determination is made under this Section and a certified copy of that determination is recorded in the office of the recorder in the county in which the real property is located. The document to be recorded must include the title of the action or proceeding, the parties to the action or proceeding, the court in which the action or proceeding was brought, the date of the determination, and the legal description, permanent index number, and common address of the real property. If a certified copy of the determination is not recorded within 6 months of the date of the determination, any subsequent recording of a certified copy of the determination does not act to prevent the distribution, release, or transfer of real property to any person or entity, including the neglectful parent.

(Source: P.A. 88-631, eff. 9-9-94.)

(755 ILCS 5/2-6.6)

Sec. 2-6.6. Person convicted of or found civilly liable for certain offenses against the elderly or a person with a disability.

(a) A person who is convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or a person who has been found by a preponderance of the evidence to be civilly liable for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, may not receive any property, benefit, or other interest by reason of the death of the victim of that offense, whether as heir, legatee, beneficiary, joint tenant, tenant by the entirety, survivor, appointee, or in any other capacity and whether the property, benefit, or other interest passes pursuant to any form of title registration, testamentary or nontestamentary instrument, intestacy, renunciation, or any other circumstance.

Except as provided in subsection (f) of this Section, the property, benefit, or other interest shall pass as if the person convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or the person found by a preponderance of the evidence to be civilly liable for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, died before the decedent; provided that with respect to joint tenancy property or property held in tenancy by the entirety, the interest possessed prior to the death by the person convicted or found civilly liable may not be diminished by the application of this Section. Notwithstanding the foregoing, a person convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or a person who has been found by a preponderance of the evidence to be civilly liable for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, shall be entitled to receive property, a benefit, or an interest in any capacity and under any circumstances described in this Section if it is demonstrated by clear and convincing evidence that the victim of that offense knew of the conviction or finding of civil liability and subsequent to the conviction or finding of civil liability expressed or ratified his or her intent to transfer the property, benefit, or interest to the person convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or the person found by a preponderance of the evidence to be civilly liable for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, in any manner contemplated by this Section.

(b) The holder of any property subject to the provisions of this Section is not liable for distributing or releasing the property to the person convicted of violating Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or to the person found by a preponderance of the evidence to be civilly liable for financial exploitation as defined in subsection (a) of Section 2-6.2 of this Act.

(c) If the holder is a financial institution, trust company, trustee, or similar entity or person, the holder shall not be liable for any distribution or release of the property, benefit, or other interest to the person convicted of a violation of Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012 or person found by a preponderance of the evidence to be civilly liable for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, unless the holder knowingly distributes or releases the property, benefit, or other interest to the person so convicted or found civilly liable after first having received actual written notice of the conviction or finding of civil liability in sufficient time to act upon the notice.

(d) The Department of State Police shall have access to State of Illinois databases containing information that may help in the identification or location of persons convicted of or found civilly liable for the offenses enumerated in this Section. Interagency agreements shall be implemented, consistent with security and procedures established by the State agency and consistent with the laws governing the confidentiality of the information in the databases. Information shall be used only for administration of this Section.

(e) A civil action against a person for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, may be brought by an interested person, pursuant to this Section, after the death of the victim or during the lifetime of the victim if the victim is adjudicated a person with a disability. A guardian is under no duty to bring a civil action under this subsection during the ward's lifetime, but may do so if the guardian believes it is in the best interests of the ward.

(f) The court may, in its discretion, consider such facts and circumstances as it deems appropriate to allow the person convicted or found civilly liable for financial exploitation, as defined in subsection (a) of Section 2-6.2 of this Act, to receive a reduction in interest or benefit rather than no interest or benefit as stated under subsection (a) of this Section.
(Source: P.A. 98-833, eff. 8-1-14; 99-143, eff. 7-27-15.)

(755 ILCS 5/2-7) (from Ch. 110 1/2, par. 2-7)

Sec. 2-7. Disclaimer. (a) Right to Disclaim Interest in Property. A person to whom any property or interest therein passes, by whatever means, may disclaim the property or interest in whole or in part by delivering or filing a written disclaimer as hereinafter provided. A disclaimer may be of a fractional share or undivided interest, a specifically identifiable asset, portion or amount, any limited interest or estate or any property or interest derived through right of survivorship. A power (as defined in "An Act Concerning Termination of Powers", approved May 25, 1943, as amended) with respect to property shall be deemed to be an interest in such property.

The representative of a decedent or ward may disclaim on behalf of the decedent or ward with leave of court. The court may approve the disclaimer by a representative of a decedent if it finds that the disclaimer benefits the estate as a whole and those interested in the estate generally even if the disclaimer alters the distribution of the property, part or interest disclaimed. The court may approve the disclaimer by a representative of a ward if it finds that it benefits those interested in the estate generally and is not materially detrimental to the interests of the ward. A disclaimer by a representative of a decedent or ward may be made without leave of court if a will or other instrument signed by the decedent or ward designating the representative specifically authorizes the representative to disclaim without court approval.

The right to disclaim granted by this Section exists irrespective of any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction.

(b) Form of Disclaimer. The disclaimer shall (1) describe the property or part or interest disclaimed, (2) be signed by the disclaimant or his representative and (3) declare the disclaimer and the extent thereof.

(c) Delivery of Disclaimer. The disclaimer shall be delivered to the transferor or donor or his representative, or to the trustee or other person who has legal title to the property, part or interest disclaimed, or, if none of the foregoing is readily determinable, shall be either delivered to a person having possession of the property, part or interest or who is entitled thereto by reason of the disclaimer, or filed or recorded as hereinafter provided. In the case of an interest passing by reason of the death of any person, an executed counterpart of the disclaimer may be filed with the clerk of the circuit court in the county in which the estate of the decedent is administered, or, if administration has not been commenced, in which it could be commenced. If an interest in real property is disclaimed, an executed counterpart of the disclaimer may be recorded in the office of the recorder in the county in which the real estate lies, or, if the title to the real estate is registered under "An Act concerning land titles", approved May 1, 1897, as amended, may be filed in the office of the registrar of titles of such county.

(d) Effect of Disclaimer. Unless expressly provided otherwise in an instrument transferring the property or creating the interest disclaimed, the property, part or interest disclaimed shall descend or be distributed (1) if a present interest (a) in the case of a transfer by reason of the death of any person, as if the

disclaimant had predeceased the decedent; (b) in the case of a transfer by revocable instrument or contract, as if the disclaimant had predeceased the date the maker no longer has the power to transfer to himself or another the entire legal and equitable ownership of the property or interest; or (c) in the case of any other inter vivos transfer, as if the disclaimant had predeceased the date of the transfer; and (2) if a future interest, as if the disclaimant had predeceased the event which determines that the taker of the property or interest has become finally ascertained and his interest has become indefeasibly fixed both in quality and quantity; and in each case the disclaimer shall relate back to such date for all purposes.

A disclaimer of property or an interest in property shall not preclude any disclaimant from receiving the same property in another capacity or from receiving other interests in the property to which the disclaimer relates.

Unless expressly provided otherwise in an instrument transferring the property or creating the interest disclaimed, a future interest limited to take effect at or after the termination of the estate or interest disclaimed shall accelerate and take effect in possession and enjoyment to the same extent as if the disclaimant had died before the date to which the disclaimer relates back.

A disclaimer made pursuant to this Section shall be irrevocable and shall be binding upon the disclaimant and all persons claiming by, through or under the disclaimant.

(e) Waiver and Bar. The right to disclaim property or a part thereof or an interest therein shall be barred by (1) a judicial sale of the property, part or interest before the disclaimer is effected; (2) an assignment, conveyance, encumbrance, pledge, sale or other transfer of the property, part or interest, or a contract therefor, by the disclaimant or his representative; (3) a written waiver of the right to disclaim; or (4) an acceptance of the property, part or interest by the disclaimant or his representative. Any person may presume, in the absence of actual knowledge to the contrary, that a disclaimer delivered or filed as provided in this Section is a valid disclaimer which is not barred by the preceding provisions of this paragraph.

A written waiver of the right to disclaim may be made by any person or his representative and an executed counterpart of a waiver of the right to disclaim may be recorded or filed, all in the same manner as provided in this Section with respect to a disclaimer.

In every case, acceptance must be affirmatively proved in order to constitute a bar to a disclaimer. An acceptance of property or an interest in property shall include the taking of possession, the acceptance of delivery or the receipt of benefits of the property or interest; except that (1) in the case of an interest in joint tenancy with right of survivorship such acceptance shall extend only to the fractional share of such property or interest determined by dividing the number one by the number of joint tenants, and (2) in the case of a ward, such acceptance shall extend only to property actually received by or on behalf of the ward or his representative during his minority or incapacity. The mere lapse of time or creation of an interest, in joint tenancy with right of survivorship or otherwise, with or without knowledge of the interest on the part of the disclaimant, shall not constitute acceptance for purposes of this Section.

This Section does not abridge the right of any person to assign, convey, release, renounce or disclaim any property or interest therein arising under any other statute or which arose under prior law.

Any interest in real or personal property which exists on or after the effective date of this Section may be disclaimed after that date in the manner provided herein, but no interest which has arisen prior to that date in any person other than the disclaimant shall be destroyed or diminished by any action of the disclaimant taken pursuant to this Section.

(Source: P.A. 83-1362.)

(755 ILCS 5/2-8) (from Ch. 110 1/2, par. 2-8)

Sec. 2-8. Renunciation of will by spouse.)

(a) If a will is renounced by the testator's surviving spouse, whether or not the will contains any provision for the benefit of the surviving spouse, the surviving spouse is entitled to the following share of the testator's estate after payment of all just claims: 1/3 of the entire estate if the testator leaves a descendant or 1/2 of the entire estate if the testator leaves no descendant.

(b) In order to renounce a will, the testator's surviving spouse must file in the court in which the will was admitted to probate a written instrument signed by the surviving spouse and declaring the renunciation. The time of filing the instrument is: (1) within 7 months after the admission of the will to probate or (2) within such further time as may be allowed by the court if, within 7 months after the admission of the will to probate or before the expiration of any extended period, the surviving spouse files a petition therefor setting forth that litigation is pending that affects the share of the surviving spouse in the estate. The filing of the instrument is a complete bar to any claim of the surviving spouse under the will.

(c) If a will is renounced in the manner provided by this Section, any future interest which is to take effect in possession or enjoyment at or after the termination of an estate or other interest given by the will to the surviving spouse takes effect as though the surviving spouse had predeceased the testator, unless the will expressly provides that in case of renunciation the future interest shall not be accelerated.

(d) If a surviving spouse of the testator renounces the will and the legacies to other persons are thereby diminished or increased in value, the court, upon settlement of the estate, shall abate from or add to the legacies in such a manner as to apportion the loss or advantage among the legatees in proportion to the amount and value of their legacies.

(Source: P.A. 79-328.)

(755 ILCS 5/2-9) (from Ch. 110 1/2, par. 2-9)

Sec. 2-9. Dower and Curtesy.) There is no estate of dower or curtesy. All inchoate rights to elect to take dower existing on January 1, 1972, are extinguished.

(Source: P.A. 80-808.)

(755 ILCS 5/Art. III heading)

ARTICLE III
SIMULTANEOUS DEATHS

(755 ILCS 5/3-1) (from Ch. 110 1/2, par. 3-1)

Sec. 3-1. No sufficient evidence of survivorship.) If the title to property or its devolution depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously and there is no other provision in the will, trust agreement, deed, contract of insurance or other governing instrument for distribution of the property different from the provisions of this Section:

(a) The property of each person shall be disposed of as if he had survived.

(b) If 2 or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property, the property so disposed of shall be divided into as many equal portions as there are successive beneficiaries and these portions shall be distributed respectively to those who would have taken if each designated beneficiary had survived.

(c) If 2 persons hold title to property as joint tenants, the property shall be distributed 1/2 as if one had survived and 1/2 as if the other had survived. If there are more than 2 joint tenants and all of them have so died, the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants.

(d) If the insured and the beneficiary of a policy of life or accident insurance have so died, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

(Source: P.A. 79-328.)

(755 ILCS 5/3-2) (from Ch. 110 1/2, par. 3-2)

Sec. 3-2. Uniformity of interpretation.) This Article shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states which enact similar statutes.

(Source: P.A. 79-328.)

(755 ILCS 5/Art. IV heading)

ARTICLE IV
WILLS

(755 ILCS 5/4-1) (from Ch. 110 1/2, par. 4-1)

Sec. 4-1. Capacity of testator.

(a) Every person who has attained the age of 18 years and is of sound mind and memory has power to bequeath by will the real and personal estate which he has at the time of his death.

(b) Except as stated herein, there is a rebuttable presumption that a will or codicil is void if it was executed or modified after the testator is adjudicated disabled under Article XIa of this Act and either (1) a plenary guardian has been appointed for the testator under subsection (c) of Section 11a-12 of this Act or (2) a limited guardian has been appointed for the testator under subsection (b) of Section 11a-12 of this Act and the court has found that the testator lacks testamentary capacity. The rebuttable presumption is overcome by clear and convincing evidence that the testator had the capacity to execute the will or codicil at the time the will or codicil was executed. The rebuttable presumption does not apply if the will or codicil was completed in compliance with subsection (d-5) of Section lla-18 of this Act. This subsection (b) applies only to wills or codicils executed or modified after the effective date of this amendatory Act of the 99th General Assembly.
(Source: P.A. 99-302, eff. 1-1-16.)

(755 ILCS 5/4-2) (from Ch. 110 1/2, par. 4-2)

Sec. 4-2. Testamentary powers of appointment. This Section applies only to powers of appointment exercisable by a will.

(a) Capacity of holder of power. A power of appointment under a will which is not subject to an express condition that it may be exercised only by a holder of a greater age may be exercised by a holder who has attained the age of 18 years.

(b) Manner of exercise of power. Unless the contrary intent is evidenced by the terms of the instrument creating or limiting a power of appointment, a donee of a power of appointment may (1) make appointments of present or future interests or both; (2) make appointments with conditions and limitations; (3) make appointments with restraints on alienation upon the appointed interests; (4) make appointments of interests to a trustee for the benefit of one or more objects of the power; (5) make appointments that create in the object of the power additional powers of appointment to permissible objects of the power of appointment pursuant to which such powers are created; and (6) if the donee could appoint outright to the object of a power, make appointments that create in the object of the power additional powers of appointment and such powers of appointment may be exercisable in favor of such persons or entities as the person creating such power may direct, even though the objects of such powers of appointment may not have been permissible objects of the power of appointment pursuant to which such powers are created.

(c) Disposition of trust property subject to power. In disposing of trust property subject to a power of appointment exercisable by will, a trustee acting in good faith shall have no liability to any appointee or taker in default of appointment for relying upon a will believed to be the will of the donee of the power of appointment, for assuming that there is no will in the absence of actual knowledge thereof within 3 months after the death of the donee, or for requiring that any will purporting to exercise a power of appointment be admitted to probate. The trustee's action in accordance with the preceding sentence shall not affect the rights of any appointee or taker in default of appointment to recover the distributed property from any person to whom the trustee shall have made distribution.

(d) Applicability. This amendatory Act of 1995 shall be construed as being declarative of existing law and shall apply to all instruments granting general and special powers of appointment and all wills exercising those powers, whether existing or exercised before, on, or after the effective date of this amendatory Act of 1995, except that no trustee shall be liable to any person in whose favor a power of appointment may have been exercised for any distribution of property made to persons entitled to take in default of the effective exercise of the power of

appointment to the extent that the distribution shall have been completed prior to the effective date of this amendatory Act of 1995.
(Source: P.A. 89-364, eff. 8-18-95.)

(755 ILCS 5/4-3) (from Ch. 110 1/2, par. 4-3)
Sec. 4-3. Signing and attestation.
(a) Every will shall be in writing, signed by the testator or by some person in his presence and by his direction and attested in the presence of the testator by 2 or more credible witnesses.
(b) A will that qualifies as an international will under the Uniform International Wills Act is considered to meet all the requirements of subsection (a).
(Source: P.A. 86-1291.)

(755 ILCS 5/4-4) (from Ch. 110 1/2, par. 4-4)
Sec. 4-4. Testamentary additions to trusts.) By a will signed and attested as provided in this Act a testator may bequeath or appoint real and personal estate to a trustee of a trust evidenced by an instrument, including the will of another who predeceases the testator, which is in existence when the testator's will is made and which is identified in the testator's will, even though the trust is subject to amendment, modification, revocation or termination. Unless the testator's will provides otherwise, the estate so bequeathed or appointed shall be governed by the terms and provisions of the instrument creating the trust, including any amendments or modifications in writing made at any time before or after the execution of the testator's will and before, or after if the testator's will so directs, the death of the testator. The existence, size or character of the corpus of the trust is immaterial to the validity of the bequest. If the trust is terminated prior to the testator's death by revocation of the trust or by revocation of that portion of the instrument creating the trust, the bequest or appointment shall take effect according to the terms and provisions of the instrument creating the trust as they existed at the time of the termination, unless the testator's will otherwise provides.
(Source: P.A. 80-759.)

(755 ILCS 5/4-5) (from Ch. 110 1/2, par. 4-5)
Sec. 4-5. Insurance and death benefits payable to testamentary trustee.) A person having the right to designate a beneficiary of benefits payable under any insurance, annuity or endowment contract (including any agreement issued or entered into by an insurance company in connection therewith, supplemental thereto or in settlement thereof), or the right to designate the beneficiary of benefits payable upon or after the death of a person under any pension, retirement, death benefit, deferred compensation, employment, agency, stock bonus or profit sharing contract, plan, system or trust, may designate as a beneficiary a trustee named or to be named in his will whether or not the will is in existence at the time of the designation. The benefits received by the trustee shall be held and disposed of as

part of the trust estate under the terms of the will. If no qualified trustee makes claim to the benefits within 18 months after the death of the decedent or if within that period it is established that no trustee can qualify to receive the benefits, payment shall be made to the representative of the estate of the person making the designation, unless it is otherwise provided by a beneficiary designation or by the policy or other controlling agreement. The benefits received by the trustee shall not be subject to claims or other charges enforceable against the estate or to estate or inheritance taxes (including interest and penalties thereon) to any greater extent than if the benefits were payable to a named beneficiary other than the estate of the person making the designation, and in the case of benefits which otherwise qualify for exclusion from the gross estate for federal estate tax purposes, such benefits shall not be used by or for the benefit of the estate of the decedent.
(Source: P.A. 79-328; 79-711; 79-1454.)

(755 ILCS 5/4-6) (from Ch. 110 1/2, par. 4-6)

Sec. 4-6. Beneficiary or creditor as witness.) (a) If any beneficial legacy or interest is given in a will to a person attesting its execution or to his spouse, the legacy or interest is void as to that beneficiary and all persons claiming under him, unless the will is otherwise duly attested by a sufficient number of witnesses as provided by this Article exclusive of that person and he may be compelled to testify as if the legacy or interest had not been given, but the beneficiary is entitled to receive so much of the legacy or interest given to him by the will as does not exceed the value of the share of the testator's estate to which he would be entitled were the will not established.

(b) No individual or corporation is disqualified to act or to receive compensation for acting in any fiduciary capacity with respect to a will of a decedent by reason of the fact that any employee or partner of such individual or any employee or shareholder of such corporation attests the execution of the will or testifies thereto. No attorney or partnership of attorneys is disqualified to act or to receive compensation for acting as attorney for any fiduciary by reason of the fact that the attorney or any employee or partner of the attorney or partnership attests the execution of the will or testifies thereto.

(c) If real or personal estate is charged with any debt by a will and the creditor whose debt is so secured attests the execution of the will, the creditor may testify to its execution.
(Source: P.A. 79-328.)

(755 ILCS 5/4-7) (from Ch. 110 1/2, par. 4-7)

Sec. 4-7. Revocation - revival.) (a) A will may be revoked only (1) by burning, cancelling, tearing or obliterating it by the testator himself or by some person in his presence and by his direction and consent, (2) by the execution of a later will declaring the revocation, (3) by a later will to the extent that it is inconsistent with the prior will or (4) by the execution of an instrument declaring the revocation and signed and attested in the manner prescribed by this Article for the signing and attestation of a will.

(b) No will or any part thereof is revoked by any change in the circumstances, condition or marital status of the testator, except that dissolution of marriage or declaration of invalidity of the marriage of the testator revokes every legacy or

interest or power of appointment given to or nomination to fiduciary office of the testator's former spouse in a will executed before the entry of the judgment of dissolution of marriage or declaration of invalidity of marriage and the will takes effect in the same manner as if the former spouse had died before the testator.

(c) A will which is totally revoked in any manner is not revived other than by its re-execution or by an instrument declaring the revival and signed and attested in the manner prescribed by this Article for the signing and attestation of a will. If a will is partially revoked by an instrument which is itself revoked, the revoked part of the will is revived and takes effect as if there had been no revocation.

(Source: P.A. 81-230.)

(755 ILCS 5/4-8) (from Ch. 110 1/2, par. 4-8)

Sec. 4-8. Contract for sale.) If after making his will the testator makes a contract for the sale or transfer of real or personal property specifically bequeathed therein and the whole or any part of the contract remains executory at his death, the disposition of the property by the contract does not revoke the bequest but the property passes to the legatee subject to the contract.

(Source: P.A. 79-328.)

(755 ILCS 5/4-9) (from Ch. 110 1/2, par. 4-9)

Sec. 4-9. Effect of alteration. An addition to a will or an alteration, substitution, interlineation or deletion of any part of a will which does not constitute a revocation of a will is of no effect, unless made by the testator or by some person in his presence and by his direction and consent and unless the will is thereafter signed and attested in the manner prescribed by this Article for the execution of a will.

(Source: P.A. 81-1509.)

(755 ILCS 5/4-10) (from Ch. 110 1/2, par. 4-10)

Sec. 4-10. Effect of child born after will.) Unless provision is made in the will for a child of the testator born after the will is executed or unless it appears by the will that it was the intention of the testator to disinherit the child, the child is entitled to receive the portion of the estate to which he would be entitled if the testator died intestate and all legacies shall abate proportionately therefor.

(Source: P.A. 79-328.)

(755 ILCS 5/4-11) (from Ch. 110 1/2, par. 4-11)

Sec. 4-11. Legacy to a deceased legatee.) Unless the testator expressly provides otherwise in his will, (a) if a legacy of a present or future interest is

to a descendant of the testator who dies before or after the testator, the descendants of the legatee living when the legacy is to take effect in possession or enjoyment, take per stirpes the estate so bequeathed; (b) if a legacy of a present or future interest is to a class and any member of the class dies before or after the testator, the members of the class living when the legacy is to take effect in possession or enjoyment take the share or shares which the deceased member would have taken if he were then living, except that if the deceased member of the class is a descendant of the testator, the descendants of the deceased member then living shall take per stirpes the share or shares which the deceased member would have taken if he were then living; and (c) except as above provided in (a) and (b), if a legacy lapses by reason of the death of the legatee before the testator, the estate so bequeathed shall be included in and pass as part of the residue under the will, and if the legacy is or becomes part of the residue, the estate so bequeathed shall pass to and be taken by the legatees or those remaining, if any, of the residue in proportions and upon estates corresponding to their respective interests in the residue. The provisions of (a) and (b) do not apply to a future interest which is or becomes indefeasibly vested at the testator's death or at any time thereafter before it takes effect in possession or enjoyment.
(Source: P.A. 79-328.)

(755 ILCS 5/4-13) (from Ch. 110 1/2, par. 4-13)

Sec. 4-13. Effect of order admitting will to probate.) Every will when admitted to probate as provided by this Act is effective to transfer the real and personal estate of the testator bequeathed in that will.
(Source: P.A. 79-328.)

(755 ILCS 5/4-14) (from Ch. 110 1/2, par. 4-14)

Sec. 4-14. Intestate estate of testator.) The real and personal estate of a testator that is not bequeathed by his will descends and shall be distributed as intestate estate.
(Source: P.A. 79-328.)

(755 ILCS 5/4-15) (from Ch. 110 1/2, par. 4-15)

Sec. 4-15. Debtor as executor.) The appointment of the debtor of the testator as executor of his will does not extinguish any debt due from the executor to the testator, unless the testator in the will expressly declares his intention to extinguish the debt and unless the estate of the testator without collection of the debt due from the executor is sufficient to discharge all claims against the testator's estate.
(Source: P.A. 79-328.)

(755 ILCS 5/Art. IVa heading)

ARTICLE IVa

PRESUMPTIVELY VOID TRANSFERS

(Source: P.A. 98-1093, eff. 1-1-15.)

(755 ILCS 5/4a-5)

Sec. 4a-5. Definitions. As used in this Article:

(1) "Caregiver" means a person who voluntarily, or in exchange for compensation, has assumed responsibility for all or a portion of the care of another person who needs assistance with activities of daily living. "Caregiver" includes a caregiver's spouse, cohabitant, child, or employee. "Caregiver" does not include a family member of the person receiving assistance.

(2) "Family member" means a spouse, child, grandchild, sibling, aunt, uncle, niece, nephew, first cousin, or parent of the person receiving assistance.

(3) "Transfer instrument" means the legal document intended to effectuate a transfer effective on or after the transferor's death and includes, without limitation, a will, trust, deed, form designated as payable on death, contract, or other beneficiary designation form.

(4) "Transferee" means a legatee, a beneficiary of a trust, a grantee of a deed, or any other person designated in a transfer instrument to receive a nonprobate transfer.

(5) "Transferor" means a testator, settlor, grantor of a deed, or a decedent whose interest is transferred pursuant to a nonprobate transfer.

(Source: P.A. 98-1093, eff. 1-1-15.)

(755 ILCS 5/4a-10)

Sec. 4a-10. Presumption of void transfer.

(a) In any civil action in which a transfer instrument is being challenged, there is a rebuttable presumption, except as provided in Section 4a-15, that the transfer instrument is void if the transferee is a caregiver and the fair market value of the transferred property exceeds $20,000.

(b) Unless a shorter limitations period is required by Section 8-1 or 18-12 of this Act, any action under this Section shall be filed within 2 years of the date of death of the transferor.

(Source: P.A. 98-1093, eff. 1-1-15.)

(755 ILCS 5/4a-15)

Sec. 4a-15. Exceptions. The rebuttable presumption established by Section 4a-10 can be overcome if the transferee proves to the court either:

(1) by a preponderance of evidence that the transferee's share under the transfer instrument is not greater than the share the transferee was entitled to under the transferor's transfer instrument in effect prior to the transferee becoming a caregiver; or

(2) by clear and convincing evidence that the transfer was not the product of fraud, duress, or undue influence.

(Source: P.A. 98-1093, eff. 1-1-15.)

(755 ILCS 5/4a-20)

Sec. 4a-20. Common law. The provisions of this Article do not abrogate or limit any principle or rule of the common law, unless the common law principle or rule is inconsistent with the provisions of this Article. Notwithstanding the limited definition of "caregiver" in Section 4a-5 of this Article, nothing in this Article precludes any action against any individual under the common law, or any other applicable law, regardless of the individual's familial relationship with the person receiving assistance. The provisions of this Article are in addition to any other principle or rule of law.

(Source: P.A. 98-1093, eff. 1-1-15.)

(755 ILCS 5/4a-25)

Sec. 4a-25. Attorney's fees and costs. If the caregiver attempts and fails to overcome the presumption under Section 4a-15, the caregiver shall bear the costs of the proceedings, including, without limitation, reasonable attorney's fees.

(Source: P.A. 98-1093, eff. 1-1-15.)

(755 ILCS 5/4a-30)

Sec. 4a-30. No independent duty. The rebuttable presumption set forth in Section 4a-10 of this Article applies only in a civil action in which a transfer instrument is being challenged, and does not create or impose an independent duty on any financial institution, trust company, trustee, or similar entity or person related to any transfer instrument.

(Source: P.A. 98-1093, eff. 1-1-15.)

(755 ILCS 5/4a-35)

Sec. 4a-35. Applicability. This Article applies only to transfer instruments executed after the effective date of this amendatory Act of the 98th General Assembly.

(Source: P.A. 98-1093, eff. 1-1-15.)

(755 ILCS 5/Art. V heading)

ARTICLE V
PLACE OF PROBATE OF WILL OR OF ADMINISTRATION

(755 ILCS 5/5-1) (from Ch. 110 1/2, par. 5-1)

Sec. 5-1. Place of probate of will or of administration of estate.) When the will of a testator is probated or when the estate of a decedent or missing person is administered in this State, the probate or the administration shall be in the court of the county determined as follows:

(a) In the county where he has a known place of residence;

(b) If he has no known place of residence in this State, in the county in which the greater part of his real estate is located at the time of his death; or

(c) If he has no known place of residence and no real estate in this State, in the county where the greater part of his personal estate is located at the time of his death.

(Source: P.A. 85-692.)

(755 ILCS 5/5-2) (from Ch. 110 1/2, par. 5-2)

Sec. 5-2. Situs of personal estate of nonresident decedent or missing person.) For the purpose of granting administration of both testate and intestate estates of nonresident decedents or estates of nonresident missing persons, the situs of tangible personal estate is where it is located and the situs of intangible personal estate is where the instrument evidencing a share, interest, debt, obligation, stock or chose in action is located or where the debtor resides if there is no instrument evidencing the share, interest, debt, obligation, stock or chose in action in this State.

(Source: P.A. 79-328.)

(755 ILCS 5/5-3) (from Ch. 110 1/2, par. 5-3)

Sec. 5-3. Power to ascertain and declare heirship - evidence.) (a) The court may ascertain and declare the heirship of any decedent to be entered of record in the court at any time during the administration of the estate without further notice or, if there is no grant of administration, upon such notice and in such manner as the court directs.

(b) The ascertainment of heirship may be made from (1) an affidavit of any person stating the facts from which the heirship of the decedent can be ascertained, which affidavit shall be signed and sworn to or affirmed before any notary public or judge of any court of record in the United States or any of its possessions or territories and certified by the clerk thereof, or before any United States consul, vice-consul, consular agent, secretary of legation or commissioned officer in active service of the United States, within or without the United States, or (2) from evidence either in narrative form or by questions and answers which are reduced to writing and certified by the court declaring the heirship. The

seal of office of any notary public, United States consul, vice-consul, consular agent or secretary of legation and the designation of the name, rank and branch of service of any commissioned officer in active service of the armed forces of the United States shall be sufficient evidence of his identity and official character. The affidavit or transcript of evidence shall be filed by the clerk of the court declaring the heirship and remain as a part of the files in the cause.

(c) An order of the court declaring heirship is prima facie evidence of the heirship, but any other legal method of proving heirship may be resorted to by any party interested therein in any place or court where the question may arise.

(d) For purposes of this section the court may presume, in the absence of any evidence to the contrary, that the decedent and any person through whom heirship is traced was not the mother or father of any child born out of wedlock and, if the decedent or the person was a male, that no child born out of wedlock was filiated to or acknowledged or legitimated by the decedent or the person.

(Source: P.A. 81-598.)

(755 ILCS 5/Art. VI heading)

ARTICLE VI
PROBATE OF WILLS AND ISSUANCE OF LETTERS OF OFFICE

(755 ILCS 5/6-1) (from Ch. 110 1/2, par. 6-1)

Sec. 6-1. Duty to file will - altering, destroying or secreting.)

(a) Immediately upon the death of the testator any person who has the testator's will in his possession shall file it with the clerk of the court of the proper county and upon failure or refusal to do so, the court on its motion or on the petition of any interested person may issue an attachment and compel the production of the will, subject to the provisions of Section 5.15 of the Secretary of State Act.

(b) If any person wilfully alters or destroys a will without the direction of the testator or wilfully secretes it for the period of 30 days after the death of the testator is known to him, the person so offending, on conviction thereof, shall be sentenced as in cases of theft of property classified as a Class 3 felony by the law in effect at the date of the offense. The 30-day period does not apply to the Secretary of State when acting pursuant to Section 5.15 of the Secretary of State Act.

(Source: P.A. 96-137, eff. 1-1-10.)

(755 ILCS 5/6-2) (from Ch. 110 1/2, par. 6-2)

Sec. 6-2. Petition to admit will or to issue letters.)Anyone desiring to have a will admitted to probate must file a petition therefor in the court of the proper county. The petition must state, if known: (a) the name and place of residence of the testator at the time of his death; (b) the date and place of death; (c) the date of the will and the fact that petitioner believes the will to be the valid

last will of the testator; (d) the approximate value of the testator's real and personal estate in this State; (e) the names and post office addresses of all heirs and legatees of the testator and whether any of them is a minor or a person with a disability; (f) the name and post office address of the executor; and (g) unless supervised administration is requested, the name and address of any personal fiduciary acting or designated to act pursuant to Section 28-3. When the will creates or adds to a trust and the petition states the name and address of the trustee, the petition need not state the name and address of any beneficiary of the trust who is not an heir or legatee. If letters of administration with the will annexed are sought, the petition must also state, if known: (a) the reason for the issuance of the letters, (b) facts showing the right of the petitioner to act as, or to nominate, the administrator with the will annexed, (c) the name and post office address of the person nominated and of each person entitled either to administer or to nominate a person to administer equally with or in preference to the petitioner and (d) if the will has been previously admitted to probate, the date of admission. If a petition for letters of administration with the will annexed states that there are one or more persons entitled either to administer or to nominate a person to administer equally with or in preference to the petitioner, the petitioner must mail a copy of the petition to each such person as provided in Section 9-5 and file proof of mailing with the clerk of the court.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/6-3) (from Ch. 110 1/2, par. 6-3)

Sec. 6-3. Duty of executor to present will for probate.) (a) Within 30 days after a person acquires knowledge that he is named as executor of the will of a deceased person, he shall either institute a proceeding to have the will admitted to probate in the court of the proper county or declare his refusal to act as executor. If he fails to do so, except for good cause shown, the court on its motion or on the petition of any interested person may deny him the right to act as executor and letters of office may be issued by the court as if the person so named were disqualified to act as executor.

(b) When 30 days have elapsed since the death of the testator and no petition has been filed to admit his will to probate, the court may proceed to probate the will without the filing of a petition therefor, unless it appears to the court that probate thereof is unnecessary and failure to probate it will not prejudice the rights of any interested person. Such notice of the hearing on the admission of the will to probate shall be given to the persons in interest as the court directs.
(Source: P.A. 79-328.)

(755 ILCS 5/6-4) (from Ch. 110 1/2, par. 6-4)

Sec. 6-4. Admission of will to probate - testimony or affidavit of witnesses.) (a) When each of 2 attesting witnesses to a will states that (1) he was present and saw the testator or some person in his presence and by his direction sign the will in the presence of the witness or the testator acknowledged it to the witness as his act, (2) the will was attested by the witness in the presence of the testator and (3) he believed the testator to be of sound mind and memory at the time of signing or acknowledging the will, the execution of the will is sufficiently proved to admit it to probate, unless there is proof of fraud, forgery, compulsion or other improper conduct which in the opinion of the court is deemed sufficient to

invalidate or destroy the will. The proponent may also introduce any other evidence competent to establish a will. If the proponent establishes the will by sufficient competent evidence, it shall be admitted to probate, unless there is proof of fraud, forgery, compulsion or other improper conduct which in the opinion of the court is deemed sufficient to invalidate or destroy the will.

(b) The statements of a witness to prove the will under subsection 6-4(a) may be made by (1) testimony before the court, (2) an attestation clause signed by the witness and forming a part of or attached to the will or (3) an affidavit which is signed by the witness at or after the time of attestation and which forms part of the will or is attached to the will or to an accurate facsimile of the will.
(Source: P.A. 81-213.)

(755 ILCS 5/6-5) (from Ch. 110 1/2, par. 6-5)

Sec. 6-5. Deposition of witness.) When a witness to a will resides outside the county in which the will is offered for probate or is unable to attend court and can be found and is mentally and physically capable of testifying, the court, upon the petition of any person seeking probate of the will and upon such notice of the petition to persons interested as the court directs, may issue a commission with the will or a photographic copy thereof attached. The commission shall be directed to any judge, notary public, mayor or other chief magistrate of a city or United States consul, vice-consul, consular agent, secretary of legation or commissioned officer in active service of the armed forces of the United States and shall authorize and require him to cause that witness to come before him at such time and place as he designates and to take the deposition of the witness on oath or affirmation and upon all such written interrogatories and cross-interrogatories as may be enclosed with the commission. With the least possible delay the person taking the deposition shall certify it, the commission, and the interrogatories to the court from which the commission issued. When the deposition of a witness is so taken and returned to the court, his testimony has the same effect as if he testified in the court from which the commission issued. When the commission is issued to the officer by his official title only and not by name, the seal of his office attached to his certificate is sufficient evidence of his identity and official character.
(Source: P.A. 95-331, eff. 8-21-07.)

(755 ILCS 5/6-6) (from Ch. 110 1/2, par. 6-6)

Sec. 6-6. Proof of handwriting of a deceased or inaccessible witness or a witness with a disability.)

(a) If a witness to a will (1) is dead, (2) is blind, (3) is mentally or physically incapable of testifying, (4) cannot be found, (5) is in active service of the armed forces of the United States or (6) is outside this State, the court may admit proof of the handwriting of the witness and such other secondary evidence as is admissible in any court of record to establish written contracts and may admit the will to probate as though it had been proved by the testimony of the witness. On motion of any interested person or on its own motion, the court may require that the deposition of any such witness, who can be found, is mentally and physically capable of testifying and is not in the active service of the armed forces of the United States outside of the continental United States, be taken as the best evidence thereof.

(b) As used in this Section, "continental United States" means the States of the United States and the District of Columbia.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/6-7) (from Ch. 110 1/2, par. 6-7)
Sec. 6-7. Will to remain with clerk.) All original wills which are admitted to probate shall remain in the custody of the clerk, unless otherwise ordered by the court.
(Source: P.A. 81-213.)

(755 ILCS 5/6-8) (from Ch. 110 1/2, par. 6-8)
Sec. 6-8. Issuance of letters testamentary.) When a will is admitted to probate, letters testamentary shall be issued to the executor named in the will if he qualifies and accepts the office, unless the issuance of letters is excused.
(Source: P.A. 81-0213; 81-0788; 81-1509.)

(755 ILCS 5/6-9) (from Ch. 110 1/2, par. 6-9)
Sec. 6-9. Failure or refusal to qualify - death, resignation or revocation of letters - non-designation.) Unless otherwise provided by the will, (a) if one of several executors named in the will fails or refuses to qualify and accept the office, letters testamentary shall be issued to the executor who qualifies and accepts the office, (b) if one of several executors to whom letters have been issued dies or resigns or his letters are revoked, the remaining executor shall continue to administer the estate, and (c) in either event the remaining executor has all powers vested in all the executors named in the will. If no executor is named in the will or the named executor fails or refuses to qualify and accept the office or, if after letters are issued the sole executor or all the named executors die or resign or their letters are revoked, letters of administration with the will annexed shall be issued in accordance with the preferences in Section 9-3 upon petition under Section 6-2 and notice as provided in Section 9-5.
(Source: P.A. 81-213.)

(755 ILCS 5/6-10) (from Ch. 110 1/2, par. 6-10)
Sec. 6-10. Notice - waiver.)
(a) Not more than 14 days after entry of an order admitting or denying admission of a will to probate or appointing a representative, the representative or, if none, the petitioner must mail a copy of the petition to admit the will or for letters and a copy of the order showing the date of entry to each of the testator's heirs and legatees whose names and post office addresses are stated in the petition. If the name or post office address of any heir or legatee is not stated in the petition, the representative or, if none, the petitioner must publish

a notice once a week for 3 successive weeks, the first publication to be not more than 14 days after entry of the order, describing the order and the date of entry. The notice shall be published in a newspaper published in the county where the order was entered and may be combined with a notice under Section 18-3. When the petition names a trustee of a trust, it is not necessary to publish for or mail copies of the petition and order to any beneficiary of the trust who is not an heir or legatee. The information mailed or published under this Section must include an explanation, in form prescribed by rule of the Supreme Court of this State, of the rights of heirs and legatees to require formal proof of will under Section 6-21 and to contest the admission or denial of admission of the will to probate under Section 8-1 or 8-2. The petitioner or representative must file proof of mailing and publication, if publication is required, with the clerk of the court.

(b) A copy of the petition and of the order need not be sent to and notice need not be published for any person who is not designated in the petition as a minor or person with a disability and who personally appeared before the court at the hearing or who filed his waiver of notice.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/6-11) (from Ch. 110 1/2, par. 6-11)

Sec. 6-11. Omitted or unnotified heir or legatee.) (a) If it appears after entry of an order admitting or denying admission of a will to probate that an heir or legatee was omitted from the petition to admit the will to probate or, if included in the petition, that notice to him was not mailed or published as provided in Section 6-10 or 6-20, whichever is applicable, and that no waiver of notice was filed by the omitted or unnotified heir or legatee, an amended petition shall be filed under Section 6-2 or 6-20 which shall include the omitted or unnotified heir or legatee.

(b) If the amended petition is filed under Section 6-2, a copy of the amended petition and the order admitting or denying admission of the will to probate or notice thereof shall be mailed to or published for the omitted or unnotified person as provided in Section 6-10, in the same manner as if the order were entered at the time the amended petition was filed. The original order admitting or denying admission of the will to probate is effective as to the omitted or unnotified person as of the date the amended petition is filed and it is effective as to all other persons, including creditors, as of the date of its entry.

(c) If the amended petition is filed under Section 6-20, notice of the hearing on the amended petition shall be mailed or published, as provided in Section 6-20, to or for the omitted or unnotified person and to all persons included in any prior petition. In the absence of objections by the omitted or unnotified person, evidence received at the hearing on the original petition to admit the will to probate constitutes prima facie proof of the execution of the will at the hearing on the amended petition. An order admitting the will to probate on an amended petition filed under Section 6-20 is effective as to the omitted or unnotified person as of the date of its entry, but the original order admitting the will to probate is effective as to all other persons, including creditors, as of the date of its entry.

(Source: P.A. 81-213.)

(755 ILCS 5/6-12) (from Ch. 110 1/2, par. 6-12)

Sec. 6-12. Appointment of guardian ad litem.) When an heir or legatee of a testator is a minor or person with a disability who is entitled to notice under Section 6-10 at the time an order is entered admitting or denying admission of a will to probate or who is entitled to notice under Section 6-20 or 6-21 of the hearing on the petition to admit the will, the court may appoint a guardian ad litem to protect the interests of the ward with respect to the admission or denial, or to represent the ward at the hearing, if the court finds that (a) the interests of the ward are not adequately represented by a personal fiduciary acting or designated to act pursuant to Section 28-3 or by another party having a substantially identical interest in the proceedings and the ward is not represented by a guardian of his estate and (b) the appointment of a guardian ad litem is necessary to protect the ward's interests.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/6-13) (from Ch. 110 1/2, par. 6-13)

Sec. 6-13. Who may act as executor.)

(a) A person who has attained the age of 18 years and is a resident of the United States, is not of unsound mind, is not an adjudged person with a disability as defined in this Act and has not been convicted of a felony, is qualified to act as executor.

(b) If a person named as executor in a will is not qualified to act at the time of admission of the will to probate but thereafter becomes qualified and files a petition for the issuance of letters, takes oath and gives bond as executor, the court may issue letters testamentary to him as co-executor with the executor who has qualified or if no executor has qualified the court may issue letters testamentary to him and revoke the letters of administration with the will annexed.

The court may in its discretion require a nonresident executor to furnish a bond in such amount and with such surety as the court determines notwithstanding any contrary provision of the will.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/6-14) (from Ch. 110 1/2, par. 6-14)

Sec. 6-14. Power of executor before issuance of letters.) Before issuance of letters to an executor his power extends to the carrying out of any gift of the decedent's body or any part thereof, to the burial of the decedent, the payment of necessary funeral charges and the preservation of the estate; but if the will is not admitted to probate, the executor is not liable as an executor of his own wrong, except for his refusal to deliver the estate to the person authorized by law to receive it or for waste or misapplication of the estate.

(Source: P.A. 79-328.)

(755 ILCS 5/6-15) (from Ch. 110 1/2, par. 6-15)

Sec. 6-15. Executor to administer all estate of decedent.) The executor or the

administrator with the will annexed shall administer all the testate and intestate estate of the decedent.
(Source: P.A. 79-328.)

(755 ILCS 5/6-16) (from Ch. 110 1/2, par. 6-16)
Sec. 6-16. Power of administrator with the will annexed.) Unless otherwise expressly provided by the will, an administrator with the will annexed has all the powers and duties of the executor under the will, but this does not excuse the administrator from giving security on his bond.
(Source: P.A. 79-328.)

(755 ILCS 5/6-17) (from Ch. 110 1/2, par. 6-17)
Sec. 6-17. Witness to appear for probate - penalty.) It is the duty of a witness to any will executed in this State to appear before the court at the hearing on the admission of the will to probate and testify concerning the execution and validity of the will unless proof of will is made by another method as provided in this Act. The court may attach and punish by fine and imprisonment, or either, any witness who, without a reasonable excuse, fails to appear and testify when subpoenaed.
(Source: P.A. 79-328.)

(755 ILCS 5/6-18) (from Ch. 110 1/2, par. 6-18)
Sec. 6-18. Will as evidence.) An authenticated copy of a domestic or foreign will and of the order admitting it or denying it to probate are evidence in any court in this State.
(Source: P.A. 79-328.)

(755 ILCS 5/6-19) (from Ch. 110 1/2, par. 6-19)
Sec. 6-19. Judge as witness.) If a judge is a witness to a will which is required by law to be proved before him, another judge shall be designated to take the testimony of witnesses to the will and to decide whether or not the will shall be admitted to probate. The judge who is the witness may proceed to administer the estate unless he is otherwise precluded therefrom by this Act.
(Source: P.A. 79-328.)

(755 ILCS 5/6-20) (from Ch. 110 1/2, par. 6-20)
Sec. 6-20. Petition to admit will to probate on presumption of death of testator - notice.)

(a) Anyone desiring to have a will admitted to probate on the presumption of death of the testator must file a petition therefor in the court of the proper county. The petition must state, in addition to the information required by Section 6-2 (other than clauses (a) and (b)), the facts and circumstances raising the presumption, the name and last known post office address of the testator and, if known, the name and post office address of each person in possession or control of any property of the testator.

(b) Not less than 30 days before the hearing on the petition the petitioner must (1) mail a copy of the petition to the testator at his last known address, to each of the testator's heirs and legatees whose names and post office addresses are stated in the petition and to each person shown by the petition to be in possession or control of any property of the testator, and (2) publish a notice of the hearing on the petition once a week for 3 successive weeks, the first publication to be not less than 30 days before the hearing. The notice must state the time and place of the hearing, the name of the testator and, when known, the names of the heirs and legatees. The petitioner shall endorse the time and place of the hearing on each copy of the petition mailed by him. When the petition names a trustee of a trust, it is not necessary to mail a copy of the petition to any beneficiary of the trust who is not an heir or legatee, or to include the name of such beneficiary in the published notice. If any person objects to the admission of the will to probate, the court may require that such notice of the time and place of the hearing as it directs be given to any beneficiary of the trust not previously notified. The petitioner must file proof of mailing and proof of publication with the clerk of the court.

(c) A copy of the petition need not be sent to any person not designated in the petition as a minor or person with a disability who personally appears before the court at the hearing or who files his waiver of notice.

(d) When a will is admitted to probate on presumption of the testator's death, the notice provided for in Section 6-10 is not required.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/6-21) (from Ch. 110 1/2, par. 6-21)

Sec. 6-21. Formal proof of will.) If a will has been admitted to probate before notice in accordance with Section 6-4, any person entitled to notice under Section 6-10 may file a petition within 42 days after the effective date of the original order admitting the will to probate to require proof of the will pursuant to this Section. The court must set the matter for hearing upon such notice to interested persons as the court directs. At the hearing the proponent must establish the will by testimony of the witnesses as provided in subsection 6-4 (b) (1) or Section 6-5 or other evidence as provided in this Act, but not as provided by subsection 6-4 (b) (2) or subsection 6-4 (b) (3), as if the will had not originally been admitted to probate. If the proponent establishes the will by sufficient competent evidence, the original order admitting it to probate and the original order appointing the representative shall be confirmed and are effective as to all persons, including creditors, as of the dates of their entries, unless there is proof of fraud, forgery, compulsion or other improper conduct, which in the opinion of the court is sufficient to invalidate or destroy the will. The time for filing a petition to contest a will under Section 8-1 is not extended by the filing of the petition under this Section if the order admitting the will to probate is confirmed, but if that order is vacated, the time for filing the petition under Section 8-2 runs from the date of vacation of the order admitting the will to probate.

(Source: P.A. 81-213.)

(755 ILCS 5/Art. VII heading)

ARTICLE VII
PROBATE OF FOREIGN WILLS AND ESTATES OF NONRESIDENTS

(755 ILCS 5/7-1) (from Ch. 110 1/2, par. 7-1)

Sec. 7-1. Foreign will admitted to probate.) A will signed by the testator when proved as provided in this Article may be admitted to probate in this State when (a) the will has been admitted to probate outside of this State or (b) the will was executed outside of this State in accordance with the law of this State, of the place where executed or of the testator's domicile at the time of its execution.
(Source: P.A. 79-328.)

(755 ILCS 5/7-2) (from Ch. 110 1/2, par. 7-2)

Sec. 7-2. Procedure for probate of foreign will.) The provisions of this Act concerning the procedure for the admission to probate of a domestic will govern the procedure for the admission to probate of a foreign will sought to be admitted to probate as provided by this Article, except for the manner of proof.
(Source: P.A. 79-328.)

(755 ILCS 5/7-3) (from Ch. 110 1/2, par. 7-3)

Sec. 7-3. Proof of foreign will by copy.) (a) A written will admitted to probate outside of this State is sufficiently proved to admit it to probate in this State by introducing in evidence an authenticated copy of the will and the probate thereof.

(b) A written will from any state or country whose laws do not require a will to be probated is sufficiently proved to admit it to probate in this State by introducing in evidence an authenticated certificate of the legal custodian of the will that the copy is a true copy and that the will has become operative by the laws of that state or country.

(c) A notarial will from a state or country whose laws require the will to remain in the custody of a notary is sufficiently proved to admit it to probate in this State by introducing in evidence a copy of the will authenticated by the notary entitled to the custody of the will.
(Source: P.A. 79-328.)

(755 ILCS 5/7-4) (from Ch. 110 1/2, par. 7-4)

Sec. 7-4. Original proof of foreign will in this State.) (a) A will executed outside of this State in accordance with this Act is sufficiently proved to admit it to probate in this State when proved in this State in the manner provided by this Act for proving wills executed in this State.

(b) A will executed outside of this State in accordance with the law of the place where executed is sufficiently proved to admit it to probate in this State when proved in this State in the manner provided by the law of the place where executed for proving wills there executed.

(c) A will executed outside of this State in accordance with the law of the testator's domicile at the time of its execution is sufficiently proved to admit it to probate in this State when proved in this State in the manner provided by the law of the testator's domicile at the time of its execution for proving wills there executed.

(d) A will proved as provided in this Section may not be admitted to probate when there is proof of fraud, forgery, compulsion or other improper conduct which in the opinion of the court is deemed sufficient to invalidate or destroy the will.

(Source: P.A. 79-328.)

(755 ILCS 5/7-5) (from Ch. 110 1/2, par. 7-5)

Sec. 7-5. Effect of probate of foreign will.) The admission to probate in this State of a will executed and proved in the manner provided by this Article has the same effect in all respects as the admission to probate of a domestic will and letters of office may be issued unless the issuance of letters is excused.

(Source: P.A. 81-788.)

(755 ILCS 5/7-6) (from Ch. 110 1/2, par. 7-6)

Sec. 7-6. Disposition of personal estate of nonresident decedent.) If a nonresident decedent who is a citizen of the United States or a citizen or subject of a foreign country, provides in his will that the testamentary disposition of tangible or intangible personal estate having a situs within this State as defined in Section 5-2, is to be construed and regulated by the laws of this State, the validity and effect of such disposition shall be determined by such laws. In respect of a nonresident decedent's tangible or intangible personal estate having a situs within this State, as defined in Section 5-2, the court may direct and, in the case of a decedent who was at the time of his death a resident of a foreign country, shall direct the representative appointed in this State to make distribution directly to those designated by the decedent's will as beneficiaries of the tangible or intangible personal estate or to the persons entitled to receive the decedent's personal estate under the laws of the decedent's domicile, as the case may be.

(Source: P.A. 79-328.)

(755 ILCS 5/Art. VIII heading)

ARTICLE VIII
WILL CONTESTS

(755 ILCS 5/8-1) (from Ch. 110 1/2, par. 8-1)

Sec. 8-1. Contest of admission of will to probate; notice.

(a) Within 6 months after the admission to probate of a domestic will in accordance with the provisions of Section 6-4, or of a foreign will in accordance with the provisions of Article VII, any interested person may file a petition in the proceeding for the administration of the testator's estate or, if no proceeding is pending, in the court in which the will was admitted to probate, to contest the validity of the will.

(b) The petitioner shall cause a copy of the petition to be mailed or delivered to the representative, to his or her attorney of record, and to each heir and legatee whose name is listed in the petition to admit the will to probate and in any amended petition filed in accordance with Section 6-11, at the address stated in the petition or amended petition. Filing a pleading constitutes a waiver of the mailing or delivery of the notice to the person filing the pleading. Failure to mail or deliver a copy of the petition to an heir or a legatee does not extend the time within which a petition to contest the will may be filed under subsection (a) of this Section or affect the validity of the judgement entered in the proceeding.

(c) Any contestant or proponent may demand a trial by jury. An issue shall be made whether or not the instrument produced is the will of the testator. The contestant shall in the first instance proceed with proof to establish the invalidity of the will. At the close of the contestant's case, the proponent may present evidence to sustain the will. An authenticated transcript of the testimony of any witness taken at the time of the hearing on the admission of the will to probate, or an affidavit of any witness received as evidence under subsection 6-4(b), is admissible in evidence.

(d) The right to institute or continue a proceeding to contest the validity of a will survives and descends to the heir, legatee, representative, grantee or assignee of the person entitled to institute the proceeding.

(e) It is the duty of the representative to defend a proceeding to contest the validity of the will. The court may order the representative to defend the proceeding or prosecute an appeal from the judgment. If the representative fails or refuses to do so when ordered by the court, or if there is no representative then acting, the court, upon its motion or on application of any interested person, may appoint a special administrator to defend or appeal in his stead.

(f) An action to set aside or contest the validity of a revocable inter vivos trust agreement or declaration of trust to which a legacy is provided by the settlor's will which is admitted to probate shall be commenced within and not after the time to contest the validity of a will as provided in subsection (a) of this Section and Section 13-223 of the Code of Civil Procedure.

(g) This amendatory Act of 1995 applies to pending cases as well as cases commenced on or after its effective date.

(Source: P.A. 89-364, eff. 8-18-95.)

(755 ILCS 5/8-2) (from Ch. 110 1/2, par. 8-2)

Sec. 8-2. Contest of denial of admission of will to probate.

(a) Within 6 months after the entry of an order denying admission to probate of a domestic will in accordance with the provisions of Section 6-4, or of a foreign will in accordance with the provisions of Article VII, any interested person desiring to contest the denial of admission may file a petition to admit the will to probate in the proceeding for the administration of the decedent's estate or, if no proceeding is pending, in the court which denied admission of the will to probate. The petition must state the facts required to be stated in Section 6-2 or 6-20, whichever is applicable.

(b) The petitioner shall cause a copy of the petition to be mailed or delivered to the representative, to his or her attorney of record, and to each heir and legatee whose name is listed in the petition to admit the will to probate and in any amended petition filed in accordance with Section 6-11, at the address stated in the petition or amended petition. Filing a pleading constitutes a waiver of the mailing or delivery of the notice to the person filing the pleading. Failure to mail or deliver a copy of the petition to an heir or legatee does not extend the time within which a petition to admit the will to probate may be filed under subsection (a) of Section 8-1 or affect the validity of the judgment entered in the proceeding.

(c) Any proponent or contestant may demand a trial by jury. An issue shall be made whether or not the instrument produced is the will of the testator. The proponent shall in the first instance proceed with proof to establish the validity of the will and may introduce any evidence competent to establish a will. Any interested person may oppose the petition and may introduce any evidence admissible in a will contest under Section 8-1. At the close of the contestant's case, the proponent may present further evidence to sustain the will.

(d) The right to institute or continue a proceeding to contest the denial of admission of a will to probate survives and descends to the heir, legatee, representative, grantee or assignee of the person entitled to institute the proceeding.

(e) The court may order the representative to defend a proceeding to probate the will or prosecute an appeal from the judgment. If the representative fails or refuses to do so when ordered by the court, or if there is no representative then acting, the court, upon its motion or on application of any interested person, may appoint a special administrator to do so in his stead.

(f) A person named as executor in a will that has been denied admission to probate has no duty to file or support a petition under Section 8-2.

(g) This amendatory Act of 1995 applies to pending cases as well as cases commenced on or after its effective date.

(Source: P.A. 89-364, eff. 8-18-95.)

(755 ILCS 5/Art. IX heading)

ARTICLE IX
LETTERS OF ADMINISTRATION

(755 ILCS 5/9-1) (from Ch. 110 1/2, par. 9-1)

Sec. 9-1. Who may act as administrator. A person who has attained the age of 18 years, is a resident of the United States, is not of unsound mind, is not an adjudged person with a disability as defined in this Act and has not been convicted of a felony, is qualified to act as administrator.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/9-2) (from Ch. 110 1/2, par. 9-2)

Sec. 9-2. Issuance of letters of administration.) When a person dies intestate, letters of administration shall be issued in accordance with the preferences in Section 9-3 upon petition therefor, unless the issuance of letters is excused. If after letters are issued the sole administrator or all administrators die or resign or their letters are revoked, letters shall be issued in accordance with the preferences in Section 9-3.

(Source: P.A. 81-788.)

(755 ILCS 5/9-3) (from Ch. 110 1/2, par. 9-3)

Sec. 9-3. Persons entitled to preference in obtaining letters. The following persons are entitled to preference in the following order in obtaining the issuance of letters of administration and of administration with the will annexed:

(a) The surviving spouse or any person nominated by the surviving spouse.

(b) The legatees or any person nominated by them, with preference to legatees who are children.

(c) The children or any person nominated by them.

(d) The grandchildren or any person nominated by them.

(e) The parents or any person nominated by them.

(f) The brothers and sisters or any person nominated by them.

(g) The nearest kindred or any person nominated by them.

(h) The representative of the estate of a deceased ward.

(i) The Public Administrator.

(j) A creditor of the estate.

Only a person qualified to act as administrator under this Act may nominate, except that the guardian of the estate, if any, otherwise the guardian of the person, of a person who is not qualified to act as administrator solely because of minority or legal disability may nominate on behalf of the minor or person with a disability in accordance with the order of preference set forth in this Section. A person who has been removed as representative under this Act loses the right to name a successor.

When several persons are claiming and are equally entitled to administer or to nominate an administrator, the court may grant letters to one or more of them or to the nominee of one or more of them.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/9-4) (from Ch. 110 1/2, par. 9-4)

Sec. 9-4. Petition to issue letters.) Anyone desiring to have letters of

administration issued on the estate of an intestate decedent shall file a petition therefor in the court of the proper county. The petition shall state, if known: (a) the name and place of residence of the decedent at the time of his death; (b) the date and place of death; (c) the approximate value of the decedent's real and personal estate in this State; (d) the names and post office addresses of all heirs of the decedent and whether any of them is a minor or person with a disability and whether any of them is entitled either to administer or to nominate a person to administer equally with or in preference to the petitioner; (e) the name and post office address of the person nominated as administrator; (f) the facts showing the right of the petitioner to act as or to nominate the administrator; (g) when letters of administration de bonis non are sought, the reason for the issuance of the letters; and (h) unless supervised administration is requested, the name and address of any personal fiduciary acting or designated to act pursuant to Section 28-3.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/9-5) (from Ch. 110 1/2, par. 9-5)
Sec. 9-5. Notice-Waiver.)

(a) Not less than 30 days before the hearing on the petition to issue letters, the petitioner shall mail a copy of the petition, endorsed with the time and place of the hearing, to each person named in the petition whose post office address is stated and who is entitled either to administer or to nominate a person to administer equally with or in preference to the petitioner.

(b) Not more than 14 days after entry of an order directing that original letters of office issue to an administrator, the administrator shall mail a copy of the petition to issue letters and a copy of the order showing the date of its entry to each of the decedent's heirs who was not entitled to notice of the hearing on the petition under subsection (a). If the name or post office address of any heir is not stated in the petition, the administrator shall publish a notice once a week for 3 successive weeks, the first publication to be not more than 14 days after entry of the order, describing the order and the date of entry. The notice shall be published in a newspaper published in the county where the order was entered and may be combined with a notice under Section 18-3. The administrator shall file proof of mailing and publication, if publication is required, with the clerk of the court.

(c) A copy of the petition and of the order need not be sent to, nor notice published for, any person not designated in the petition as a minor or as a person with a disability and who personally appeared before the court at the hearing or who files his waiver of notice.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/9-6) (from Ch. 110 1/2, par. 9-6)
Sec. 9-6. Petition to issue letters on presumption of death of decedent - notice - waiver.)

(a) Anyone desiring to have original letters of administration issued on the presumption of death of the decedent shall file a petition therefor in the court of the proper county. The petition shall state, in addition to the information required by clauses (c) through (h) of Section 9-4, the facts and circumstances raising the presumption, the name and last known post office address of the

decedent and, if known, the name and post office address of each person in possession or control of any property of the decedent.

(b) Not less than 30 days before the hearing on the petition the petitioner shall (1) mail a copy of the petition to the decedent at his last known address, to each heir whose name and post office address are stated in the petition and to each person shown by the petition to be in possession or control of any property of the decedent, and (2) publish a notice of the hearing on the petition once a week for 3 successive weeks, the first publication to be not less than 30 days before the hearing. The notice shall be published in a newspaper published in the county where the petition is filed. The notice shall state the time and place of the hearing, the name of the decedent and, when known, the names of the heirs. The petitioner shall endorse the time and place of the hearing on each copy of the petition mailed by him. The petitioner shall file a proof of mailing and of publication with the clerk of the court.

(c) A copy of the petition need not be sent to any person not designated in the petition as a minor or as a person with a disability and who personally appeared before the court at the hearing or who filed his waiver of notice.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/9-7) (from Ch. 110 1/2, par. 9-7)

Sec. 9-7. Revocation of letters and issuance of new letters of administration - preference.) If the petitioner has not mailed, as provided in this Article, a copy of the petition for letters of administration to any person, whether or not named in the petition, who is entitled to administer or to nominate a person to administer equally with or in preference to the petitioner, the person entitled to administer or nominate within 3 months after the issuance of the letters may file a petition for issuance of letters to him or to his nominee. The person entitled to preference must give 10 days notice of the hearing on his petition to the person to whom letters were issued. Upon the hearing the court may revoke the letters previously issued and issue new letters.

(Source: P.A. 82-427.)

(755 ILCS 5/9-8) (from Ch. 110 1/2, par. 9-8)

Sec. 9-8. Distribution on summary administration. Upon the filing of a petition therefor in the court of the proper county by any interested person and after ascertainment of heirship of the decedent and admission of the will, if any, to probate, if it appears to the court that:

(a) the gross value of the decedent's real and personal estate subject to administration in this State as itemized in the petition does not exceed $100,000;

(b) there is no unpaid claim against the estate, or all claimants known to the petitioner, with the amount known by him to be due to each of them, are listed in the petition;

(c) no tax will be due to the United States or to this State by reason of the death of the decedent or all such taxes have been paid or provided for or are the obligation of another fiduciary;

(d) no person is entitled to a surviving spouse's or child's award under this Act, or a surviving spouse's or child's award is allowable under this Act, and the name and age of each person entitled to an

award, with the minimum award allowable under this Act to the surviving spouse or child, or each of them, and the amount, if any, theretofore paid to the spouse or child on such award, are listed in the petition;

(e) all heirs and legatees of the decedent have consented in writing to distribution of the estate on summary administration (and if an heir or legatee is a minor or person with a disability, the consent may be given on his behalf by his parent, spouse, adult child, person in loco parentis, guardian or guardian ad litem);

(f) each distributee gives bond in the value of his distributive share, conditioned to refund the due proportion of any claim entitled to be paid from the estate distributed, including the claim of any person having a prior right to such distribution, together with expenses of recovery, including reasonable attorneys' fees, with surety to be approved by the court. If at any time after payment of a distributive share it becomes necessary for all or any part of the distributive share to be refunded for the payment of any claim entitled to be paid from the estate distributed or to provide for a distribution to any person having a prior right thereto, upon petition of any interested person the court shall order the distributee to refund that portion of his distributive share which is necessary for such purposes. If there is more than one distributee, the court shall apportion among the distributees the amount to be refunded according to the amount received by each of them, but specific and general legacies need not be refunded unless the residue is insufficient to satisfy the claims entitled to be paid from the estate distributed. If a distributee refuses to refund within 60 days after being ordered by the court to do so and upon demand, the refusal is deemed a breach of the bond and a civil action may be maintained by the claimant or person having a prior right to a distribution against the distributee and the surety or either of them for the amount due together with the expenses of recovery, including reasonable attorneys' fees. The order of the court is evidence of the amount due;

(g) the petitioner has published a notice informing all persons of the death of the decedent, of the filing of the petition for distribution of the estate on summary administration and of the date, time and place of the hearing on the petition (the notice having been published once a week for 3 successive weeks in a newspaper published in the county where the petition has been filed, the first publication having been made not less than 30 days prior to the hearing) and has filed proof of publication with the clerk of the court;

the court may determine the rights of claimants and other persons interested in the estate, direct payment of claims and distribution of the estate on summary administration and excuse the issuance of letters of office or revoke the letters which have been issued and discharge the representative.

Any claimant may file his claim in the proceeding at or before the hearing on the petition, but failure to do so does not deprive the claimant of his right to enforce his claim in any other manner provided by law.

A petition for distribution on summary administration may be combined with or filed separately from a petition for probate of a will or for administration of an estate.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/9-9) (from Ch. 110 1/2, par. 9-9)

Sec. 9-9. Payment or delivery of personal estate on order for summary administration.) Upon receipt of an authenticated copy of the order of the court,

as provided in Section 9-8, any person or corporation indebted to or holding the personal estate of the decedent or acting as registrar or transfer agent of any evidence of interest, indebtedness, property or right shall pay the indebtedness or deliver, transfer or issue the personal estate in accordance with the order. Upon the payment, delivery, transfer or issuance in accordance with the order, the person or corporation is released to the same extent as if the payment, delivery, transfer or issuance had been made to a legally qualified representative of the decedent and is not required to see to the application or disposition of the property, but each person to whom a payment, delivery, transfer or issuance is made is liable to the extent of the value thereof at the time of distribution to any claimant or other person having a prior right and is accountable to any representative of the decedent thereafter appointed.

If a person or corporation to whom the authenticated copy of the order is delivered refuses to pay, deliver, transfer or issue the personal estate as provided by this Section, it may be recovered in a civil action by or on behalf of the person entitled to receive it upon proof of receipt of the authenticated copy of the order by the person or corporation indebted to or holding the personal estate or acting as registrar or transfer agent.
(Source: P.A. 81-788.)

(755 ILCS 5/9-10) (from Ch. 110 1/2, par. 9-10)

Sec. 9-10. Omitted or unnotified heir. If it appears after entry of an order directing that original letters of office issue to an administrator that a person entitled to notice under subsection (a) or (b) of Section 9-5 or under Section 9-6 was omitted from the petition to issue letters or, if included in the petition, that notice to him was not mailed or published under subsection (a) or (b) of Section 9-5 or under Section 9-6, whichever is applicable, and that no waiver of notice was filed by the omitted or unnotified person, an amended petition shall be filed under the applicable Section or subsection which shall include the omitted or unnotified person. A copy of the amended petition and the order directing that original letters of office issue shall be mailed to or published for the omitted or unnotified person, as provided in Section 9-5 or Section 9-6, as the case may be, in the same manner as if the order were entered at the time the amended petition was filed. The original order directing that letters of office issue to the administrator is effective as to the omitted or unnotified person as of the date the amended petition is filed and is effective as to all other persons, including creditors, as of the date of entry of the original order.
(Source: P.A. 85-692.)

(755 ILCS 5/Art. X heading)

ARTICLE X
ADMINISTRATORS TO COLLECT

(755 ILCS 5/10-1) (from Ch. 110 1/2, par. 10-1)

Sec. 10-1. Letters of administration to collect.) (a) Upon the filing of a petition of any interested person or upon its own motion, the court may issue letters of administration to collect: (1) when any contingency happens which is productive of delay in the issuance of letters of office and it appears to the court that the estate of the decedent is liable to waste, loss or embezzlement or (2) when a person is missing from his usual place of residence and cannot be located or while in military service is reported by the federal government or an agency or department thereof as missing or missing in action. In order to act as administrator to collect one must be qualified to act as an administrator under this Act.

(b) The selection of an administrator to collect for the estate of a decedent is in the discretion of the court, giving due consideration to the person named as executor in the will or, if there is no will or if no executor is named, to the preferences in Section 9-3. The selection of an administrator to collect for the estate of a missing person must be in accordance with the preferences in Section 9-3.

(Source: P.A. 79-328.)

(755 ILCS 5/10-2) (from Ch. 110 1/2, par. 10-2)

Sec. 10-2. Petition for letters of administration to collect.) A person desiring to have letters of administration to collect issued on the estate of a deceased or missing person must file a petition therefor in the court of the proper county. The petition must state, if known: (a) the name and place of residence of the decedent at the time of his death or the name and last known address of the missing person; (b) the time and place of the decedent's death or in the case of a missing person the facts and circumstances as to his being missing or reported as missing or missing in action; (c) the approximate value of the decedent's or missing person's real and personal estate in this State and the amount of his anticipated gross annual income from his real estate in this State; (d) in the case of a missing person, the names and post office addresses of his nearest relatives in the following order: the spouse and adult children, if any; if none, the parents and adult brothers and sisters, if any; if none, the nearest adult kindred; (e) the name and address of the person proposed as administrator to collect; and (f) the reason for the issuance of letters.

(Source: P.A. 79-328.)

(755 ILCS 5/10-3) (from Ch. 110 1/2, par. 10-3)

Sec. 10-3. Administrator to collect for missing person - notice.) When letters of administration to collect are sought for the estate of a missing person, the petitioner must publish a notice of the hearing on the petition once a week for 3 successive weeks, the first publication to be not less than 30 days before the hearing. The notice must state the time and place of the hearing, the name of the missing person and his last known address and the name and address of each of his relatives listed in the petition. Not less than 20 days before the hearing, the petitioner must send a copy of the petition and notice by mail to the missing person at his last known address and to each of his relatives whose name and address is listed in the petition. If it appears to the court that the estate of a missing person is liable to waste, loss or embezzlement, the court may appoint an

administrator to collect for a missing person without prior notice in which event the administrator (a) must forthwith publish a notice stating that the person named was appointed administrator to collect of the estate of the missing person and that the appointment will remain in effect unless application to vacate the order is made on or before a date designated by the court, the notice to be published once a week for 3 successive weeks, the first publication to be not less than 30 days before the designated date, and (b) not less than 20 days before the designated date, shall send a copy of the petition and notice by mail to the missing person at his last known address and to each of his relatives whose name and address are listed on the petition. The notice required by this Section must be published in a newspaper of general circulation published in the county where the petition is filed. The petitioner or administrator, as the case may be, must file proof of mailing and publication with the clerk of the court.
(Source: P.A. 81-1453.)

(755 ILCS 5/10-4) (from Ch. 110 1/2, par. 10-4)

Sec. 10-4. Powers and duties of administrator to collect.) An administrator to collect has power to sue for and collect the personal estate and debts due the decedent or missing person and by leave of court to exercise the powers vested by law in an administrator. The provisions of this Act relating to the sale, mortgage and leasing of real and personal estate by resident administrators are applicable to sales, mortgages, and leasing of real and personal estate by administrators to collect. A suit commenced by an administrator to collect does not abate by the revocation of his letters either before or after judgment in the trial or reviewing court, but his successor as representative or the missing person if his survival is established, may be substituted in his stead in the proceedings. When authorized by the court, an administrator to collect of the estate of a missing person may make disbursements to or for the benefit of his spouse, his children, including children by adoption, any person to whom he stood in the acknowledged relation of a parent, any person related to him by blood or marriage who is dependent upon or entitled to support from him and anyone to whom the missing person is indebted and may perform the contracts of the missing person which were legally subsisting at the time of his disappearance and execute and deliver a deed, bill of sale or other instrument.
(Source: P.A. 79-328.)

(755 ILCS 5/10-5) (from Ch. 110 1/2, par. 10-5)

Sec. 10-5. Termination of powers.) On the issuance of letters testamentary or of administration or the satisfactory establishment of the survival and location of the missing person, the powers of an administrator to collect cease and his letters shall be revoked.
(Source: P.A. 79-328.)

(755 ILCS 5/Art. XI heading)

ARTICLE XI. MINORS

(755 ILCS 5/11-1) (from Ch. 110 1/2, par. 11-1)

Sec. 11-1. Minor defined.) A minor is a person who has not attained the age of 18 years. A person who has attained the age of 18 years is of legal age for all purposes except as otherwise provided in the Illinois Uniform Transfers to Minors Act.

(Source: P.A. 84-915.)

(755 ILCS 5/11-3) (from Ch. 110 1/2, par. 11-3)

Sec. 11-3. Who may act as guardian.

(a) A person is qualified to act as guardian of the person and as guardian of the estate if the court finds that the proposed guardian is capable of providing an active and suitable program of guardianship for the minor and that the proposed guardian:

(1) has attained the age of 18 years;

(2) is a resident of the United States;

(3) is not of unsound mind;

(4) is not an adjudged person with a disability as defined in this Act; and

(5) has not been convicted of a felony, unless the court finds appointment of the person convicted of a felony to be in the minor's best interests, and as part of the best interest determination, the court has considered the nature of the offense, the date of offense, and the evidence of the proposed guardian's rehabilitation. No person shall be appointed who has been convicted of a felony involving harm or threat to a child, including a felony sexual offense.

One person may be appointed guardian of the person and another person appointed guardian of the estate.

(b) The Department of Human Services or the Department of Children and Family Services may with the approval of the court designate one of its employees to serve without fees as guardian of the estate of a minor patient in a State mental hospital or a resident in a State institution when the value of the personal estate does not exceed $1,000.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11-5) (from Ch. 110 1/2, par. 11-5)

Sec. 11-5. Appointment of guardian.

(a) Upon the filing of a petition for the appointment of a guardian or on its own motion, the court may appoint a guardian of the estate or of both the person and estate, of a minor, or may appoint a guardian of the person only of a minor or minors, as the court finds to be in the best interest of the minor or minors.

(a-1) A parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as guardian of the person or estate, or both, of an unmarried minor or of a child likely to be born. A parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, or a guardian or a standby guardian of an unmarried minor or of a child likely to be born may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as successor guardian of the minor's person or estate, or both. The designation must be witnessed by 2 or more credible witnesses at least 18 years of age, neither of whom is the person designated as the guardian. The designation may be proved by any competent evidence. If the designation is executed and attested in the same manner as a will, it shall have prima facie validity. The designation of a guardian or successor guardian does not affect the rights of the other parent in the minor.

(b) The court lacks jurisdiction to proceed on a petition for the appointment of a guardian of a minor if it finds that (i) the minor has a living parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, whose whereabouts are known, and who is willing and able to make and carry out day-to-day child care decisions concerning the minor, unless: (1) the parent or parents voluntarily relinquished physical custody of the minor; (2) after receiving notice of the hearing under Section 11-10.1, the parent or parents fail to object to the appointment at the hearing on the petition; or (3) the parent or parents consent to the appointment as evidenced by a written document that has been notarized and dated, or by a personal appearance and consent in open court; or (ii) there is a guardian for the minor appointed by a court of competent jurisdiction. There shall be a rebuttable presumption that a parent of a minor is willing and able to make and carry out day-to-day child care decisions concerning the minor, but the presumption may be rebutted by a preponderance of the evidence. If a short-term guardian has been appointed for the minor prior to the filing of the petition and the petitioner for guardianship is not the short-term guardian, there shall be a rebuttable presumption that it is in the best interest of the minor to remain in the care of the short-term guardian. The petitioner shall have the burden of proving by a preponderance of the evidence that it is not in the child's best interest to remain with the short-term guardian.

(b-1) If the court finds the appointment of a guardian of the minor to be in the best interest of the minor, and if a standby guardian has previously been appointed for the minor under Section 11-5.3, the court shall appoint the standby guardian as the guardian of the person or estate, or both, of the minor unless the court finds, upon good cause shown, that the appointment would no longer be in the best interest of the minor.

(c) If the minor is 14 years of age or more, the minor may nominate the guardian of the minor's person and estate, subject to approval of the court. If the minor's nominee is not approved by the court or if, after notice to the minor, the minor fails to nominate a guardian of the minor's person or estate, the court may appoint the guardian without nomination.

(d) The court shall not appoint as guardian of the person of the minor any person whom the court has determined had caused or substantially contributed to the minor becoming a neglected or abused minor as defined in the Juvenile Court Act of 1987, unless 2 years have elapsed since the last proven incident of abuse or neglect and the court determines that appointment of such person as guardian is in the best interests of the minor.

(e) Previous statements made by the minor relating to any allegations that the minor is an abused or neglected child within the meaning of the Abused and Neglected Child Reporting Act, or an abused or neglected minor within the meaning of the Juvenile Court Act of 1987, shall be admissible in evidence in a hearing concerning appointment of a guardian of the person or estate of the minor. No such

statement, however, if uncorroborated and not subject to cross-examination, shall be sufficient in itself to support a finding of abuse or neglect.
(Source: P.A. 98-1082, eff. 1-1-15.)

(755 ILCS 5/11-5.1)
Sec. 11-5.1. (Repealed).
(Source: Repealed by P.A. 88-529.)

(755 ILCS 5/11-5.2)
Sec. 11-5.2. (Repealed).
(Source: Repealed by P.A. 88-529.)

(755 ILCS 5/11-5.3)
Sec. 11-5.3. Appointment of standby guardian.

(a) A parent, adoptive parent, or adjudicated parent whose parental rights have not been terminated, or the guardian of the person of a minor may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as standby guardian of the person or estate, or both, of an unmarried minor or of a child likely to be born. A parent, adoptive parent, or adjudicated parent whose parental rights have not been terminated, or the guardian of the person of a minor or a standby guardian of an unmarried minor or of a child likely to be born may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as successor standby guardian of the minor's person or estate, or both. The designation must be witnessed by 2 or more credible witnesses at least 18 years of age, neither of whom is the person designated as the standby guardian. The designation may be proved by any competent evidence. If the designation is executed and attested in the same manner as a will, it shall have prima facie validity. The designation of a standby guardian or successor standby guardian does not affect the rights of the other parent in the minor.

(b) Upon the filing of a petition for the appointment of a standby guardian, the court may appoint a standby guardian of the person or estate, or both, of a minor as the court finds to be in the best interest of the minor.

(c) The court lacks jurisdiction to proceed on a petition for the appointment of a standby guardian of a minor if the minor has a living parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, whose whereabouts are known, and who is willing and able to make and carry out day-to-day child care decisions concerning the minor, unless the parent or parents consent to the appointment or, after receiving notice of the hearing under Section 11-10.1, fail to object to the appointment at the hearing on the petition. There shall be a rebuttable presumption that a parent of a minor is willing and able to make and carry out day-to-day child care decisions concerning the minor, but the presumption may be rebutted by a preponderance of the evidence.

(d) The standby guardian shall take and file an oath or affirmation that the standby guardian will faithfully discharge the duties of the office of standby guardian according to law, and shall file in and have approved by the court a bond binding the standby guardian so to do, but shall not be required to file a bond

until the standby guardian assumes all duties as guardian of the minor under Section 11-13.1.

(e) The designation of a standby guardian may, but need not, be in the following form:

DESIGNATION OF STANDBY GUARDIAN

[IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

A standby guardian is someone who has been appointed by the court as the person who will act as guardian of the child when the child's parents or the guardian of the person of the child die or are no longer willing or able to make and carry out day-to-day child care decisions concerning the child. By properly completing this form, a parent or the guardian of the person of the child is naming the person that the parent or the guardian wants to be appointed as the standby guardian of the child or children. Both parents of a child may join together and co-sign this form. Signing the form does not appoint the standby guardian; to be appointed, a petition must be filed in and approved by the court.]

1. Parent (or guardian) and Children. I, (insert name of designating parent or guardian), currently residing at (insert address of designating parent or guardian), am a parent (or the guardian of the person) of the following child or children (or of a child likely to be born): (insert name and date of birth of each child, or insert the words "not yet born" to designate a standby guardian for a child likely to be born and the child's expected date of birth).

2. Standby Guardian. I hereby designate the following person to be appointed as standby guardian for the child or children listed above (insert name and address of person designated).

3. Successor Standby Guardian. If the person named in item 2 above cannot or will not act as standby guardian, I designate the following person to be appointed as successor standby guardian for the child or children: (insert name and address of person designated).

4. Date and Signature. This designation is made this (insert day) day of (insert month and year).

Signed: (designating parent or guardian)

5. Witnesses. I saw the parent (or the guardian of the person of the child) sign this designation or the parent (or the guardian of the person of the child) told me that (he or she) signed this designation. Then I signed the designation as a witness in the presence of the parent (or the guardian). I am not designated in this instrument to act as a standby guardian for the child or children. (insert space for names, addresses, and signatures of 2 witnesses).

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/11-5.4)

Sec. 11-5.4. Short-term guardian.

(a) A parent, adoptive parent, or adjudicated parent whose parental rights have not been terminated, or the guardian of the person of a minor may appoint in writing, without court approval, a short-term guardian of an unmarried minor or a child likely to be born. The written instrument appointing a short-term guardian shall be dated and shall identify the appointing parent or guardian, the minor, and the person appointed to be the short-term guardian. The written instrument shall be signed by, or at the direction of, the appointing parent in the presence of at

least 2 credible witnesses at least 18 years of age, neither of whom is the person appointed as the short-term guardian. The person appointed as the short-term guardian shall also sign the written instrument, but need not sign at the same time as the appointing parent.

(b) A parent or guardian shall not appoint a short-term guardian of a minor if the minor has another living parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, whose whereabouts are known, and who is willing and able to make and carry out day-to-day child care decisions concerning the minor, unless the nonappointing parent consents to the appointment by signing the written instrument of appointment.

(c) The appointment of the short-term guardian is effective immediately upon the date the written instrument is executed, unless the written instrument provides for the appointment to become effective upon a later specified date or event. Except as provided in subsection (e-5) of this Section, the short-term guardian shall have authority to act as guardian of the minor as provided in Section 11-13.2 for a period of 365 days from the date the appointment is effective, unless the written instrument provides for the appointment to terminate upon an earlier specified date or event. Only one written instrument appointing a short-term guardian may be in force at any given time.

(d) Every appointment of a short-term guardian may be amended or revoked by the appointing parent or by the appointing guardian of the person of the minor at any time and in any manner communicated to the short-term guardian or to any other person. Any person other than the short-term guardian to whom a revocation or amendment is communicated or delivered shall make all reasonable efforts to inform the short-term guardian of that fact as promptly as possible.

(e) The appointment of a short-term guardian or successor short-term guardian does not affect the rights of the other parent in the minor. The short-term guardian appointment does not constitute consent for court appointment of a guardian.

(e-5) Any time after the appointment of a temporary custodian under Section 2-10, 3-12, 4-9, 5-410, or 5-501 of the Juvenile Court Act of 1987, and after notice to all parties, including the short-term guardian, as required by the Juvenile Court Act of 1987, a court may vacate any short-term guardianship for the minor appointed under this Section, provided the vacation is consistent with the minor's best interests as determined using the factors listed in paragraph (4.05) of Section 1-3 of the Juvenile Court Act of 1987.

(f) The written instrument appointing a short-term guardian may, but need not, be in the following form:

APPOINTMENT OF SHORT-TERM GUARDIAN

[IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

By properly completing this form, a parent or the guardian of the person of the child is appointing a guardian of a child of the parent (or a minor ward of the guardian, as the case may be) for a period of up to 365 days. A separate form should be completed for each child. The person appointed as the guardian must sign the form, but need not do so at the same time as the parent or parents or guardian.

This form may not be used to appoint a guardian if there is a guardian already appointed for the child, except that if a guardian of the person of the child has been appointed, that guardian may use this form to appoint a short-term guardian. Both living parents of a child may together appoint a guardian of the child, or the guardian of the person of the child may appoint a guardian of the child, for a period of up to 365 days through the use of this form. If the short-term guardian is appointed by both living parents of the child, the parents need not sign the

form at the same time.]

1. Parent (or guardian) and Child. I, (insert name of appointing parent or guardian), currently residing at (insert address of appointing parent or guardian), am a parent (or the guardian of the person) of the following child (or of a child likely to be born): (insert name and date of birth of child, or insert the words "not yet born" to appoint a short-term guardian for a child likely to be born and the child's expected date of birth).

2. Guardian. I hereby appoint the following person as the short-term guardian for the child: (insert name and address of appointed person).

3. Effective date. This appointment becomes effective: (check one if you wish it to be applicable)

( ) On the date that I state in writing that I am no longer either willing or able to make and carry out day-to-day child care decisions concerning the child.

( ) On the date that a physician familiar with my condition certifies in writing that I am no longer willing or able to make and carry out day-to-day child care decisions concerning the child.

( ) On the date that I am admitted as an in-patient to a hospital or other health care institution.

( ) On the following date: (insert date).

( ) Other: (insert other).

[NOTE: If this item is not completed, the appointment is effective immediately upon the date the form is signed and dated below.]

4. Termination. This appointment shall terminate 365 days after the effective date, unless it terminates sooner as determined by the event or date I have indicated below: (check one if you wish it to be applicable)

( ) On the date that I state in writing that I am willing and able to make and carry out day-to-day child care decisions concerning the child.

( ) On the date that a physician familiar with my condition certifies in writing that I am willing and able to make and carry out day-to-day child care decisions concerning the child.

( ) On the date that I am discharged from the hospital or other health care institution where I was admitted as an in-patient, which established the effective date.

( ) On the date which is (state a number of days, but no more than 365 days) days after the effective date.

( ) Other: (insert other).

[NOTE: If this item is not completed, the appointment will be effective for a period of 365 days, beginning on the effective date.]

5. Date and signature of appointing parent or guardian. This appointment is made this (insert day) day of (insert month and year).

Signed: (appointing parent)

6. Witnesses. I saw the parent (or the guardian of the person of the child) sign this instrument or I saw the parent (or the guardian of the person of the child) direct someone to sign this instrument for the parent (or the guardian). Then I signed this instrument as a witness in the presence of the parent (or the guardian). I am not appointed in this instrument to act as the short-term guardian for the child. (Insert space for names, addresses, and signatures of 2 witnesses)

7. Acceptance of short-term guardian. I accept this appointment as short-term guardian on this (insert day) day of (insert month and year).

Signed: (short-term guardian)

8. Consent of child's other parent. I, (insert name of the child's other living parent), currently residing at (insert address of child's other living parent), hereby consent to this appointment on this (insert day) day of (insert month and year).

Signed: (consenting parent)

[NOTE: The signature of a consenting parent is not necessary if one of the following applies: (i) the child's other parent has died; or (ii) the whereabouts of the child's other parent are not known; or (iii) the child's other parent is not willing or able to make and carry out day-to-day child care decisions concerning the child; or (iv) the child's parents were never married and no court has issued an order establishing parentage.]

(Source: P.A. 98-568, eff. 1-1-14; 98-1082, eff. 1-1-15.)

(755 ILCS 5/11-6) (from Ch. 110 1/2, par. 11-6)

Sec. 11-6. Venue.) If the minor is a resident of this State, the proceeding shall be instituted in the court of the county in which he resides. If the minor is not a resident of this State, the proceeding shall be instituted in the court of a county in which his real or personal estate is located.

(Source: P.A. 80-1415.)

(755 ILCS 5/11-7)

Sec. 11-7. (Repealed).

(Source: P.A. 79-328. Repealed by P.A. 96-1338, eff. 1-1-11.)

(755 ILCS 5/11-7.1) (from Ch. 110 1/2, par. 11-7.1)

Sec. 11-7.1. Visitation rights.

(a) Whenever both parents of a minor are deceased, visitation rights shall be granted to the grandparents of the minor who are the parents of the minor's legal parents unless it is shown that such visitation would be detrimental to the best interests and welfare of the minor. In the discretion of the court, reasonable visitation rights may be granted to any other relative of the minor or other person having an interest in the welfare of the child. However, the court shall not grant visitation privileges to any person who otherwise might have visitation privileges under this Section where the minor has been adopted subsequent to the death of both his legal parents except where such adoption is by a close relative. For the purpose of this Section, "close relative" shall include, but not be limited to, a grandparent, aunt, uncle, first cousin, or adult brother or sister.

Where such adoption is by a close relative, the court shall not grant visitation privileges under this Section unless the petitioner alleges and proves that he or she has been unreasonably denied visitation with the child. The court may grant reasonable visitation privileges upon finding that such visitation would be in the best interest of the child.

An order denying visitation rights to grandparents of the minor shall be in writing and shall state the reasons for denial. An order denying visitation rights

is a final order for purposes of appeal.

(b) Unless the court determines, after considering all relevant factors, including but not limited to those set forth in Section 602.7 of the Illinois Marriage and Dissolution of Marriage Act, that it would be in the best interests of the child to allow visitation, the court shall not enter an order providing visitation rights and pursuant to a motion to modify visitation brought under Section 610.5 of the Illinois Marriage and Dissolution of Marriage Act shall revoke visitation rights previously granted to any person who would otherwise be entitled to petition for visitation rights under this Section who has been convicted of first degree murder of the parent, grandparent, great-grandparent, or sibling of the child who is the subject of the order. Until an order is entered pursuant to this subsection, no person shall visit, with the child present, a person who has been convicted of first degree murder of the parent, grandparent, great-grandparent, or sibling of the child without the consent of the child's parent, other than a parent convicted of first degree murder as set forth herein, or legal guardian.

(Source: P.A. 99-90, eff. 1-1-16.)

(755 ILCS 5/11-8) (from Ch. 110 1/2, par. 11-8)

Sec. 11-8. Petition for guardian of minor.

(a) The petition for appointment of a guardian of the estate, or of both the person and estate, of a minor, or for appointment of the guardian of the person only of a minor or minors must state, if known: (1) the name, date of birth and residence of the minor; (2) the names and post office addresses of the nearest relatives of the minor in the following order: (i) the spouse, if any; if none, (ii) the parents, adult brothers and sisters, and the short-term guardian, if any; if none, (iii) the nearest adult kindred; (3) the name and post office address of the person having the custody of the minor; (4) the approximate value of the personal estate; (5) the amount of the anticipated gross annual income and other receipts; (6) the name, post office address and, in case of an individual, the age and occupation of the proposed guardian; (7) the facts concerning the execution or admission to probate of the written designation of the guardian, if any, a copy of which shall be attached to or filed with the petition; and (8) the facts concerning any juvenile, adoption, parentage, dissolution, or guardianship court actions pending concerning the minor or the parents of the minor and whether any guardian is currently acting for the minor. In addition, if the petition seeks the appointment of a previously appointed standby guardian as guardian of the minor, the petition must also state: (9) the facts concerning the standby guardian's previous appointment and (10) the date of death of the minor's parent or parents or the facts concerning the consent of the minor's parent or parents to the appointment of the standby guardian as guardian, or the willingness and ability of the minor's parent or parents to make and carry out day-to-day child care decisions concerning the minor.

If a short-term guardian who has been appointed by the minor's parent or guardian prior to the filing of the petition subsequently petitions for court-ordered guardianship of the minor, the petition shall state the facts concerning the appointment of the short-term guardian, including: (i) the date of the appointment; (ii) the circumstances surrounding the appointment; (iii) the date the short-term guardian appointment ends; and (iv) the reasons why a court-ordered guardian is also needed for the minor. A copy of the short-term guardianship appointment shall be attached to the petition.

(b) A single petition for appointment of only a guardian of the person of a minor may include more than one minor. The statements required in items (1) and (2)

of subsection (a) shall be listed separately for each minor.
(Source: P.A. 98-1082, eff. 1-1-15.)

(755 ILCS 5/11-8.1)

Sec. 11-8.1. Petition for standby guardian of minor. The petition for appointment of a standby guardian of the person or the estate, or both, of a minor must state, if known: (a) the name, date of birth, and residence of the minor; (b) the names and post office addresses of the nearest relatives of the minor in the following order: (1) the parents, if any; (2) the adult brothers and sisters, if any; if none, (3) the nearest adult kindred; (4) the short-term guardian, if any; (c) the name and post office address of the person having custody of the minor; (d) the name, post office address, and, in case of any individual, the age and occupation of the proposed standby guardian; (e) the facts concerning the consent of the minor's parent or parents or the guardian of the person of the minor to the appointment of the standby guardian, or the willingness and ability of the minor's parent or parents, if any, or the guardian of the person of the minor to make and carry out day-to-day child care decisions concerning the minor; (f) the facts concerning the execution or admission to probate of the written designation of the standby guardian, if any, a copy of which shall be attached to or filed with the petition; and (g) the facts concerning any juvenile, adoption, parentage, dissolution, or guardianship court actions pending concerning the minor or the parents of the minor and whether any guardian is currently acting for the minor. If a short-term guardian has been appointed by the minor's parent or guardian and subsequently petitions for standby guardianship of the minor, the petition shall state the facts concerning the appointment of the short-term guardian, including: (i) the date of the appointment; (ii) the circumstances surrounding the appointment; (iii) the date the short-term guardian appointment ends; and (iv) the reasons why a standby guardian is also needed for the minor. A copy of the short-term guardianship appointment shall be attached to the petition.
(Source: P.A. 98-1082, eff. 1-1-15.)

(755 ILCS 5/11-9) (from Ch. 110 1/2, par. 11-9)

Sec. 11-9. Domestic Violence: Order of Protection. An order of protection, as defined in the Illinois Domestic Violence Act of 1986, enacted by the 84th General Assembly, may be issued in conjunction with a proceeding for appointment of a guardian for a minor if the petition for an order of protection alleges that a person who is party to or the subject of the proceeding has been abused by or has abused a family or household member. The Illinois Domestic Violence Act of 1986 shall govern the issuance, enforcement and recording of orders of protection issued under this Section.
(Source: P.A. 84-1305.)

(755 ILCS 5/11-10.1) (from Ch. 110 1/2, par. 11-10.1)

Sec. 11-10.1. Procedure for appointment of a standby guardian or a guardian of a minor.

(a) Unless excused by the court for good cause shown, it is the duty of the petitioner to give notice of the time and place of the hearing on the petition, in person or by mail, to the minor, if the minor is 14 years, or older, and to the relatives and the short-term guardian of the minor whose names and addresses are stated in the petition, not less than 7 days before the hearing, but failure to give notice to any relative is not jurisdictional.

(b) In any proceeding for the appointment of a standby guardian or a guardian the court may appoint a guardian ad litem to represent the minor in the proceeding.

(Source: P.A. 98-1082, eff. 1-1-15; 99-207, eff. 7-30-15.)

(755 ILCS 5/11-11) (from Ch. 110 1/2, par. 11-11)

Sec. 11-11. Costs in certain cases.) No costs may be taxed or charged by any public officer in any proceeding for the appointment of a guardian or for any subsequent proceeding or report made in pursuance of the appointment when the primary purpose of the appointment is any of the following:

(a) The proper expenditure of public assistance awarded to the ward under the provisions of any act of the General Assembly;

(b) The collection, disbursement or administering of money or assets derived from money awarded to the ward by the Veterans Administration or by any state or territory of the United States or the District of Columbia as a veteran's benefit, but costs may be allowed, in the discretion of the court, whenever there are assets from sources other than the Veterans Administration;

(c) The management of the estate of a minor patient in a State mental health or developmental disabilities facility when the value of the personal estate does not exceed $1,000.

(Source: P.A. 80-1415.)

(755 ILCS 5/11-13) (from Ch. 110 1/2, par. 11-13)

Sec. 11-13. Duties of guardian of a minor. Before a guardian of a minor may act, the guardian shall be appointed by the court of the proper county and, in the case of a guardian of the minor's estate, the guardian shall give the bond prescribed in Section 12-2. Except as provided in Section 11-13.1 and Section 11-13.2 with respect to the standby or short-term guardian of the person of a minor, the court shall have control over the person and estate of the ward. Under the direction of the court:

(a) The guardian of the person shall have the custody, nurture and tuition and shall provide education of the ward and of his children, but the ward's spouse may not be deprived of the custody and education of the spouse's children, without consent of the spouse, unless the court finds that the spouse is not a fit and competent person to have such custody and education. If the ward's estate is insufficient to provide for the ward's education and the guardian of his person fails to provide education, the court may award the custody of the ward to some other person for the purpose of providing education. If a person makes a settlement upon or provision for the support or education of a ward and if either parent of the ward is dead, the court may make such order for the visitation of the ward by the person making the settlement or provision as the court deems proper. The guardian of the minor shall inform the court of the minor's current address by certified mail, hand delivery, or other method in accordance with court rules

within 30 days of any change of residence.

(b) The guardian or other representative of the ward's estate shall have the care, management and investment of the estate, shall manage the estate frugally and shall apply the income and principal of the estate so far as necessary for the comfort and suitable support and education of the ward, his children, and persons related by blood or marriage who are dependent upon or entitled to support from him, or for any other purpose which the court deems to be for the best interests of the ward, and the court may approve the making on behalf of the ward of such agreements as the court determines to be for the ward's best interests. The representative may make disbursement of his ward's funds and estate directly to the ward or other distributee or in such other manner and in such amounts as the court directs. If the estate of a ward is derived in whole or in part from payments of compensation, adjusted compensation, pension, insurance or other similar benefits made directly to the estate by the Veterans Administration, notice of the application for leave to invest or expend the ward's funds or estate, together with a copy of the petition and proposed order, shall be given to the Veterans' Administration Regional Office in this State at least 7 days before the hearing on the application. The court, upon petition of a guardian of the estate of a minor, may permit the guardian to make a will or create a revocable or irrevocable trust for the minor that the court considers appropriate in light of changes in applicable tax laws that allow for minimization of State or federal income, estate, or inheritance taxes; however, the will or trust must make distributions only to the persons who would be entitled to distributions if the minor were to die intestate and the will or trust must make distributions to those persons in the same amounts to which they would be entitled if the minor were to die intestate.

(c) Upon the direction of the court which issued his letters a representative may perform the contracts of his ward which were legally subsisting at the time of the commencement of the guardianship. The court may authorize the guardian to execute and deliver any bill of sale, deed or other instrument.

(d) The representative of the estate of a ward shall appear for and represent the ward in all legal proceedings unless another person is appointed for that purpose as representative or next friend. This does not impair the power of any court to appoint a representative or next friend to defend the interests of the ward in that court, or to appoint or allow any person as the next friend of a ward to commence, prosecute or defend any proceeding in his behalf. Any proceeding on behalf of a minor may be commenced and prosecuted by his next friend, without any previous authority or appointment by the court if the next friend enters bond for costs and files it in the court where the proceeding is pending. Without impairing the power of the court in any respect, if the representative of the estate of a minor and another person as next friend shall appear for and represent the minor in a legal proceeding in which the compensation of the attorney or attorneys representing the guardian and next friend is solely determined under a contingent fee arrangement, the guardian of the estate of the minor shall not participate in or have any duty to review the prosecution of the action, to participate in or review the appropriateness of any settlement of the action, or to participate in or review any determination of the appropriateness of any fees awarded to the attorney or attorneys employed in the prosecution of the action.

(e) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interest of the minor, the court may terminate or limit the authority of a standby or short-term guardian or may enter such other orders as the court deems necessary to provide for the best interest of the minor. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have a guardian appointed for the minor.

(f) The court may grant leave to the guardian of a minor child or children to

remove such child or children from Illinois whenever such approval is in the best interests of such child or children. The guardian may not remove a minor from Illinois except as permitted under this Section and must seek leave of the court prior to removing a child for 30 days or more. The burden of proving that such removal is in the best interests of such child or children is on the guardian. When such removal is permitted, the court may require the guardian removing such child or children from Illinois to give reasonable security guaranteeing the return of such children.

The court shall consider the wishes of the minor's parent or parents and the effect of removal on visitation and the wishes of the minor if he or she is 14 years of age or older. The court may not consider the availability of electronic communication as a factor in support of the removal of a child by the guardian from Illinois. The guardianship order may incorporate language governing removal of the minor from the State. Any order for removal, including one incorporated into the guardianship order, must include the date of the removal, the reason for removal, and the proposed residential and mailing address of the minor after removal. A copy of the order must be provided to any parent whose location is known, within 3 days of entry, either by personal delivery or by certified mail, return receipt requested.

Before a minor child is temporarily removed from Illinois for more than 48 hours but less than 30 days, the guardian shall inform the parent or parents of the address and telephone number where the child may be reached during the period of temporary removal and the date on which the child shall return to Illinois. The State of Illinois retains jurisdiction when the minor child is absent from the State pursuant to this subsection. The guardianship order may incorporate language governing out-of-state travel with the minor.
(Source: P.A. 98-1082, eff. 1-1-15; 99-207, eff. 7-30-15.)

(755 ILCS 5/11-13.1)

Sec. 11-13.1. Duties of standby guardian of a minor.

(a) Before a standby guardian of a minor may act, the standby guardian must be appointed by the court of the proper county and, in the case of a standby guardian of the minor's estate, the standby guardian must give the bond prescribed in subsection (d) of Section 11-5.3 and Section 12-2.

(b) The standby guardian shall not have any duties or authority to act until the standby guardian receives knowledge (i) of the death or consent of the minor's parent or parents or of the guardian of the person of the minor, or (ii) the inability of the minor's parent or parents or of the guardian of the person of the minor to make and carry out day-to-day child care decisions concerning the minor for whom the standby guardian has been appointed. This inability to make and carry out day-to-day child care decisions may be communicated either by the parent's or the guardian's own admission or by the written certification of the parent's or guardian's attending physician. Immediately upon receipt of that knowledge, the standby guardian shall assume all duties as guardian of the minor as previously determined by the order appointing the standby guardian, and as set forth in Section 11-13, and the standby guardian of the person shall have the authority to act as guardian of the person without direction of court for a period of up to 60 days, provided that the authority of the standby guardian may be limited or terminated by a court of competent jurisdiction.

(c) Within 60 days of the standby guardian's receipt of knowledge of (i) the death or consent of the minor's parent or parents or guardian or (ii) the inability of the minor's parent or parents or guardian to make and carry out day-to-day child care decisions concerning the minor, the standby guardian shall file or cause to be

filed a petition for the appointment of a guardian of the person or estate, or both, of the minor under Section 11-5.
(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/11-13.2)
Sec. 11-13.2. Duties of short-term guardian of a minor.
(a) Immediately upon the effective date of the appointment of a short-term guardian, the short-term guardian shall assume all duties as short-term guardian of the minor as provided in this Section. The short-term guardian of the person shall have authority to act as short-term guardian, without direction of court, for the duration of the appointment, which in no case shall exceed a period of 365 days. The authority of the short-term guardian may be limited or terminated by a court of competent jurisdiction.
(b) Unless further specifically limited by the instrument appointing the short-term guardian, a short-term guardian shall have the authority to act as a guardian of the person of a minor as prescribed in Section 11-13, but shall not have any authority to act as guardian of the estate of a minor, except that a short-term guardian shall have the authority to apply for and receive on behalf of the minor benefits to which the child may be entitled from or under federal, State, or local organizations or programs.
(Source: P.A. 95-568, eff. 6-1-08.)

(755 ILCS 5/11-13.3)
Sec. 11-13.3. Reliance on authority of guardian, standby guardian, short-term guardian.
(a) Every health care provider and other person (reliant) has the right to rely on any decision or direction made by the guardian, standby guardian, or short-term guardian that is not clearly contrary to the law, to the same extent and with the same effect as though the decision or direction had been made or given by the parent. Any person dealing with the guardian, standby guardian, or short-term guardian may presume in the absence of actual knowledge to the contrary that the acts of the guardian, standby guardian, or short-term guardian conform to the provisions of the law. A reliant shall not be protected if the reliant has actual knowledge that the guardian, standby guardian, or short-term guardian is not entitled to act or that any particular action or inaction is contrary to the provisions of the law.
(b) A health care provider (provider) who relies on and carries out a guardian's, standby guardian's, or short-term guardian's directions and who acts with due care and in accordance with the law shall not be subject to any claim based on lack of parental consent, or to criminal prosecution, or to discipline for unprofessional conduct. Nothing in this Section shall be deemed to protect a provider from liability for the provider's own negligence in the performance of the provider's duties or in carrying out any instructions of the guardian, standby guardian, or short-term guardian, and nothing in this Section shall be deemed to alter the law of negligence as it applies to the acts of any guardian, standby guardian, or short-term guardian or provider.
(c) A guardian, standby guardian, or short-term guardian who acts or refrains from acting is not subject to criminal prosecution or any claim based upon lack of his or her authority or failure to act, if the act or failure to act was with due

care and in accordance with law. The guardian, standby guardian, or short-term guardian shall not be liable merely because he or she may benefit from the act, has individual or conflicting interests in relation to the care and affairs of the parent, or acts in a different manner with respect to the parent's and guardian's, standby guardian's, or short-term guardian's own care or interests.
(Source: P.A. 89-438, eff. 12-15-95.)

(755 ILCS 5/11-14.1) (from Ch. 110 1/2, par. 11-14.1)
Sec. 11-14.1. Revocation of letters.
(a) Upon the minor reaching the age of majority, the letters of office shall be revoked only as to that minor and the guardianship over that minor shall be terminated. The letters of office and the guardianship shall remain as to any other minors included in the same letters of office or guardianship order.
(b) Upon the filing of a petition by a minor's living, adoptive, or adjudicated parent whose parental rights have not been terminated, the court shall discharge the guardian and terminate the guardianship if the parent establishes, by a preponderance of the evidence, that a material change in the circumstances of the minor or the parent has occurred since the entry of the order appointing the guardian; unless the guardian establishes, by clear and convincing evidence, that termination of the guardianship would not be in the best interests of the minor. In determining the minor's best interests, the court shall consider all relevant factors including:
(1) The interaction and interrelationship of the minor with the parent and members of the parent's household.
(2) The ability of the parent to provide a safe, nurturing environment for the minor.
(3) The relative stability of the parties and the minor.
(4) The minor's adjustment to his or her home, school, and community, including the length of time that the minor has lived with the parent and the guardian.
(5) The nature and extent of visitation between the parent and the minor and the guardian's ability and willingness to facilitate visitation.
(Source: P.A. 96-1338, eff. 1-1-11.)

(755 ILCS 5/11-18) (from Ch. 110 1/2, par. 11-18)
Sec. 11-18. Successor guardian. Upon the death, incapacity, resignation or removal of a standby guardian or a guardian, the court may appoint a successor standby guardian or a successor guardian.
(Source: P.A. 88-529.)

(755 ILCS 5/Art. XIa heading)

ARTICLE XIa

GUARDIANS FOR ADULTS WITH DISABILITIES

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-1) (from Ch. 110 1/2, par. 11a-1)

Sec. 11a-1. Developmental disability defined.)"Developmental disability" means a disability which is attributable to: (a) an intellectual disability, cerebral palsy, epilepsy or autism; or to (b) any other condition which results in impairment similar to that caused by an intellectual disability and which requires services similar to those required by persons with intellectual disabilities. Such disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial disability.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-2) (from Ch. 110 1/2, par. 11a-2)

Sec. 11a-2. "Person with a disability" defined.) "Person with a disability" means a person 18 years or older who (a) because of mental deterioration or physical incapacity is not fully able to manage his person or estate, or (b) is a person with mental illness or a person with a developmental disability and who because of his mental illness or developmental disability is not fully able to manage his person or estate, or (c) because of gambling, idleness, debauchery or excessive use of intoxicants or drugs, so spends or wastes his estate as to expose himself or his family to want or suffering, or (d) is diagnosed with fetal alcohol syndrome or fetal alcohol effects.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-3) (from Ch. 110 1/2, par. 11a-3)

Sec. 11a-3. Adjudication of disability; Power to appoint guardian.

(a) Upon the filing of a petition by a reputable person or by the alleged person with a disability himself or on its own motion, the court may adjudge a person to be a person with a disability, but only if it has been demonstrated by clear and convincing evidence that the person is a person with a disability as defined in Section 11a-2. If the court adjudges a person to be a person with a disability, the court may appoint (1) a guardian of his person, if it has been demonstrated by clear and convincing evidence that because of his disability he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the care of his person, or (2) a guardian of his estate, if it has been demonstrated by clear and convincing evidence that because of his disability he is unable to manage his estate or financial affairs, or (3) a guardian of his person and of his estate.

(b) Guardianship shall be utilized only as is necessary to promote the well-being of the person with a disability, to protect him from neglect, exploitation, or abuse, and to encourage development of his maximum self-reliance and independence. Guardianship shall be ordered only to the extent necessitated by the

individual's actual mental, physical and adaptive limitations.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-3.1)

Sec. 11a-3.1. Appointment of standby guardian.

(a) The guardian of a person with a disability may designate in any writing, including a will, a person qualified to act under Section 11a-5 to be appointed as standby guardian of the person or estate, or both, of the person with a disability. The guardian may designate in any writing, including a will, a person qualified to act under Section 11a-5 to be appointed as successor standby guardian of the person or estate of the person with a disability, or both. The designation must be witnessed by 2 or more credible witnesses at least 18 years of age, neither of whom is the person designated as the standby guardian. The designation may be proved by any competent evidence. If the designation is executed and attested in the same manner as a will, it shall have prima facie validity. Prior to designating a proposed standby guardian, the guardian shall consult with the person with a disability to determine the preference of the person with a disability as to the person who will serve as standby guardian. The guardian shall give due consideration to the preference of the person with a disability in selecting a standby guardian.

(b) Upon the filing of a petition for the appointment of a standby guardian, the court may appoint a standby guardian of the person or estate, or both, of the person with a disability as the court finds to be in the best interest of the person with a disability. The court shall apply the same standards used in determining the suitability of a plenary or limited guardian in determining the suitability of a standby guardian, giving due consideration to the preference of the person with a disability as to a standby guardian. The court may not appoint the Office of State Guardian, pursuant to Section 30 of the Guardianship and Advocacy Act, or a public guardian, pursuant to Section 13-5 of this Act, as a standby guardian, without the written consent of the State Guardian or public guardian or an authorized representative of the State Guardian or public guardian.

(c) The standby guardian shall take and file an oath or affirmation that the standby guardian will faithfully discharge the duties of the office of standby guardian according to law, and shall file in and have approved by the court a bond binding the standby guardian so to do, but shall not be required to file a bond until the standby guardian assumes all duties as guardian of the person with a disability under Section 11a-18.2.

(d) The designation of a standby guardian may, but need not, be in the following form:

DESIGNATION OF STANDBY GUARDIAN

[IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

A standby guardian is someone who has been appointed by the court as the person who will act as guardian of the person with a disability when the guardian of the person with a disability dies or is no longer willing or able to make and carry out day-to-day care decisions concerning the person with a disability. By properly completing this form, a guardian is naming the person that the guardian wants to be appointed as the standby guardian of the person with a disability. Signing the form does not appoint the standby guardian; to be appointed, a petition must be filed in and approved by the court.]

1. Guardian and Ward. I, (insert name of designating guardian), currently residing at (insert address of designating guardian), am the guardian of the following person with a disability: (insert name of ward).

2. Standby Guardian. I hereby designate the following person to be appointed as standby guardian for my ward listed above: (insert name and address of person designated).

3. Successor Standby Guardian. If the person named in item 2 above cannot or will not act as standby guardian, I designate the following person to be appointed as successor standby guardian for my ward: (insert name and address of person designated).

4. Date and Signature. This designation is made this (insert day) day of (insert month and year).

Signed: (designating guardian)

5. Witnesses. I saw the guardian sign this designation or the guardian told me that the guardian signed this designation. Then I signed the designation as a witness in the presence of the guardian. I am not designated in this instrument to act as a standby guardian for the guardian's ward. (insert space for names, addresses, and signatures of 2 witnesses)

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-3.2)

Sec. 11a-3.2. Short-term guardian.

(a) The guardian of a person with a disability may appoint in writing, without court approval, a short-term guardian of the person with a disability to take over the guardian's duties, to the extent provided in Section 11a-18.3, each time the guardian is unavailable or unable to carry out those duties. The guardian shall consult with the person with a disability to determine the preference of the person with a disability concerning the person to be appointed as short-term guardian and the guardian shall give due consideration to the preference of the person with a disability in choosing a short-term guardian. The written instrument appointing a short-term guardian shall be dated and shall identify the appointing guardian, the person with a disability, the person appointed to be the short-term guardian, and the termination date of the appointment. The written instrument shall be signed by, or at the direction of, the appointing guardian in the presence of at least 2 credible witnesses at least 18 years of age, neither of whom is the person appointed as the short-term guardian. The person appointed as the short-term guardian shall also sign the written instrument, but need not sign at the same time as the appointing guardian. A guardian may not appoint the Office of State Guardian or a public guardian as a short-term guardian, without the written consent of the State Guardian or public guardian or an authorized representative of the State Guardian or public guardian.

(b) The appointment of the short-term guardian is effective immediately upon the date the written instrument is executed, unless the written instrument provides for the appointment to become effective upon a later specified date or event. A short-term guardian appointed by the guardian shall have authority to act as guardian of the person with a disability for a cumulative total of 60 days during any 12 month period. Only one written instrument appointing a short-term guardian may be in force at any given time.

(c) Every appointment of a short-term guardian may be amended or revoked by the appointing guardian at any time and in any manner communicated to the short-term guardian or to any other person. Any person other than the short-term guardian to whom a revocation or amendment is communicated or delivered shall make all reasonable efforts to inform the short-term guardian of that fact as promptly as possible.

(d) The appointment of a short-term guardian or successor short-term guardian

does not affect the rights in the person with a disability of any guardian other than the appointing guardian.

(e) The written instrument appointing a short-term guardian may, but need not, be in the following form:

APPOINTMENT OF SHORT-TERM GUARDIAN

[IT IS IMPORTANT TO READ THE FOLLOWING INSTRUCTIONS:

By properly completing this form, a guardian is appointing a short-term guardian of the person with a disability for a cumulative total of up to 60 days during any 12 month period. A separate form shall be completed each time a short-term guardian takes over guardianship duties. The person or persons appointed as the short-term guardian shall sign the form, but need not do so at the same time as the guardian.]

1. Guardian and Ward. I, (insert name of appointing guardian), currently residing at (insert address of appointing guardian), am the guardian of the following person with a disability: (insert name of ward).

2. Short-term Guardian. I hereby appoint the following person as the short-term guardian for my ward: (insert name and address of appointed person).

3. Effective date. This appointment becomes effective: (check one if you wish it to be applicable)

( ) On the date that I state in writing that I am no longer either willing or able to make and carry out day-to-day care decisions concerning my ward.

( ) On the date that a physician familiar with my condition certifies in writing that I am no longer willing or able to make and carry out day-to-day care decisions concerning my ward.

( ) On the date that I am admitted as an in-patient to a hospital or other health care institution.

( ) On the following date: (insert date).

( ) Other: (insert other).

[NOTE: If this item is not completed, the appointment is effective immediately upon the date the form is signed and dated below.]

4. Termination. This appointment shall terminate on: (enter a date corresponding to 60 days from the current date, less the number of days within the past 12 months that any short-term guardian has taken over guardianship duties), unless it terminates sooner as determined by the event or date I have indicated below: (check one if you wish it to be applicable)

( ) On the date that I state in writing that I am willing and able to make and carry out day-to-day care decisions concerning my ward.

( ) On the date that a physician familiar with my condition certifies in writing that I am willing and able to make and carry out day-to-day care decisions concerning my ward.

( ) On the date that I am discharged from the hospital or other health care institution where I was admitted as an in-patient, which established the effective date.

( ) On the date which is (state a number of days) days after the effective date.

( ) Other: (insert other).

[NOTE: If this item is not completed, the appointment will be effective until the 60th day within the past year during which time any short-term guardian of this ward had taken over guardianship duties from the guardian, beginning on the effective date.]

5. Date and signature of appointing guardian. This

appointment is made this (insert day) day of (insert month and year).

Signed: (appointing guardian)

6. Witnesses. I saw the guardian sign this instrument or I saw the guardian direct someone to sign this instrument for the guardian. Then I signed this instrument as a witness in the presence of the guardian. I am not appointed in this instrument to act as the short-term guardian for the guardian's ward. (insert space for names, addresses, and signatures of 2 witnesses)

7. Acceptance of short-term guardian. I accept this appointment as short-term guardian on this (insert day) day of (insert month and year).

Signed: (short-term guardian)

(f) Each time the guardian appoints a short-term guardian, the guardian shall: (i) provide the person with a disability with the name, address, and telephone number of the short-term guardian; (ii) advise the person with a disability that he has the right to object to the appointment of the short-term guardian by filing a petition in court; and (iii) notify the person with a disability when the short-term guardian will be taking over guardianship duties and the length of time that the short-term guardian will be acting as guardian.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-4) (from Ch. 110 1/2, par. 11a-4)

(Text of Section from P.A. 99-70)

Sec. 11a-4. Temporary guardian.

(a) Prior to the appointment of a guardian under this Article, pending an appeal in relation to the appointment, or pending the completion of a citation proceeding brought pursuant to Section 23-3 of this Act, or upon a guardian's death, incapacity, or resignation, the court may appoint a temporary guardian upon a showing of the necessity therefor for the immediate welfare and protection of the alleged disabled person or his or her estate on such notice and subject to such conditions as the court may prescribe. In determining the necessity for temporary guardianship, the immediate welfare and protection of the alleged disabled person and his or her estate shall be of paramount concern, and the interests of the petitioner, any care provider, or any other party shall not outweigh the interests of the alleged disabled person. The temporary guardian shall have the limited powers and duties of a guardian of the person or of the estate which are specifically enumerated by court order. The court order shall state the actual harm identified by the court that necessitates temporary guardianship or any extension thereof.

(b) The temporary guardianship shall expire within 60 days after the appointment or whenever a guardian is regularly appointed, whichever occurs first. No extension shall be granted except:

(1) In a case where there has been an adjudication of disability, an extension shall be granted:

(i) pending the disposition on appeal of an adjudication of disability;

(ii) pending the completion of a citation proceeding brought pursuant to Section 23-3;

(iii) pending the appointment of a successor guardian in a case where the former guardian has resigned, has become incapacitated, or is deceased; or

(iv) where the guardian's powers have been suspended pursuant to a court order.

(2) In a case where there has not been an adjudication of disability, an extension shall be granted pending the disposition of a petition brought pursuant to Section 11a-8 so long as the court finds it is in the best interest of the alleged disabled person to extend the temporary guardianship so as to protect the alleged disabled person from any potential abuse, neglect, self-neglect, exploitation, or other harm and such extension lasts no more than 120 days from the date the temporary guardian was originally appointed.

The ward shall have the right any time after the appointment of a temporary guardian is made to petition the court to revoke the appointment of the temporary guardian.

(Source: P.A. 99-70, eff. 1-1-16.)

(Text of Section from P.A. 99-143)

Sec. 11a-4. Temporary guardian.

(a) Prior to the appointment of a guardian under this Article, pending an appeal in relation to the appointment, or pending the completion of a citation proceeding brought pursuant to Section 23-3 of this Act, or upon a guardian's death, incapacity, or resignation, the court may appoint a temporary guardian upon a showing of the necessity therefor for the immediate welfare and protection of the alleged person with a disability or his or her estate on such notice and subject to such conditions as the court may prescribe. In determining the necessity for temporary guardianship, the immediate welfare and protection of the alleged person with a disability and his or her estate shall be of paramount concern, and the interests of the petitioner, any care provider, or any other party shall not outweigh the interests of the alleged person with a disability. The temporary guardian shall have all of the powers and duties of a guardian of the person or of the estate which are specifically enumerated by court order. The court order shall state the actual harm identified by the court that necessitates temporary guardianship or any extension thereof.

(b) The temporary guardianship shall expire within 60 days after the appointment or whenever a guardian is regularly appointed, whichever occurs first. No extension shall be granted except:

(1) In a case where there has been an adjudication of disability, an extension shall be granted:

(i) pending the disposition on appeal of an adjudication of disability;

(ii) pending the completion of a citation proceeding brought pursuant to Section 23-3;

(iii) pending the appointment of a successor guardian in a case where the former guardian has resigned, has become incapacitated, or is deceased; or

(iv) where the guardian's powers have been suspended pursuant to a court order.

(2) In a case where there has not been an adjudication of disability, an extension shall be granted pending the disposition of a petition brought pursuant to Section 11a-8 so long as the court finds it is in the best interest of the alleged person with a disability to extend the temporary guardianship so as to protect the alleged person with a disability from any potential abuse, neglect, self-neglect, exploitation, or other harm and such extension lasts no more than 120 days from the date the temporary guardian was originally appointed.

The ward shall have the right any time after the appointment of a temporary guardian is made to petition the court to revoke the appointment of the temporary guardian.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-5) (from Ch. 110 1/2, par. 11a-5)

Sec. 11a-5. Who may act as guardian.

(a) A person is qualified to act as guardian of the person and as guardian of the estate of a person with a disability if the court finds that the proposed guardian is capable of providing an active and suitable program of guardianship for the person with a disability and that the proposed guardian:

(1) has attained the age of 18 years;

(2) is a resident of the United States;

(3) is not of unsound mind;

(4) is not an adjudged person with a disability as defined in this Act; and

(5) has not been convicted of a felony, unless the court finds appointment of the person convicted of a felony to be in the best interests of the person with a disability, and as part of the best interest determination, the court has considered the nature of the offense, the date of offense, and the evidence of the proposed guardian's rehabilitation. No person shall be appointed who has been convicted of a felony involving harm or threat to a minor or an elderly person or a person with a disability, including a felony sexual offense.

(b) Any public agency, or not-for-profit corporation found capable by the court of providing an active and suitable program of guardianship for the person with a disability, taking into consideration the nature of such person's disability and the nature of such organization's services, may be appointed guardian of the person or of the estate, or both, of the person with a disability. The court shall not appoint as guardian an agency which is directly providing residential services to the ward. One person or agency may be appointed guardian of the person and another person or agency appointed guardian of the estate.

(c) Any corporation qualified to accept and execute trusts in this State may be appointed guardian of the estate of a person with a disability.

(Source: P.A. 98-120, eff. 1-1-14; 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-6) (from Ch. 110 1/2, par. 11a-6)

Sec. 11a-6. Designation of Guardian.) A person, while of sound mind and memory, may designate in writing a person, corporation or public agency qualified to act under Section 11a-5, to be appointed as guardian or as successor guardian of his person or of his estate or both, in the event he is adjudged to be a person with a disability. The designation may be proved by any competent evidence, but if it is executed and attested in the same manner as a will, it shall have prima facie validity. If the court finds that the appointment of the one designated will serve the best interests and welfare of the ward, it shall make the appointment in accordance with the designation. The selection of the guardian shall be in the discretion of the court whether or not a designation is made.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-7) (from Ch. 110 1/2, par. 11a-7)

Sec. 11a-7. Venue.) If the alleged ward is a resident of this State, the proceeding shall be instituted in the court of the county in which he resides. If the alleged ward is not a resident of this State, the proceeding shall be instituted in the court of a county in which his real or personal estate is located.

(Source: P.A. 80-1415.)

(755 ILCS 5/11a-8) (from Ch. 110 1/2, par. 11a-8)

Sec. 11a-8. Petition. The petition for adjudication of disability and for the appointment of a guardian of the estate or the person or both of an alleged person with a disability must state, if known or reasonably ascertainable: (a) the relationship and interest of the petitioner to the respondent; (b) the name, date of birth, and place of residence of the respondent; (c) the reasons for the guardianship; (d) the name and post office address of the respondent's guardian, if any, or of the respondent's agent or agents appointed under the Illinois Power of Attorney Act, if any; (e) the name and post office addresses of the nearest relatives of the respondent in the following order: (1) the spouse and adult children, parents and adult brothers and sisters, if any; if none, (2) nearest adult kindred known to the petitioner; (f) the name and address of the person with whom or the facility in which the respondent is residing; (g) the approximate value of the personal and real estate; (h) the amount of the anticipated annual gross income and other receipts; (i) the name, post office address and in case of an individual, the age, relationship to the respondent and occupation of the proposed guardian. In addition, if the petition seeks the appointment of a previously appointed standby guardian as guardian of the person with a disability, the petition must also state: (j) the facts concerning the standby guardian's previous appointment and (k) the date of death of the guardian of the person with a disability or the facts concerning the consent of the guardian of the person with a disability to the appointment of the standby guardian as guardian, or the willingness and ability of the guardian of the person with a disability to make and carry out day-to-day care decisions concerning the person with a disability. A petition for adjudication of disability and the appointment of a guardian of the estate or the person or both of an alleged person with a disability may not be dismissed or withdrawn without leave of the court.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-8.1)

Sec. 11a-8.1. Petition for standby guardian of the person with a disability. The petition for appointment of a standby guardian of the person or the estate, or both, of a person with a disability must state, if known: (a) the name, date of birth, and residence of the person with a disability; (b) the names and post office addresses of the nearest relatives of the person with a disability in the following order: (1) the spouse and adult children, parents and adult brothers and sisters, if any; if none, (2) nearest adult kindred known to the petitioner; (c) the name and post office address of the person having guardianship of the person with a disability, and of any person or persons acting as agents of the person with a disability under the Illinois Power of Attorney Act; (d) the name, post office address, and, in case of any individual, the age and occupation of the

proposed standby guardian; (e) the preference of the person with a disability as to the choice of standby guardian; (f) the facts concerning the consent of the guardian of the person with a disability to the appointment of the standby guardian, or the willingness and ability of the guardian of the person with a disability to make and carry out day-to-day care decisions concerning the person with a disability; (g) the facts concerning the execution or admission to probate of the written designation of the standby guardian, if any, a copy of which shall be attached to or filed with the petition; (h) the facts concerning any guardianship court actions pending concerning the person with a disability; and (i) the facts concerning the willingness of the proposed standby guardian to serve, and in the case of the Office of State Guardian and any public guardian, evidence of a written acceptance to serve signed by the State Guardian or public guardian or an authorized representative of the State Guardian or public guardian, consistent with subsection (b) of Section 11a-3.1.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-9) (from Ch. 110 1/2, par. 11a-9)
Sec. 11a-9. Report.)

(a) The petition for adjudication of disability and for appointment of a guardian should be accompanied by a report which contains (1) a description of the nature and type of the respondent's disability and an assessment of how the disability impacts on the ability of the respondent to make decisions or to function independently; (2) an analysis and results of evaluations of the respondent's mental and physical condition and, where appropriate, educational condition, adaptive behavior and social skills, which have been performed within 3 months of the date of the filing of the petition; (3) an opinion as to whether guardianship is needed, the type and scope of the guardianship needed, and the reasons therefor; (4) a recommendation as to the most suitable living arrangement and, where appropriate, treatment or habilitation plan for the respondent and the reasons therefor; (5) the name, business address, business telephone number, and signatures of all persons who performed the evaluations upon which the report is based, one of whom shall be a licensed physician and a statement of the certification, license, or other credentials that qualify the evaluators who prepared the report.

(b) If for any reason no report accompanies the petition, the court shall order appropriate evaluations to be performed by a qualified person or persons and a report prepared and filed with the court at least 10 days prior to the hearing.

(b-5) Upon oral or written motion by the respondent or the guardian ad litem or upon the court's own motion, the court shall appoint one or more independent experts to examine the respondent. Upon the filing with the court of a verified statement of services rendered by the expert or experts, the court shall determine a reasonable fee for the services performed. If the respondent is unable to pay the fee, the court may enter an order upon the petitioner to pay the entire fee or such amount as the respondent is unable to pay. However, in cases where the Office of State Guardian is the petitioner, consistent with Section 30 of the Guardianship and Advocacy Act, no expert services fees shall be assessed against the Office of the State Guardian.

(c) Unless the court otherwise directs, any report prepared pursuant to this Section shall not be made part of the public record of the proceedings but shall be available to the court or an appellate court in which the proceedings are subject to review, to the respondent, the petitioner, the guardian, and their attorneys, to the respondent's guardian ad litem, and to such other persons as the court may

direct.
(Source: P.A. 98-1094, eff. 1-1-15.)

(755 ILCS 5/11a-10) (from Ch. 110 1/2, par. 11a-10)

Sec. 11a-10. Procedures preliminary to hearing.

(a) Upon the filing of a petition pursuant to Section 11a-8, the court shall set a date and place for hearing to take place within 30 days. The court shall appoint a guardian ad litem to report to the court concerning the respondent's best interests consistent with the provisions of this Section, except that the appointment of a guardian ad litem shall not be required when the court determines that such appointment is not necessary for the protection of the respondent or a reasonably informed decision on the petition. If the guardian ad litem is not a licensed attorney, he or she shall be qualified, by training or experience, to work with or advocate for persons with developmental disabilities, the mentally ill, persons with physical disabilities, the elderly, or persons with a disability due to mental deterioration, depending on the type of disability that is alleged in the petition. The court may allow the guardian ad litem reasonable compensation. The guardian ad litem may consult with a person who by training or experience is qualified to work with persons with a developmental disability, persons with mental illness, persons with physical disabilities, or persons with a disability due to mental deterioration, depending on the type of disability that is alleged. The guardian ad litem shall personally observe the respondent prior to the hearing and shall inform him orally and in writing of the contents of the petition and of his rights under Section 11a-11. The guardian ad litem shall also attempt to elicit the respondent's position concerning the adjudication of disability, the proposed guardian, a proposed change in residential placement, changes in care that might result from the guardianship, and other areas of inquiry deemed appropriate by the court. Notwithstanding any provision in the Mental Health and Developmental Disabilities Confidentiality Act or any other law, a guardian ad litem shall have the right to inspect and copy any medical or mental health record of the respondent which the guardian ad litem deems necessary, provided that the information so disclosed shall not be utilized for any other purpose nor be redisclosed except in connection with the proceedings. At or before the hearing, the guardian ad litem shall file a written report detailing his or her observations of the respondent, the responses of the respondent to any of the inquires detailed in this Section, the opinion of the guardian ad litem or other professionals with whom the guardian ad litem consulted concerning the appropriateness of guardianship, and any other material issue discovered by the guardian ad litem. The guardian ad litem shall appear at the hearing and testify as to any issues presented in his or her report.

(b) The court (1) may appoint counsel for the respondent, if the court finds that the interests of the respondent will be best served by the appointment, and (2) shall appoint counsel upon respondent's request or if the respondent takes a position adverse to that of the guardian ad litem. The respondent shall be permitted to obtain the appointment of counsel either at the hearing or by any written or oral request communicated to the court prior to the hearing. The summons shall inform the respondent of this right to obtain appointed counsel. The court may allow counsel for the respondent reasonable compensation.

(c) If the respondent is unable to pay the fee of the guardian ad litem or appointed counsel, or both, the court may enter an order for the petitioner to pay all such fees or such amounts as the respondent or the respondent's estate may be unable to pay. However, in cases where the Office of State Guardian is the petitioner, consistent with Section 30 of the Guardianship and Advocacy Act, where the public guardian is the petitioner, consistent with Section 13-5 of the Probate

Act of 1975, where an adult protective services agency is the petitioner, pursuant to Section 9 of the Adult Protective Services Act, or where the Department of Children and Family Services is the petitioner under subparagraph (d) of subsection (1) of Section 2-27 of the Juvenile Court Act of 1987, no guardian ad litem or legal fees shall be assessed against the Office of State Guardian, the public guardian, the adult protective services agency, or the Department of Children and Family Services.

(d) The hearing may be held at such convenient place as the court directs, including at a facility in which the respondent resides.

(e) Unless he is the petitioner, the respondent shall be personally served with a copy of the petition and a summons not less than 14 days before the hearing. The summons shall be printed in large, bold type and shall include the following notice:

NOTICE OF RIGHTS OF RESPONDENT

You have been named as a respondent in a guardianship petition asking that you be declared a person with a disability. If the court grants the petition, a guardian will be appointed for you. A copy of the guardianship petition is attached for your convenience.

The date and time of the hearing are:

The place where the hearing will occur is:

The Judge's name and phone number is:

If a guardian is appointed for you, the guardian may be given the right to make all important personal decisions for you, such as where you may live, what medical treatment you may receive, what places you may visit, and who may visit you. A guardian may also be given the right to control and manage your money and other property, including your home, if you own one. You may lose the right to make these decisions for yourself.

You have the following legal rights:

(1) You have the right to be present at the court hearing.

(2) You have the right to be represented by a lawyer, either one that you retain, or one appointed by the Judge.

(3) You have the right to ask for a jury of six persons to hear your case.

(4) You have the right to present evidence to the court and to confront and cross-examine witnesses.

(5) You have the right to ask the Judge to appoint an independent expert to examine you and give an opinion about your need for a guardian.

(6) You have the right to ask that the court hearing be closed to the public.

(7) You have the right to tell the court whom you prefer to have for your guardian.

You do not have to attend the court hearing if you do not want to be there. If you do not attend, the Judge may appoint a guardian if the Judge finds that a guardian would be of benefit to you. The hearing will not be postponed or canceled if you do not attend.

IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN. IF YOU DO NOT WANT A GUARDIAN OF IF YOU HAVE ANY OTHER PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND TELL THE JUDGE.

Service of summons and the petition may be made by a private person 18 years of age or over who is not a party to the action.

(f) Notice of the time and place of the hearing shall be given by the petitioner by mail or in person to those persons, including the proposed guardian, whose names and addresses appear in the petition and who do not waive notice, not

less than 14 days before the hearing.
(Source: P.A. 98-49, eff. 7-1-13; 98-89, eff. 7-15-13; 98-756, eff. 7-16-14; 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-10.1) (from Ch. 110 1/2, par. 11a-10.1)

Sec. 11a-10.1. Domestic Violence: Order of Protection. An order of protection, as defined in the Illinois Domestic Violence Act of 1986, as amended, may be issued in conjunction with a proceeding for adjudication of disability and appointment of guardian if the petition for an order of protection alleges that a person who is party to or the subject of the proceeding has been abused by or has abused a family or household member or has been neglected or exploited as defined in the Illinois Domestic Violence Act of 1986, as amended.

If the subject of the order of protection is a high-risk adult with disabilities for whom a guardian has been appointed, the court may appoint a temporary substitute guardian under the provisions of this Act. The court shall appoint a temporary substitute guardian if the appointed guardian is named as a respondent in a petition for an order of protection under the Illinois Domestic Violence Act of 1986, as amended. The Illinois Domestic Violence Act of 1986 shall govern the issuance, enforcement and recording of orders of protection issued under this Section.
(Source: P.A. 86-542.)

(755 ILCS 5/11a-10.2)

Sec. 11a-10.2. Procedure for appointment of a standby guardian or a guardian of a person with a disability. In any proceeding for the appointment of a standby guardian or a guardian the court may appoint a guardian ad litem to represent the person with a disability in the proceeding.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-11) (from Ch. 110 1/2, par. 11a-11)

Sec. 11a-11. Hearing.

(a) The respondent is entitled to be represented by counsel, to demand a jury of 6 persons, to present evidence, and to confront and cross-examine all witnesses. The hearing may be closed to the public on request of the respondent, the guardian ad litem, or appointed or other counsel for the respondent. Unless excused by the court upon a showing that the respondent refuses to be present or will suffer harm if required to attend, the respondent shall be present at the hearing.

(b) (Blank).

(c) (Blank).

(d) In an uncontested proceeding for the appointment of a guardian the person who prepared the report required by Section 11a-9 will only be required to testify at trial upon order of court for cause shown.

(e) At the hearing the court shall inquire regarding: (1) the nature and extent of respondent's general intellectual and physical functioning; (2) the extent of the impairment of his adaptive behavior if he is a person with a developmental

disability, or the nature and severity of his mental illness if he is a person with mental illness; (3) the understanding and capacity of the respondent to make and communicate responsible decisions concerning his person; (4) the capacity of the respondent to manage his estate and his financial affairs; (5) the appropriateness of proposed and alternate living arrangements; (6) the impact of the disability upon the respondent's functioning in the basic activities of daily living and the important decisions faced by the respondent or normally faced by adult members of the respondent's community; and (7) any other area of inquiry deemed appropriate by the court.

(f) An authenticated transcript of the evidence taken in a judicial proceeding concerning the respondent under the Mental Health and Developmental Disabilities Code is admissible in evidence at the hearing.

(g) If the petition is for the appointment of a guardian for a beneficiary of the Veterans Administration who has a disability, a certificate of the Administrator of Veterans Affairs or his representative stating that the beneficiary has been determined to be incompetent by the Veterans Administration on examination in accordance with the laws and regulations governing the Veterans Administration in effect upon the date of the issuance of the certificate and that the appointment of a guardian is a condition precedent to the payment of any money due the beneficiary by the Veterans Administration, is admissible in evidence at the hearing.

(Source: P.A. 98-1094, eff. 1-1-15; 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-12) (from Ch. 110 1/2, par. 11a-12)

Sec. 11a-12. Order of appointment.)

(a) If basis for the appointment of a guardian as specified in Section 11a-3 is not found, the court shall dismiss the petition.

(b) If the respondent is adjudged to be a person with a disability and to lack some but not all of the capacity as specified in Section 11a-3, and if the court finds that guardianship is necessary for the protection of the person with a disability, his or her estate, or both, the court shall appoint a limited guardian for the respondent's person or estate or both. The court shall enter a written order stating the factual basis for its findings and specifying the duties and powers of the guardian and the legal disabilities to which the respondent is subject.

(c) If the respondent is adjudged to be a person with a disability and to be totally without capacity as specified in Section 11a-3, and if the court finds that limited guardianship will not provide sufficient protection for the person with a disability, his or her estate, or both, the court shall appoint a plenary guardian for the respondent's person or estate or both. The court shall enter a written order stating the factual basis for its findings.

(d) The selection of the guardian shall be in the discretion of the court, which shall give due consideration to the preference of the person with a disability as to a guardian, as well as the qualifications of the proposed guardian, in making its appointment. However, the paramount concern in the selection of the guardian is the best interest and well-being of the person with a disability.

(Source: P.A. 98-1094, eff. 1-1-15; 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-13) (from Ch. 110 1/2, par. 11a-13)

Sec. 11a-13. Costs in certain cases.)

(a) No costs may be taxed or charged by any public officer in any proceeding for the appointment of a guardian or for any subsequent proceeding or report made in pursuance of the appointment when the primary purpose of the appointment is as set forth in Section 11-11 or is the management of the estate of a person with a mental disability who resides in a state mental health or developmental disabilities facility when the value of the personal estate does not exceed $1,000.

(b) No costs shall be taxed or charged against the Office of the State Guardian by any public officer in any proceeding for the appointment of a guardian or for any subsequent proceeding or report made in pursuance of the appointment.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-14) (from Ch. 110 1/2, par. 11a-14)

Sec. 11a-14. Legal disabilities of ward.) (a) An order appointing a limited guardian of the person under this Article removes from the ward only that authority provided under Section 11a-17 which is specifically conferred on the limited guardian by the order.

(b) An order appointing a limited guardian of the estate under this Article confers on the limited guardian the authority provided under Section 11a-18 not specifically reserved to the ward.

(c) The appointment of a limited guardian under this Article shall not constitute a finding of legal incompetence.

(d) An order appointing a plenary guardian under this Article confers on the plenary guardian of the person the authority provided under Section 11a-17 and on the plenary guardian of the estate the authority provided under Section 11a-18.

(Source: P.A. 81-795.)

(755 ILCS 5/11a-14.1) (from Ch. 110 1/2, par. 11a-14.1)

Sec. 11a-14.1. Residential placement.) No guardian appointed under this Article, except for duly appointed Public Guardians and the Office of State Guardian, shall have the power, unless specified by court order, to place his ward in a residential facility. The guardianship order may specify the conditions on which the guardian may admit the ward to a residential facility without further court order. In making residential placement decisions, the guardian shall make decisions in conformity with the preferences of the ward unless the guardian is reasonably certain that the decisions will result in substantial harm to the ward or to the ward's estate. When the preferences of the ward cannot be ascertained or where they will result in substantial harm to the ward or to the ward's estate, the guardian shall make decisions with respect to the ward's placement which are in the best interests of the ward. The guardian shall not remove the ward from his or her home or separate the ward from family and friends unless such removal is necessary to prevent substantial harm to the ward or to the ward's estate. The guardian shall have a duty to investigate the availability of reasonable residential alternatives. The guardian shall monitor the placement of the ward on an on-going basis to ensure its continued appropriateness, and shall pursue appropriate alternatives as needed.

(Source: P.A. 90-250, eff. 7-29-97.)

(755 ILCS 5/11a-15) (from Ch. 110 1/2, par. 11a-15)

Sec. 11a-15. Successor guardian.) Upon the death, incapacity, resignation or removal of a guardian of the estate or person of a living ward, the court shall appoint a successor guardian or terminate the adjudication of disability. The powers and duties of the successor guardian shall be the same as those of the predecessor guardian unless otherwise modified.

(Source: P.A. 81-795.)

(755 ILCS 5/11a-16) (from Ch. 110 1/2, par. 11a-16)

Sec. 11a-16. Testamentary guardian.) A parent of a person with a disability may designate by will a person, corporation or public agency qualified to act under Section 11a-5, to be appointed as guardian or as successor guardian of the person or of the estate or both of that person. If a conservator appointed under a prior law or a guardian appointed under this Article is acting at the time of the death of the parent, the designation shall become effective only upon the death, incapacity, resignation or removal of the conservator or guardian. If no conservator or guardian is acting at the time of the death of the parent, the person, corporation or public agency so designated or any other person may petition the court having jurisdiction over the person or estate or both of the child for the appointment of the one so designated. The designation shall be proved in the manner provided for proof of will. Admission of the will to probate in any other jurisdiction shall be conclusive proof of the validity of the designation. If the court finds that the appointment of the one so designated will serve the best interests and welfare of the ward, it shall appoint the one so designated. The selection of a guardian shall be in the discretion of the court, whether or not a designation is made.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-17) (from Ch. 110 1/2, par. 11a-17)

Sec. 11a-17. Duties of personal guardian.

(a) To the extent ordered by the court and under the direction of the court, the guardian of the person shall have custody of the ward and the ward's minor and adult dependent children and shall procure for them and shall make provision for their support, care, comfort, health, education and maintenance, and professional services as are appropriate, but the ward's spouse may not be deprived of the custody and education of the ward's minor and adult dependent children, without the consent of the spouse, unless the court finds that the spouse is not a fit and competent person to have that custody and education. The guardian shall assist the ward in the development of maximum self-reliance and independence. The guardian of the person may petition the court for an order directing the guardian of the estate to pay an amount periodically for the provision of the services specified by the court order. If the ward's estate is insufficient to provide for education and the guardian of the ward's person fails to provide education, the court may award the custody of the ward to some other person for the purpose of providing education. If

a person makes a settlement upon or provision for the support or education of a ward, the court may make an order for the visitation of the ward by the person making the settlement or provision as the court deems proper. A guardian of the person may not admit a ward to a mental health facility except at the ward's request as provided in Article IV of the Mental Health and Developmental Disabilities Code and unless the ward has the capacity to consent to such admission as provided in Article IV of the Mental Health and Developmental Disabilities Code.

(a-5) If the ward filed a petition for dissolution of marriage under the Illinois Marriage and Dissolution of Marriage Act before the ward was adjudicated a person with a disability under this Article, the guardian of the ward's person and estate may maintain that action for dissolution of marriage on behalf of the ward. Upon petition by the guardian of the ward's person or estate, the court may authorize and direct a guardian of the ward's person or estate to file a petition for dissolution of marriage or to file a petition for legal separation or declaration of invalidity of marriage under the Illinois Marriage and Dissolution of Marriage Act on behalf of the ward if the court finds by clear and convincing evidence that the relief sought is in the ward's best interests. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section.

(a-10) Upon petition by the guardian of the ward's person or estate, the court may authorize and direct a guardian of the ward's person or estate to consent, on behalf of the ward, to the ward's marriage pursuant to Part II of the Illinois Marriage and Dissolution of Marriage Act if the court finds by clear and convincing evidence that the marriage is in the ward's best interests. In making its determination, the court shall consider the standards set forth in subsection (e) of this Section. Upon presentation of a court order authorizing and directing a guardian of the ward's person and estate to consent to the ward's marriage, the county clerk shall accept the guardian's application, appearance, and signature on behalf of the ward for purposes of issuing a license to marry under Section 203 of the Illinois Marriage and Dissolution of Marriage Act.

(b) If the court directs, the guardian of the person shall file with the court at intervals indicated by the court, a report that shall state briefly: (1) the current mental, physical, and social condition of the ward and the ward's minor and adult dependent children; (2) their present living arrangement, and a description and the address of every residence where they lived during the reporting period and the length of stay at each place; (3) a summary of the medical, educational, vocational, and other professional services given to them; (4) a resume of the guardian's visits with and activities on behalf of the ward and the ward's minor and adult dependent children; (5) a recommendation as to the need for continued guardianship; (6) any other information requested by the court or useful in the opinion of the guardian. The Office of the State Guardian shall assist the guardian in filing the report when requested by the guardian. The court may take such action as it deems appropriate pursuant to the report.

(c) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian has no power, duty, or liability with respect to any personal or health care matters covered by the agency. This subsection (c) applies to all agencies, whenever and wherever executed.

(d) A guardian acting as a surrogate decision maker under the Health Care Surrogate Act shall have all the rights of a surrogate under that Act without court order including the right to make medical treatment decisions such as decisions to forgo or withdraw life-sustaining treatment. Any decisions by the guardian to forgo or withdraw life-sustaining treatment that are not authorized under the Health Care Surrogate Act shall require a court order. Nothing in this Section shall prevent an agent acting under a power of attorney for health care from exercising his or her

authority under the Illinois Power of Attorney Act without further court order, unless a court has acted under Section 2-10 of the Illinois Power of Attorney Act. If a guardian is also a health care agent for the ward under a valid power of attorney for health care, the guardian acting as agent may execute his or her authority under that act without further court order.

(e) Decisions made by a guardian on behalf of a ward shall be made in accordance with the following standards for decision making. Decisions made by a guardian on behalf of a ward may be made by conforming as closely as possible to what the ward, if competent, would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the ward's personal, philosophical, religious and moral beliefs, and ethical values relative to the decision to be made by the guardian. Where possible, the guardian shall determine how the ward would have made a decision based on the ward's previously expressed preferences, and make decisions in accordance with the preferences of the ward. If the ward's wishes are unknown and remain unknown after reasonable efforts to discern them, the decision shall be made on the basis of the ward's best interests as determined by the guardian. In determining the ward's best interests, the guardian shall weigh the reason for and nature of the proposed action, the benefit or necessity of the action, the possible risks and other consequences of the proposed action, and any available alternatives and their risks, consequences and benefits, and shall take into account any other information, including the views of family and friends, that the guardian believes the ward would have considered if able to act for herself or himself.

(f) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interest of the person with a disability, the court may terminate or limit the authority of a standby or short-term guardian or may enter such other orders as the court deems necessary to provide for the best interest of the person with a disability. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have another guardian appointed for the person with a disability.

(Source: P.A. 98-1107, eff. 8-26-14; 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-17.1)

Sec. 11a-17.1. Sterilization of ward.

(a) A guardian of the person shall not consent to the sterilization of the ward without first obtaining an order from the court granting the guardian the authority to provide consent. For purposes of this Article XIa, "sterilization" means any procedure that has as its purpose rendering the ward permanently incapable of reproduction; provided, however, that an order from the court is not required for a procedure that is medically necessary to preserve the life of the ward or to prevent serious impairment to the health of the ward and which may result in sterilization.

(b) A guardian seeking authority to consent to the sterilization of the ward shall seek such authority by filing a verified motion. The verified motion shall allege facts which demonstrate that the proposed sterilization is warranted under subsection (f), (g) or (h) of this Section. The guardian ad litem will notify the ward of the motion in the manner set forth in subsection (c) of this Section.

(c) Upon the filing of a verified motion for authority to consent to sterilization, the court shall appoint a guardian ad litem to report to the court consistent with the provisions of this Section. If the guardian ad litem is not a licensed attorney, he or she shall be qualified, by training or experience, to work

with or advocate for persons with a developmental disability, mental illness, physical disability, or disability because of mental deterioration, depending on the type of disability of the ward that is alleged in the motion. The court may allow the guardian ad litem reasonable compensation. The guardian ad litem may consult with a person who by training or experience is qualified to work with persons with a developmental disability, mental illness, physical disability, or disability because of mental deterioration, depending on the type of disability of the ward that is alleged. The guardian ad litem may also consult with health care providers knowledgeable about reproductive health matters including sterilization, other forms of contraception, and childbirth. Outside the presence of the guardian, the guardian ad litem shall personally observe the ward prior to the hearing and shall inform the ward orally and in writing of the contents of the verified motion for authority to consent to sterilization. Outside the presence of the guardian, the guardian ad litem shall also attempt to elicit the ward's position concerning the motion, and any other areas of inquiry deemed appropriate by the court. At or before the hearing, the guardian ad litem shall file a written report detailing his or her observations of the ward; the responses of the ward to any of the inquiries detailed in this Section; the opinion of the guardian ad litem and any other professionals with whom the guardian ad litem consulted concerning the ward's understanding of and desire for or objection to, as well as what is in the ward's best interest relative to, sterilization, other forms of contraception, and childbirth; and any other material issue discovered by the guardian ad litem. The guardian ad litem shall appear at the hearing and testify, and may present witnesses, as to any issues presented in his or her report.

(d) The court (1) may appoint counsel for the ward if the court finds that the interests of the ward will be best served by the appointment, and (2) shall appoint counsel upon the ward's request, if the ward is objecting to the proposed sterilization, or if the ward takes a position adverse to that of the guardian ad litem. The ward shall be permitted to obtain the appointment of counsel either at the hearing or by any written or oral request communicated to the court prior to the hearing. The court shall inform the ward of this right to obtain appointed counsel. The court may allow counsel for the ward reasonable compensation.

(e) The court shall order a medical and psychological evaluation of the ward. The evaluation shall address the ward's decision making capacity with respect to the proposed sterilization, the existence of any less permanent alternatives, and any other material issue.

(f) The court shall determine, as a threshold inquiry, whether the ward has capacity to consent or withhold consent to the proposed sterilization and, if the ward lacks such capacity, whether the ward is likely to regain such capacity. The ward shall not be deemed to lack such capacity solely on the basis of the adjudication of disability and appointment of a guardian. In determining capacity, the court shall consider whether the ward is able, after being provided appropriate information, to understand the relationship between sexual activity and reproduction; the consequences of reproduction; and the nature and consequences of the proposed sterilization procedure. If the court finds that (1) the ward has capacity to consent or withhold consent to the proposed sterilization, and (2) the ward objects or consents to the procedure, the court shall enter an order consistent with the ward's objection or consent and the proceedings on the verified motion shall be terminated.

(g) If the court finds that the ward does not have capacity to consent or withhold consent to the proposed sterilization and is unlikely to regain such capacity, the court shall determine whether the ward is expressing a clear desire for the proposed sterilization. If the ward is expressing a clear desire for the proposed sterilization, the court's decision regarding the proposed sterilization shall be made in accordance with the standards set forth in subsection (e) of Section 11a-17 of this Act.

(h) If the court finds that the ward does not have capacity to consent or withhold consent to the proposed sterilization and is unlikely to regain such capacity, and that the ward is not expressing a clear desire for the proposed sterilization, the court shall consider the standards set forth in subsection (e) of Section 11a-17 of this Act and enter written findings of fact and conclusions of law addressing those standards. In addition, the court shall not authorize the guardian to consent to the proposed sterilization unless the court finds, by clear and convincing evidence and based on written findings of fact and conclusions of law, that all of the following factors are present:

(1) The ward lacks decisional capacity regarding the proposed sterilization.

(2) The ward is fertile and capable of procreation.

(3) The benefits to the ward of the proposed sterilization outweigh the harm.

(4) The court has considered less intrusive alternatives and found them to be inadequate in this case.

(5) The proposed sterilization is in the best interest of the ward. In considering the ward's best interest, the court shall consider the following factors:

(A) The possibility that the ward will experience trauma or psychological damage if he or she has a child and, conversely, the possibility of trauma or psychological damage from the proposed sterilization.

(B) The ward is or is likely to become sexually active.

(C) The inability of the ward to understand reproduction or contraception and the likely permanence of that inability.

(D) Any other factors that assist the court in determining the best interest of the ward relative to the proposed sterilization.

(Source: P.A. 96-272, eff. 1-1-10.)

(755 ILCS 5/11a-18) (from Ch. 110 1/2, par. 11a-18)

(Text of Section from P.A. 99-143)

Sec. 11a-18. Duties of the estate guardian.

(a) To the extent specified in the order establishing the guardianship, the guardian of the estate shall have the care, management and investment of the estate, shall manage the estate frugally and shall apply the income and principal of the estate so far as necessary for the comfort and suitable support and education of the ward, his minor and adult dependent children, and persons related by blood or marriage who are dependent upon or entitled to support from him, or for any other purpose which the court deems to be for the best interests of the ward, and the court may approve the making on behalf of the ward of such agreements as the court determines to be for the ward's best interests. The guardian may make disbursement of his ward's funds and estate directly to the ward or other distributee or in such other manner and in such amounts as the court directs. If the estate of a ward is derived in whole or in part from payments of compensation, adjusted compensation, pension, insurance or other similar benefits made directly to the estate by the Veterans Administration, notice of the application for leave to invest or expend the ward's funds or estate, together with a copy of the petition and proposed order, shall be given to the Veterans' Administration Regional Office in this State at least 7 days before the hearing on the application.

(a-5) The probate court, upon petition of a guardian, other than the guardian of a minor, and after notice to all other persons interested as the court directs, may authorize the guardian to exercise any or all powers over the estate and business affairs of the ward that the ward could exercise if present and not under disability. The court may authorize the taking of an action or the application of funds not required for the ward's current and future maintenance and support in any manner approved by the court as being in keeping with the ward's wishes so far as they can be ascertained. The court must consider the permanence of the ward's disabling condition and the natural objects of the ward's bounty. In ascertaining and carrying out the ward's wishes the court may consider, but shall not be limited to, minimization of State or federal income, estate, or inheritance taxes; and providing gifts to charities, relatives, and friends that would be likely recipients of donations from the ward. The ward's wishes as best they can be ascertained shall be carried out, whether or not tax savings are involved. Actions or applications of funds may include, but shall not be limited to, the following:

(1) making gifts of income or principal, or both, of the estate, either outright or in trust;

(2) conveying, releasing, or disclaiming his or her contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety;

(3) releasing or disclaiming his or her powers as trustee, personal representative, custodian for minors, or guardian;

(4) exercising, releasing, or disclaiming his or her powers as donee of a power of appointment;

(5) entering into contracts;

(6) creating for the benefit of the ward or others, revocable or irrevocable trusts of his or her property that may extend beyond his or her disability or life;

(7) exercising options of the ward to purchase or exchange securities or other property;

(8) exercising the rights of the ward to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights under any one or more of the following:

(i) life insurance policies, plans, or benefits,

(ii) annuity policies, plans, or benefits,

(iii) mutual fund and other dividend investment plans,

(iv) retirement, profit sharing, and employee welfare plans and benefits;

(9) exercising his or her right to claim or disclaim an elective share in the estate of his or her deceased spouse and to renounce any interest by testate or intestate succession or by inter vivos transfer;

(10) changing the ward's residence or domicile; or

(11) modifying by means of codicil or trust amendment the terms of the ward's will or any revocable trust created by the ward, as the court may consider advisable in light of changes in applicable tax laws.

The guardian in his or her petition shall briefly outline the action or application of funds for which he or she seeks approval, the results expected to be accomplished thereby, and the tax savings, if any, expected to accrue. The proposed action or application of funds may include gifts of the ward's personal property or real estate, but transfers of real estate shall be subject to the requirements of Section 20 of this Act. Gifts may be for the benefit of prospective legatees, devisees, or heirs apparent of the ward or may be made to individuals or charities in which the ward is believed to have an interest. The guardian shall also indicate

in the petition that any planned disposition is consistent with the intentions of the ward insofar as they can be ascertained, and if the ward's intentions cannot be ascertained, the ward will be presumed to favor reduction in the incidents of various forms of taxation and the partial distribution of his or her estate as provided in this subsection. The guardian shall not, however, be required to include as a beneficiary or fiduciary any person who he has reason to believe would be excluded by the ward. A guardian shall be required to investigate and pursue a ward's eligibility for governmental benefits.

(b) Upon the direction of the court which issued his letters, a guardian may perform the contracts of his ward which were legally subsisting at the time of the commencement of the ward's disability. The court may authorize the guardian to execute and deliver any bill of sale, deed or other instrument.

(c) The guardian of the estate of a ward shall appear for and represent the ward in all legal proceedings unless another person is appointed for that purpose as guardian or next friend. This does not impair the power of any court to appoint a guardian ad litem or next friend to defend the interests of the ward in that court, or to appoint or allow any person as the next friend of a ward to commence, prosecute or defend any proceeding in his behalf. Without impairing the power of the court in any respect, if the guardian of the estate of a ward and another person as next friend shall appear for and represent the ward in a legal proceeding in which the compensation of the attorney or attorneys representing the guardian and next friend is solely determined under a contingent fee arrangement, the guardian of the estate of the ward shall not participate in or have any duty to review the prosecution of the action, to participate in or review the appropriateness of any settlement of the action, or to participate in or review any determination of the appropriateness of any fees awarded to the attorney or attorneys employed in the prosecution of the action.

(d) Adjudication of disability shall not revoke or otherwise terminate a trust which is revocable by the ward. A guardian of the estate shall have no authority to revoke a trust that is revocable by the ward, except that the court may authorize a guardian to revoke a Totten trust or similar deposit or withdrawable capital account in trust to the extent necessary to provide funds for the purposes specified in paragraph (a) of this Section. If the trustee of any trust for the benefit of the ward has discretionary power to apply income or principal for the ward's benefit, the trustee shall not be required to distribute any of the income or principal to the guardian of the ward's estate, but the guardian may bring an action on behalf of the ward to compel the trustee to exercise the trustee's discretion or to seek relief from an abuse of discretion. This paragraph shall not limit the right of a guardian of the estate to receive accountings from the trustee on behalf of the ward.

(e) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian will have no power, duty or liability with respect to any property subject to the agency. This subsection (e) applies to all agencies, whenever and wherever executed.

(f) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interest of the person with a disability, the court may terminate or limit the authority of a standby or short-term guardian or may enter such other orders as the court deems necessary to provide for the best interest of the person with a disability. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have another guardian appointed for the person with a disability.

(Source: P.A. 99-143, eff. 7-27-15.)

(Text of Section from P.A. 99-302)

Sec. 11a-18. Duties of the estate guardian.

(a) To the extent specified in the order establishing the guardianship, the guardian of the estate shall have the care, management and investment of the estate, shall manage the estate frugally and shall apply the income and principal of the estate so far as necessary for the comfort and suitable support and education of the ward, his minor and adult dependent children, and persons related by blood or marriage who are dependent upon or entitled to support from him, or for any other purpose which the court deems to be for the best interests of the ward, and the court may approve the making on behalf of the ward of such agreements as the court determines to be for the ward's best interests. The guardian may make disbursement of his ward's funds and estate directly to the ward or other distributee or in such other manner and in such amounts as the court directs. If the estate of a ward is derived in whole or in part from payments of compensation, adjusted compensation, pension, insurance or other similar benefits made directly to the estate by the Veterans Administration, notice of the application for leave to invest or expend the ward's funds or estate, together with a copy of the petition and proposed order, shall be given to the Veterans' Administration Regional Office in this State at least 7 days before the hearing on the application.

(a-5) The probate court, upon petition of a guardian, other than the guardian of a minor, and after notice to all other persons interested as the court directs, may authorize the guardian to exercise any or all powers over the estate and business affairs of the ward that the ward could exercise if present and not under disability. The court may authorize the taking of an action or the application of funds not required for the ward's current and future maintenance and support in any manner approved by the court as being in keeping with the ward's wishes so far as they can be ascertained. The court must consider the permanence of the ward's disabling condition and the natural objects of the ward's bounty. In ascertaining and carrying out the ward's wishes the court may consider, but shall not be limited to, minimization of State or federal income, estate, or inheritance taxes; and providing gifts to charities, relatives, and friends that would be likely recipients of donations from the ward. The ward's wishes as best they can be ascertained shall be carried out, whether or not tax savings are involved. Actions or applications of funds may include, but shall not be limited to, the following:

(1) making gifts of income or principal, or both, of the estate, either outright or in trust;

(2) conveying, releasing, or disclaiming his or her contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety;

(3) releasing or disclaiming his or her powers as trustee, personal representative, custodian for minors, or guardian;

(4) exercising, releasing, or disclaiming his or her powers as donee of a power of appointment;

(5) entering into contracts;

(6) creating for the benefit of the ward or others, revocable or irrevocable trusts of his or her property that may extend beyond his or her disability or life;

(7) exercising options of the ward to purchase or exchange securities or other property;

(8) exercising the rights of the ward to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights under any one or more of the following:

(i) life insurance policies, plans, or benefits,

(ii) annuity policies, plans, or benefits,

(iii) mutual fund and other dividend investment plans,

(iv) retirement, profit sharing, and employee welfare plans and benefits;

(9) exercising his or her right to claim or disclaim an elective share in the estate of his or her deceased spouse and to renounce any interest by testate or intestate succession or by inter vivos transfer;

(10) changing the ward's residence or domicile; or

(11) modifying by means of codicil or trust amendment the terms of the ward's will or any revocable trust created by the ward, as the court may consider advisable in light of changes in applicable tax laws.

The guardian in his or her petition shall briefly outline the action or application of funds for which he or she seeks approval, the results expected to be accomplished thereby, and the tax savings, if any, expected to accrue. The proposed action or application of funds may include gifts of the ward's personal property or real estate, but transfers of real estate shall be subject to the requirements of Section 20 of this Act. Gifts may be for the benefit of prospective legatees, devisees, or heirs apparent of the ward or may be made to individuals or charities in which the ward is believed to have an interest. The guardian shall also indicate in the petition that any planned disposition is consistent with the intentions of the ward insofar as they can be ascertained, and if the ward's intentions cannot be ascertained, the ward will be presumed to favor reduction in the incidents of various forms of taxation and the partial distribution of his or her estate as provided in this subsection. The guardian shall not, however, be required to include as a beneficiary or fiduciary any person who he has reason to believe would be excluded by the ward. A guardian shall be required to investigate and pursue a ward's eligibility for governmental benefits.

(b) Upon the direction of the court which issued his letters, a guardian may perform the contracts of his ward which were legally subsisting at the time of the commencement of the ward's disability. The court may authorize the guardian to execute and deliver any bill of sale, deed or other instrument.

(c) The guardian of the estate of a ward shall appear for and represent the ward in all legal proceedings unless another person is appointed for that purpose as guardian or next friend. This does not impair the power of any court to appoint a guardian ad litem or next friend to defend the interests of the ward in that court, or to appoint or allow any person as the next friend of a ward to commence, prosecute or defend any proceeding in his behalf. Without impairing the power of the court in any respect, if the guardian of the estate of a ward and another person as next friend shall appear for and represent the ward in a legal proceeding in which the compensation of the attorney or attorneys representing the guardian and next friend is solely determined under a contingent fee arrangement, the guardian of the estate of the ward shall not participate in or have any duty to review the prosecution of the action, to participate in or review the appropriateness of any settlement of the action, or to participate in or review any determination of the appropriateness of any fees awarded to the attorney or attorneys employed in the prosecution of the action.

(d) Adjudication of disability shall not revoke or otherwise terminate a trust which is revocable by the ward. A guardian of the estate shall have no authority to revoke a trust that is revocable by the ward, except that the court may authorize a guardian to revoke a Totten trust or similar deposit or withdrawable capital account in trust to the extent necessary to provide funds for the purposes specified in paragraph (a) of this Section. If the trustee of any trust for the benefit of the ward has discretionary power to apply income or principal for the ward's benefit, the trustee shall not be required to distribute any of the income

or principal to the guardian of the ward's estate, but the guardian may bring an action on behalf of the ward to compel the trustee to exercise the trustee's discretion or to seek relief from an abuse of discretion. This paragraph shall not limit the right of a guardian of the estate to receive accountings from the trustee on behalf of the ward.

(d-5) Upon a verified petition by the plenary or limited guardian of the estate or the request of the ward that is accompanied by a current physician's report that states the ward possesses testamentary capacity, the court may enter an order authorizing the ward to execute a will or codicil. In so ordering, the court shall authorize the guardian to retain independent counsel for the ward with whom the ward may execute or modify a will or codicil.

(e) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian will have no power, duty or liability with respect to any property subject to the agency. This subsection (e) applies to all agencies, whenever and wherever executed.

(f) Upon petition by any interested person (including the standby or short-term guardian), with such notice to interested persons as the court directs and a finding by the court that it is in the best interest of the disabled person, the court may terminate or limit the authority of a standby or short-term guardian or may enter such other orders as the court deems necessary to provide for the best interest of the disabled person. The petition for termination or limitation of the authority of a standby or short-term guardian may, but need not, be combined with a petition to have another guardian appointed for the disabled person.
(Source: P.A. 99-302, eff. 1-1-16.)

(755 ILCS 5/11a-18.1) (from Ch. 110 1/2, par. 11a-18.1)

Sec. 11a-18.1. Conditional gifts.

(a) The court may authorize and direct the guardian of the estate to make conditional gifts from the estate of a person with a disability to any spouse, parent, brother or sister of the person with a disability who dedicates himself or herself to the care of the person with a disability by living with and personally caring for the person with a disability for at least 3 years. It shall be presumed that the person with a disability intends to make such conditional gifts.

(b) A conditional gift shall not be distributed to the donee until the death of the person with a disability. The court may impose such other conditions on the gift as the court deems just and reasonable. The court may provide for an alternate disposition of the gift should the donee die before the person with a disability; provided that if no such alternate disposition is made, the conditional gift shall lapse upon the death of the donee prior to the death of the person with a disability. A conditional gift may be modified or revoked by the court at any time.

(c) The guardian of the estate, the spouse, parent, brother or sister of a person with a disability, or any other interested person may petition the court to authorize and direct the guardian of the estate to make a conditional gift or to modify, revoke or distribute a conditional gift. All persons who would be heirs of the person with a disability if the person with a disability died on the date the petition is filed (or the heirs if the person with a disability is deceased) and all legatees under any known last will of the person with a disability shall be given reasonable notice of the hearing on the petition by certified U. S. mail, return receipt requested. If a trustee is a legatee, notice shall be given to the trustee and need not be given to the trust beneficiaries. Any person entitled to notice of the hearing may appear and object to the petition. The giving of the

notice of the hearing to those persons entitled to notice shall cause the decision and order of the court to be binding upon all other persons who otherwise may be interested or may become interested in the estate of the person with a disability.

(d) The guardian of the estate shall set aside conditional gifts in a separate fund for each donee and shall hold and invest each fund as part of the estate of the person with a disability. Upon order of the court, any conditional gift may be revoked or modified in whole or part so that the assets may be used for the care and comfort of the person with a disability should funds otherwise available for such purposes be inadequate.

(e) Upon the death of the person with a disability, the guardian of the estate shall hold each special fund as trustee and shall petition the court for authorization to distribute the special fund and for any other appropriate relief. The court shall order distribution upon such terms and conditions as the court deems just and reasonable.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-18.2)

Sec. 11a-18.2. Duties of standby guardian of a person with a disability.

(a) Before a standby guardian of a person with a disability may act, the standby guardian must be appointed by the court of the proper county and, in the case of a standby guardian of the estate of the person with a disability, the standby guardian must give the bond prescribed in subsection (c) of Section 11a-3.1 and Section 12-2.

(b) The standby guardian shall not have any duties or authority to act until the standby guardian receives knowledge of the death or consent of the guardian of the person with a disability, or the inability of the guardian of the person with a disability to make and carry out day-to-day care decisions concerning the person with a disability for whom the standby guardian has been appointed. This inability of the guardian of the person with a disability to make and carry out day-to-day care decisions may be communicated either by the guardian's own admission or by the written certification of the guardian's attending physician. Immediately upon receipt of that knowledge, the standby guardian shall assume all duties as guardian of the person with a disability as previously determined by the order appointing the standby guardian, and as set forth in Sections 11a-17 and 11a-18, and the standby guardian of the person shall have the authority to act as guardian of the person without direction of court for a period of up to 60 days, provided that the authority of the standby guardian may be limited or terminated by a court of competent jurisdiction.

(c) Within 60 days of the standby guardian's receipt of knowledge of the death or consent of the guardian of the person with a disability, or the inability of the guardian of the person with a disability to make and carry out day-to-day care decisions concerning the person with a disability, the standby guardian shall file or cause to be filed a petition for the appointment of a guardian of the person or estate, or both, of the person with a disability under Section 11a-3.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-18.3)

Sec. 11a-18.3. Duties of short-term guardian of a person with a disability.

(a) Immediately upon the effective date of the appointment of a short-term

guardian, the short-term guardian shall assume all duties as short-term guardian of the person with a disability as provided in this Section. The short-term guardian of the person shall have authority to act as short-term guardian, without direction of the court, for the duration of the appointment, which in no case shall exceed a cumulative total of 60 days in any 12 month period for all short-term guardians appointed by the guardian. The authority of the short-term guardian may be limited or terminated by a court of competent jurisdiction.

(b) Unless further specifically limited by the instrument appointing the short-term guardian, a short-term guardian shall have the authority to act as a guardian of the person of a person with a disability as prescribed in Section 11a-17, but shall not have any authority to act as guardian of the estate of a person with a disability, except that a short-term guardian shall have the authority to apply for and receive on behalf of the person with a disability benefits to which the person with a disability may be entitled from or under federal, State, or local organizations or programs.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-19) (from Ch. 110 1/2, par. 11a-19)

Sec. 11a-19. Notice of right to seek modification. At the time of the appointment of a guardian the court shall inform the ward of his right under Section 11a-20 to petition for termination of adjudication of disability, revocation of the letters of guardianship of the estate or person, or both, or modification of the duties of the guardian and shall give the ward a written statement explaining this right and the procedures for petitioning the court. The notice shall be in large, bold type and shall be in a format similar to the notice of rights required under subsection (e) of Section 11a-10 of this Act.

(Source: P.A. 89-396, eff. 8-20-95.)

(755 ILCS 5/11a-20) (from Ch. 110 1/2, par. 11a-20)

Sec. 11a-20. Termination of adjudication of disability - Revocation of letters - modification.)

(a) Except as provided in subsection (b-5), upon the filing of a petition by or on behalf of a person with a disability or on its own motion, the court may terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian if the ward's capacity to perform the tasks necessary for the care of his person or the management of his estate has been demonstrated by clear and convincing evidence. A report or testimony by a licensed physician is not a prerequisite for termination, revocation or modification of a guardianship order under this subsection (a).

(b) Except as provided in subsection (b-5), a request by the ward or any other person on the ward's behalf, under this Section may be communicated to the court or judge by any means, including but not limited to informal letter, telephone call or visit. Upon receipt of a request from the ward or another person, the court may appoint a guardian ad litem to investigate and report to the court concerning the allegations made in conjunction with said request, and if the ward wishes to terminate, revoke, or modify the guardianship order, to prepare the ward's petition and to render such other services as the court directs.

(b-5) Upon the filing of a verified petition by the guardian of the person with

a disability or the person with a disability, the court may terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian if: (i) a report completed in accordance with subsection (a) of Section 11a-9 states that the person with a disability is no longer in need of guardianship or that the type and scope of guardianship should be modified; (ii) the person with a disability no longer wishes to be under guardianship or desires that the type and scope of guardianship be modified; and (iii) the guardian of the person with a disability states that it is in the best interest of the person with a disability to terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian, and provides the basis thereof. In a proceeding brought pursuant to this subsection (b-5), the court may terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both, or modify the duties of the guardian, unless it has been demonstrated by clear and convincing evidence that the ward is incapable of performing the tasks necessary for the care of his or her person or the management of his or her estate.

(c) Notice of the hearing on a petition under this Section, together with a copy of the petition, shall be given to the ward, unless he is the petitioner, and to each and every guardian to whom letters of guardianship have been issued and not revoked, not less than 14 days before the hearing.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-21) (from Ch. 110 1/2, par. 11a-21)

Sec. 11a-21. Hearing. (a) The court shall conduct a hearing on a petition filed under Section 11a-20. The ward is entitled to be represented by counsel, to demand a jury of 6 persons, to present evidence and to confront and cross-examine all witnesses. The court (1) may appoint counsel for the ward, if the court finds that the interests of the ward will be best served by the appointment and (2) shall appoint counsel upon the ward's request or if the respondent takes a position adverse to that of the guardian ad litem. The court may allow the guardian ad litem and counsel for the ward reasonable compensation.

(b) If the ward is unable to pay the fee of the guardian ad litem or appointed counsel, or both, the court shall enter an order upon the State to pay, from funds appropriated by the General Assembly for that purpose, all such fees or such amounts as the ward is unable to pay.

(c) Upon conclusion of the hearing, the court shall enter an order setting forth the factual basis for its findings and may: (1) dismiss the petition; (2) terminate the adjudication of disability; (3) revoke the letters of guardianship of the estate or person, or both; (4) modify the duties of the guardian; and (5) make any other order which the court deems appropriate and in the interests of the ward.

(Source: P.A. 81-1509.)

(755 ILCS 5/11a-22) (from Ch. 110 1/2, par. 11a-22)

Sec. 11a-22. Trade and contracts with a person with a disability.

(a) Anyone who by trading with, bartering, gaming or any other device, wrongfully possesses himself of any property of a person known to be a person with a disability commits a Class A misdemeanor.

(b) Every note, bill, bond or other contract by any person for whom a plenary guardian has been appointed or who is adjudged to be unable to so contract is void as against that person and his estate, but a person making a contract with the person so adjudged is bound thereby.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/11a-23)

Sec. 11a-23. Reliance on authority of guardian, standby guardian, short-term guardian.

(a) For the purpose of this Section, "guardian", "standby guardian", and "short-term guardian" includes temporary, plenary, or limited guardians of all wards.

(b) Every health care provider and other person (reliant) has the right to rely on any decision or direction made by the guardian, standby guardian, or short-term guardian that is not clearly contrary to the law, to the same extent and with the same effect as though the decision or direction had been made or given by the ward. Any person dealing with the guardian, standby guardian, or short-term guardian may presume in the absence of actual knowledge to the contrary that the acts of the guardian, standby guardian, or short-term guardian conform to the provisions of the law. A reliant shall not be protected if the reliant has actual knowledge that the guardian, standby guardian, or short-term guardian is not entitled to act or that any particular action or inaction is contrary to the provisions of the law.

(c) A health care provider (provider) who relies on and carries out a guardian's, standby guardian's, or short-term guardian's directions and who acts with due care and in accordance with the law shall not be subject to any claim based on lack of consent, or to criminal prosecution, or to discipline for unprofessional conduct. Nothing in this Section shall be deemed to protect a provider from liability for the provider's own negligence in the performance of the provider's duties or in carrying out any instructions of the guardian, standby guardian, or short-term guardian, and nothing in this Section shall be deemed to alter the law of negligence as it applies to the acts of any guardian or provider.

(d) A guardian, standby guardian, or short-term guardian, who acts or refrains from acting is not subject to criminal prosecution or any claim based upon lack of his or her authority or failure to act, if the act or failure to act was with due care and in accordance with law. The guardian, standby guardian, or short-term guardian, shall not be liable merely because he or she may benefit from the act, has individual or conflicting interests in relation to the care and affairs of the ward, or acts in a different manner with respect to the guardian's, standby guardian's, or short-term guardian's own care or interests.
(Source: P.A. 98-756, eff. 7-16-14.)

(755 ILCS 5/11a-24)

Sec. 11a-24. Notification; Department of State Police. When a court adjudges a respondent to be a person with a disability under this Article, the court shall direct the circuit court clerk to notify the Department of State Police, Firearm Owner's Identification (FOID) Office, in a form and manner prescribed by the Department of State Police, and shall forward a copy of the court order to the Department no later than 7 days after the entry of the order. Upon receipt of the order, the Department of State Police shall provide notification to the National

Instant Criminal Background Check System.
(Source: P.A. 98-63, eff. 7-9-13; 99-143, eff. 7-27-15.)

(755 ILCS 5/Art. XII heading)

ARTICLE XII
BONDS - OATHS - ACCEPTANCE OF OFFICE

(755 ILCS 5/12-1) (from Ch. 110 1/2, par. 12-1)

Sec. 12-1. Corporate representative - acceptance of office.) The bonds provided for in this Act, except appeal bonds, are not required of corporations qualified to administer trusts in this State. Before entering upon the performance of its duties, a corporate representative shall file in the court an acceptance of office.
(Source: P.A. 79-328.)

(755 ILCS 5/12-2) (from Ch. 110 1/2, par. 12-2)

Sec. 12-2. Individual representative; oath and bond.

(a) Except as provided in subsection (b), before undertaking the representative's duties, every individual representative shall take and file an oath or affirmation that the individual will faithfully discharge the duties of the office of the representative according to law and shall file in and have approved by the court a bond binding the individual representative so to do. The court may waive the filing of a bond of a representative of the person of a ward or of a standby guardian of a minor or person with a disability.

(b) Where bond or security is excused by the will or as provided in subsection (b) of Section 12-4, the bond of the representative in the amount from time to time required under this Article shall be in full force and effect without writing, unless the court requires the filing of a written bond.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/12-3) (from Ch. 110 1/2, par. 12-3)

Sec. 12-3. Surety.) Every bond provided for in this Article must have as security thereon not less than 2 sureties acceptable to the court or one surety company qualified to do business in this State and acceptable to the court.
(Source: P.A. 79-328.)

(755 ILCS 5/12-4) (from Ch. 110 1/2, par. 12-4)

Sec. 12-4. When security excused or specified.)

(a) Except as provided in paragraph (c) of Section 6-13 with respect to a nonresident executor, no security is required of a person who is excused by the will from giving bond or security and no greater security than is specified by the will is required, unless in either case the court, from its own knowledge or the suggestion of any interested person, has cause to suspect the representative of fraud or incompetence or believes that the estate of the decedent will not be sufficient to discharge all the claims against the estate, or in the case of a testamentary guardian of the estate, that the rights of the ward will be prejudiced by failure to give security.

(b) If a person designates a guardian of his person or estate or both to be appointed in the event he is adjudged a person with a disability as provided in Section 11a-6 and excuses the guardian from giving bond or security, or if the guardian is the Office of State Guardian, the guardian's bond in the amount from time to time required under this Article shall be in full force and effect without writing, unless the court requires the filing of a written bond.

(c) The Office of State Guardian shall not be required to have sureties or surety companies as security on its bonds. The oath and bond of the representative without surety shall be sufficient.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/12-5) (from Ch. 110 1/2, par. 12-5)

Sec. 12-5. Amount of bond.) (a) The bond of a representative shall be for an amount not less than double the value of the personal estate if individuals act as sureties or if bond or security is excused, and not less than 1 1/2 times the value of the personal estate if a surety company acts as surety. If the representative takes possession of the decedent's or ward's real estate, the bond shall be for such additional amount as the court determines, having regard to the income from the real estate.

(b) For the purpose of fixing the amount of the bond, a cause of action for wrongful death of the decedent or for personal injury to the ward is considered of the value of $500, but unless excused by the court from doing so, it is the duty of the representative to file in and have approved by the court a bond for an amount not less than double the amount likely to come into his hands as the proceeds of the judgment or settlement if individuals act as sureties and not less than 1 1/2 times the amount likely to come into his hands as the proceeds of the judgment or settlement if a surety company acts as surety.

(Source: P.A. 84-555; 84-690.)

(755 ILCS 5/12-6) (from Ch. 110 1/2, par. 12-6)

Sec. 12-6. Waiver or reduction of bond of representative of ward in certain cases.) (a) If the primary purpose for the appointment of a representative of a ward is the sale of the ward's interest in real estate pursuant to Section 25-4, the court may waive the surety on the bond of the representative or may fix the amount of the bond in a sum less than $1,000.

(b) If the primary purpose for the appointment of a representative of a ward is the proper expenditure of public assistance awarded to the ward under any Act of the General Assembly of this State, the court may waive the giving of a bond by the

representative.

(c) If (1) the primary purpose for the appointment of a representative of a ward is the collection, disbursement or administering of moneys awarded by the Veterans Administration to the ward, (2) the net value of the ward's estate does not exceed $500, including accrued unpaid benefits to be received, (3) the benefits to be received do not exceed $60 per month and (4) substantially all income will be required for the maintenance of the ward and his dependents, the court may waive the giving of bond by the representative or may fix the amount of the bond in a sum less than $500. If the bond has previously been filed, it may be released upon the conditions prescribed in this Section upon proper accounting after notice to the Veterans' Administration Regional Office. If a bond has been waived or nominal bond only required, an adequate bond as otherwise required by this Section shall be required whenever the value of the estate exceeds $500 or for other cause appearing to the court.

(Source: P.A. 79-328; 79-358; 79-1454.)

(755 ILCS 5/12-7) (from Ch. 110 1/2, par. 12-7)

Sec. 12-7. Deposit in lieu or reduction of bond.) Upon petition of a representative and upon such notice as the court directs, the court may order the representative to deposit for safe-keeping with a corporation qualified to accept and execute trusts in this State such portion or all of the personal estate as the court deems proper, subject to the further order of the court, and that the bond of the representative be reduced so as to cover only the estate remaining in the possession or custody of the representative.

(Source: P.A. 79-328.)

(755 ILCS 5/12-8) (from Ch. 110 1/2, par. 12-8)

Sec. 12-8. Joint or several bonds.) (a) The court may permit a representative of the estates or persons of more than one ward to include his obligations to some or all in one bond.

(b) When 2 or more persons are appointed representatives of the same estate or person, the court may take a separate bond with sureties from each or a joint bond with sureties from both or all.

(Source: P.A. 80-1415.)

(755 ILCS 5/12-9) (from Ch. 110 1/2, par. 12-9)

Sec. 12-9. Additional bond for proceeds of sale or mortgage.) (a) Except as provided in subsection (d), at or before the entry of an order authorizing a representative to sell or mortgage real estate or any interest therein or to sell any oil, gas, coal or other mineral interest and before a representative sells or mortgages real estate or any interest therein pursuant to a power in the will or pursuant to subsection (i) of Section 28-8, the representative shall file a bond and have it approved by the court.

(b) Where written additional bond is required, the bond shall identify the real estate or interest therein being sold or mortgaged.

(c) The bond shall be for an amount not less than double the value of the personal estate likely to come into the hands of the representative as proceeds of the sale or mortgage if individuals act as sureties and not less than 1 1/2 times that value if a surety company acts as surety; but in case of the sale of any oil, gas, coal or other mineral interest upon a royalty basis and not for a lump sum, and except as provided in subsection (d), the bond prescribed in this Section shall be for such an amount as the court directs.

(d) Where bond or security by the representative is excused by the will, the bond of the representative shall be increased without writing by double the value of the personal estate coming from time to time into the hands of the representative from the proceeds of such sale or mortgage, unless the court requires the filing of a written additional bond.

(Source: P.A. 84-555; 84-690.)

(755 ILCS 5/12-10) (from Ch. 110 1/2, par. 12-10)

Sec. 12-10. Further bond or security.) (a) If letters are issued to a representative without his giving sufficient bond or security or if his bond or the security therefor becomes excessive or insufficient in the judgment of the court, it may on petition of any interested person or on its own motion require the representative to give a proper bond or security.

(b) At each accounting of a representative other than the final accounting, it is the duty of the court to inquire into the sufficiency of the security and of the bond.

(Source: P.A. 79-328.)

(755 ILCS 5/12-11) (from Ch. 110 1/2, par. 12-11)

Sec. 12-11. Counter security - release of surety.) (a) If the court believes a representative to be insolvent or in doubtful circumstances, upon petition of the surety on his bond, the court may require the representative to give counter security to his surety.

(b) If a representative or the surety on his bond petitions the court to have the surety released from further liability on the bond, except for good cause shown the court shall require the representative within a reasonable time to be fixed by the court to settle his accounts and to give a new bond in such amount and security as may be approved by the court.

(c) Notice of hearing on the account shall be given as provided by this Act for the hearing on final accounts. Upon approval by the court of the account and of the new bond the surety on the old bond is discharged from all further liability.

(d) If a representative fails to pay the annual bond premium within 120 days of the date he has received notice from the surety company that the premium is due and owing, the surety company may elect to terminate its liability on the bond by notifying the representative and his attorney, if any, and all interested parties that liability on the bond shall cease 60 days after the date of said notice which shall be given by certified mail and a copy thereof shall be filed with the Court forthwith. If payment is not made within the required time, the terminating surety shall by motion notify the court of its election to terminate and shall give notice of such motion to the representative and all interested parties. The court shall then require the representative to give a new bond in such amount and with such

security as it may require.
(Source: P.A. 83-859.)

(755 ILCS 5/12-12) (from Ch. 110 1/2, par. 12-12)
Sec. 12-12. Notice to representative of action on bond - answer.) Unless the representative is before the court in person or by his attorney, he is entitled to such reasonable notice of any contemplated action of the court to require sufficient bond or security or counter security or to release a surety on his bond as the court may provide and he may file an answer setting up any reasons he may have why the court should not take such action.
(Source: P.A. 79-328.)

(755 ILCS 5/12-13) (from Ch. 110 1/2, par. 12-13)
Sec. 12-13. New or additional bond.) A new or additional bond, other than an additional bond for the sale or mortgage of real estate, must be signed, approved and filed in the same manner as other bonds of representatives and relates back to the date of the issuance of the letters.
(Source: P.A. 79-328.)

(755 ILCS 5/12-14) (from Ch. 110 1/2, par. 12-14)
Sec. 12-14. Bond on appeal.) A bond of a representative on appeal from the order or judgment of any court must be in the form prescribed by law in other civil cases, except that the bond of a representative of a decedent's estate must be conditioned to pay the judgment with costs in due course of administration and the bond of a representative of a ward's estate must be conditioned to pay the judgment with costs as he has funds therefor.
(Source: P.A. 79-328.)

(755 ILCS 5/12-15) (from Ch. 110 1/2, par. 12-15)
Sec. 12-15. Suit on bond. Suit on a bond executed under this Act may be prosecuted against one or more of the obligors named in the bond in the name of the people of the State of Illinois for the use of any person who may have been injured by reason of the neglect or improper conduct of the principal on the bond. Suits may be prosecuted on the bond from time to time and the bond does not become void on a recovery thereon until the whole penalty is recovered. It is not necessary to a recovery that a devastavit shall have previously been established against the principal. A copy of the bond, authenticated by the clerk of the court, is admissible in evidence to authorize recovery on the bond. The person for whose use suit on a bond is prosecuted is liable for all costs which may be taxed by the court in which suit is brought if the plaintiff fails to recover thereon.
(Source: P.A. 89-364, eff. 8-18-95.)

(755 ILCS 5/Art. XIII heading)

ARTICLE XIII
PUBLIC ADMINISTRATORS, GUARDIANS AND CONSERVATORS

(755 ILCS 5/13-1) (from Ch. 110 1/2, par. 13-1)

Sec. 13-1. Appointment and term of public administrator and public guardian.) Except as provided in Section 13-1.1, before the first Monday of December, 1977 and every 4 years thereafter, and as often as vacancies occur, the Governor, by and with the advice and consent of the Senate, shall appoint in each county a suitable person to serve as public administrator and a suitable person to serve as public guardian of the county. The Governor may appoint the same person to serve as public guardian and public administrator in one or more counties. In considering the number of counties of service for any prospective public guardian or public administrator the Governor may consider the population of the county and the ability of the prospective public guardian or public administrator to travel to multiple counties and manage estates in multiple counties. Each person so appointed holds his office for 4 years from the first Monday of December, 1977 and every 4 years thereafter or until his successor is appointed and qualified.
(Source: P.A. 96-752, eff. 1-1-10.)

(755 ILCS 5/13-1.1) (from Ch. 110 1/2, par. 13-1.1)

Sec. 13-1.1. Appointment and term of public guardian in counties having a population in excess of 1,000,000.) As soon as practicable after the effective date of this amendatory Act, the chief judge of the Circuit Court in each circuit shall appoint for each county in the circuit having a population in excess of 1,000,000 to the office of public guardian a duly licensed attorney who shall hold office, death or resignation not intervening, at the pleasure of the chief judge; and whenever a vacancy occurs in the office it shall be filled in a like manner.
(Source: P.A. 81-1052.)

(755 ILCS 5/13-1.2)

Sec. 13-1.2. Certification requirement. Each person appointed as a public guardian by the Governor shall be certified as a National Certified Guardian by the Center for Guardianship Certification within 6 months after his or her appointment. The Guardianship and Advocacy Commission shall provide public guardians with professional training opportunities and facilitate testing and certification opportunities at locations in Springfield and Chicago with the Center for Guardianship Certification. The cost of certification shall be considered an

expense connected with the operation of the public guardian's office within the meaning of subsection (b) of Section 13-3.1 of this Article.
(Source: P.A. 96-752, eff. 1-1-10.)

(755 ILCS 5/13-2) (from Ch. 110 1/2, par. 13-2)

Sec. 13-2. Bond and oath.) Before entering upon the performance of his duties, every public administrator and every public guardian shall take and file in the court an oath or affirmation that he will support the Constitution of the United States and the Constitution of the State of Illinois and will faithfully discharge the duties of his office and shall enter into a bond payable to the people of the State of Illinois in a sum of not less than $5,000 with security as provided by this Act and approved by the court of the county in which he is appointed, conditioned that he will faithfully discharge the duties of his office. The court may from time to time require additional security of the public administrator or guardian and may require him to give the usual bond required of representatives of estates of decedents, or persons with disabilities in other cases. In default of his giving bond within 60 days after receiving his commission or of his giving additional security within 60 days after being ordered by the court to do so, his office is deemed vacant and upon certificate of a judge of the court of that fact the Governor or the Circuit Court shall fill the vacancy.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/13-3) (from Ch. 110 1/2, par. 13-3)

Sec. 13-3. Compensation of public administrator.

(a) In counties having a population in excess of 1,000,000 the public administrator shall pay all the fees collected by the office into the county treasury. Each year, the county board shall appropriate an amount to be paid to the public administrator as compensation for the public administrator's performance of his or her duties and such compensation shall be paid at a minimum level of $20,000 annually. That amount shall be paid from the fees collected by the office of the public administrator. The county board in such counties shall fix the amount for the public administrator's compensation and necessary clerk hire, assistants, and office expense in the annual county budget and appropriation ordinances, which shall be paid from the county treasury. In such counties all fees of the office of public administrator are subject to audit the same as are fees of other county officers.

(b) In counties having a population of 1,000,000 or less the public administrator may receive all the fees of his office and shall bear the expenses connected with the operation of such office.
(Source: P.A. 89-135, eff. 7-14-95.)

(755 ILCS 5/13-3.1) (from Ch. 110 1/2, par. 13-3.1)

Sec. 13-3.1. Compensation of public guardian.

(a) In counties having a population in excess of 1,000,000 the public guardian shall be paid an annual salary, to be set by the County Board at a figure not to

exceed the salary of the public defender for the county. All expenses connected with the operation of the office shall be subject to the approval of the County Board and shall be paid from the county treasury. All fees collected shall be paid into the county treasury.

(b) In counties having a population of 1,000,000 or less the public guardian shall receive all the fees of his office and bear the expenses connected with the operation of the office. A public guardian shall be entitled to reasonable and appropriate compensation for services related to guardianship duties but all fees must be reviewed and approved by the court. A public guardian may petition the court for the payment of reasonable and appropriate fees. In counties having a population of 1,000,000 or less, the public guardian shall do so on not less than a yearly basis, or sooner as approved by the court. Any fees or expenses charged by a public guardian shall be documented through billings and maintained by the guardian and supplied to the court for review. In considering the reasonableness of any fee petition brought by a public guardian under this Section, the court shall consider the following:

(1) the powers and duties assigned to the public guardian by the court;

(2) the necessity of any services provided;

(3) the time required, the degree of difficulty, and the experience needed to complete the task;

(4) the needs of the ward and the costs of alternatives; and

(5) other facts and circumstances material to the best interests of the ward or his or her estate.

(c) When the public guardian is appointed as the temporary guardian of an adult with a disability pursuant to an emergency petition under circumstances when the court finds that the immediate establishment of a temporary guardianship is necessary to protect the health, welfare, or estate of the adult with a disability, the public guardian shall be entitled to reasonable and appropriate fees, as determined by the court, for the period of the temporary guardianship, including fees directly associated with establishing the temporary guardianship.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/13-4) (from Ch. 110 1/2, par. 13-4)

Sec. 13-4. Powers and duties of public administrator.) (a) When a person dies owning any real or personal estate in this State and there is no person in this State having a prior right to administer his estate, the public administrator of the county of which the decedent was a resident, or of the county in which his estate is situated, if the decedent was a nonresident of this State, may take such measures as he deems proper to protect and secure the estate from waste, loss or embezzlement until letters of office on the estate are issued to the person entitled thereto or until a demand for the removal of the personal estate from this State is made by a nonresident representative pursuant to the authority granted by this Act. When letters of office are issued to the public administrator, he has the same powers and duties as other representatives of decedents' estates appointed under this Act until he is discharged or his authority is sooner terminated by order of court.

(b) In counties having a population in excess of 1,000,000 inhabitants, a public administrator shall retain his or her records in accordance with the Local Records Act.

(Source: P.A. 97-882, eff. 1-1-13.)

(755 ILCS 5/13-5) (from Ch. 110 1/2, par. 13-5)

Sec. 13-5. Powers and duties of public guardian.) The court may appoint the public guardian as the guardian of any adult with a disability who is in need of a public guardian and whose estate exceeds $25,000. When an adult with a disability who has a smaller estate is in need of guardianship services, the court shall appoint the State guardian pursuant to Section 30 of the Guardianship and Advocacy Act. If the public guardian is appointed guardian of an adult with a disability and the estate of the adult with a disability is thereafter reduced to less than $25,000, the court may, upon the petition of the public guardian and the approval by the court of a final accounting of the estate of the adult with a disability, discharge the public guardian and transfer the guardianship to the State guardian. The public guardian shall serve not less than 14 days' notice to the State guardian of the hearing date regarding the transfer. When appointed by the court, the public guardian has the same powers and duties as other guardians appointed under this Act, with the following additions and modifications:

(a) The public guardian shall monitor the ward and his care and progress on a continuous basis. Monitoring shall at minimum consist of monthly contact with the ward, and the receipt of periodic reports from all individuals and agencies, public or private, providing care or related services to the ward.

(b) Placement of a ward outside of the ward's home may be made only after the public guardian or his representative has visited the facility in which placement is proposed.

(c) The public guardian shall prepare an inventory of the ward's belongings and assets and shall maintain insurance on all of the ward's real and personal property, unless the court determines, and issues an order finding, that (1) the real or personal property lacks sufficient equity, (2) the estate lacks sufficient funds to pay for insurance, or (3) the property is otherwise uninsurable. No personal property shall be removed from the ward's possession except for storage pending final placement or for liquidation in accordance with this Act.

(d) The public guardian shall make no substantial distribution of the ward's estate without a court order.

(e) The public guardian may liquidate assets of the ward to pay for the costs of the ward's care and for storage of the ward's personal property only after notice of such pending action is given to all potential heirs at law, unless notice is waived by the court; provided, however, that a person who has been so notified may elect to pay for care or storage or to pay fair market value of the asset or assets sought to be sold in lieu of liquidation.

(f) Real property of the ward may be sold at fair market value after an appraisal of the property has been made by a licensed appraiser; provided, however, that the ward's residence may be sold only if the court finds that the ward is not likely to be able to return home at a future date.

(g) The public guardian shall, at such intervals as the court may direct, submit to the court an affidavit setting forth in detail the services he has provided for the benefit of the ward.

(h) Upon the death of the ward, the public guardian shall turn over to the court-appointed administrator all of the ward's assets and an account of his receipt and administration of the ward's property. A guardian ad litem shall be appointed for an accounting when the estate exceeds the amount set in Section 25-1 of this Act for administration of small estates.

(i)(1) On petition of any person who appears to have an interest in the estate, the court by temporary order may restrain the public guardian from performing specified acts of administration, disbursement or distribution, or from exercise of

any powers or discharge of any duties of his office, or make any other order to secure proper performance of his duty, if it appears to the court that the public guardian might otherwise take some action contrary to the best interests of the ward. Persons with whom the public guardian may transact business may be made parties.

(2) The matter shall be set for hearing within 10 days unless the parties otherwise agree or unless for good cause shown the court determines that additional time is required. Notice as the court directs shall be given to the public guardian and his attorney of record, if any, and to any other parties named defendant in the petition.

(j) On petition of the public guardian, the court in its discretion may for good cause shown transfer guardianship to the State guardian.

(k) No later than January 31 of each year, the public guardian shall file an annual report with the clerk of the Circuit Court, indicating, with respect to the period covered by the report, the number of cases which he has handled, the date on which each case was assigned, the date of termination of each case which has been closed during the period, the disposition of each terminated case, and the total amount of fees collected during the period from each ward.

(l) (Blank).

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/Art. XIV heading)

ARTICLE XIV
INVENTORY AND APPRAISAL

(755 ILCS 5/14-1) (from Ch. 110 1/2, par. 14-1)

Sec. 14-1. Inventory.) (a) Within 60 days after the issuance of his letters the representative of the estate of a decedent or ward shall file in the court a verified inventory of the real and personal estate which has come to his knowledge and of any cause of action on which he has a right to sue. If any real or personal estate comes to the knowledge of the representative after he has filed an inventory he shall file a supplemental inventory thereof within 60 days after it comes to his knowledge.

(b) The inventory must describe the real estate and the improvements and encumbrances thereon, state the amount of money on hand and list all personal estate.

(Source: P.A. 81-213.)

(755 ILCS 5/14-2) (from Ch. 110 1/2, par. 14-2)

Sec. 14-2. Appraisal.) If the representative believes that it is necessary for the proper administration of the estate to determine the value of any goods and chattels, the representative may appraise them or may employ one or more competent, disinterested appraisers for that purpose and pay each of them reasonable

compensation for his services.
(Source: P.A. 81-213.)

(755 ILCS 5/14-3) (from Ch. 110 1/2, par. 14-3)

Sec. 14-3. Inventories and appraisals as evidence.) Inventories and appraisals and authenticated copies thereof may be given in evidence in any suit by or against the representative but are not conclusive for or against him if other evidence is given that the estate was worth or was sold in good faith for more or less than its appraised value.
(Source: P.A. 79-328.)

(755 ILCS 5/Art. XV heading)

ARTICLE XV
SPOUSE AND CHILD AWARDS

(755 ILCS 5/15-1) (from Ch. 110 1/2, par. 15-1)

Sec. 15-1. Spouse's award.

(a) The surviving spouse of a deceased resident of this State whose estate, whether testate or intestate, is administered in this State, shall be allowed as the surviving spouse's own property, exempt from the enforcement of a judgment, garnishment or attachment in the possession of the representative, a sum of money that the court deems reasonable for the proper support of the surviving spouse for the period of 9 months after the death of the decedent in a manner suited to the condition in life of the surviving spouse and to the condition of the estate and an additional sum of money that the court deems reasonable for the proper support, during that period, of minor and adult dependent children of the decedent who reside with the surviving spouse at the time of decedent's death. The award may in no case be less than $20,000, together with an additional sum not less than $10,000 for each such child. The award shall be paid to the surviving spouse at such time or times, not exceeding 3 installments, as the court directs. If the surviving spouse dies before the award for his support is paid in full, the amount unpaid shall be paid to his estate. If the surviving spouse dies or abandons a child before the award for the support of a child is paid in full, the amount unpaid shall be paid for the benefit of the child to such person as the court directs.

(b) The surviving spouse is entitled to the award unless the will of the decedent expressly provides that the provisions thereof for the surviving spouse are in lieu of the award and the surviving spouse does not renounce the will.

(c) The changes made by this amendatory Act of the 96th General Assembly apply to a decedent whose date of death is on or after the effective date of this amendatory Act of the 96th General Assembly.
(Source: P.A. 96-968, eff. 7-2-10.)

(755 ILCS 5/15-2) (from Ch. 110 1/2, par. 15-2)

Sec. 15-2. Child's award.

(a) If a minor or adult dependent child of the decedent does not reside with the surviving spouse of the decedent at the time of decedent's death, there shall be allowed to that child, exempt from the enforcement of a judgment, garnishment or attachment in the possession of the representative, a sum of money that the court deems reasonable for the proper support of the child for the period of 9 months after the death of the decedent, in a manner suited to the condition in life of the minor child and to the condition of the estate. The award may in no case be less than $10,000 and shall be paid for the benefit of the child to such person as the court directs.

(b) If a deceased resident of this State leaves no surviving spouse, there shall be allowed to all children of the decedent who were minors at the date of death and all adult dependent children, exempt from the enforcement of a judgment, garnishment or attachment in the possession of the representative, a sum of money that the court deems reasonable for the proper support of those children for the period of 9 months after the death of the decedent in a manner suited to the condition in life of those children and to the condition of the estate. The award may in no case be less than $10,000 for each of those children, together with an additional sum not less than $20,000 that shall be divided equally among those children or apportioned as the court directs and that shall be paid for the benefit of any of those children to any person that the court directs.

(c) The changes made by this amendatory Act of the 96th General Assembly apply to a decedent whose date of death is on or after the effective date of this amendatory Act of the 96th General Assembly.

(Source: P.A. 96-968, eff. 7-2-10.)

(755 ILCS 5/15-3) (from Ch. 110 1/2, par. 15-3)

Sec. 15-3. Allowance, notice and review of award.) (a) The representative shall apply to the court to make the award when an award is allowable and is not waived or barred, and when an award is allowed, shall mail or deliver a copy of the award to each person in whose favor the award is made, unless service is waived.

(b) On petition of the surviving spouse, the representative, an heir or legatee, or a creditor of the estate, the court may hear evidence and may increase or diminish the award as justice requires.

(Source: P.A. 79-328.)

(755 ILCS 5/15-4) (from Ch. 110 1/2, par. 15-4)

Sec. 15-4. Selection.) (a) The surviving spouse is entitled to receive the amount of the award in money or, at the election of the surviving spouse, to accept payment thereof in whole or in part in goods and chattels of the decedent not specifically bequeathed, at their appraised value. The selection shall be made in writing by the surviving spouse within 30 days after he is notified in writing of the allowance of the award and shall be filed in the court. If the surviving spouse

dies before the expiration of the time within which he may make the selection, the representative of his estate may make the selection for the benefit of the estate.

(b) If the decedent leaves no surviving spouse, the children of the decedent have the same right of selection of goods and chattels as the surviving spouse under this Section. The selection shall be made and filed in the same manner as the surviving spouse's selection.

(c) If a surviving spouse or child entitled to make a selection is a ward his representative may make the selection on his behalf.

(Source: P.A. 80-1415.)

(755 ILCS 5/Art. XVI heading)

ARTICLE XVI
RECOVERY OF PROPERTY AND DISCOVERY OF INFORMATION

(755 ILCS 5/16-1) (from Ch. 110 1/2, par. 16-1)

Sec. 16-1. Citation on behalf of estate.

(a) Upon the filing of a petition therefor by the representative or by any other person interested in the estate or, in the case of an estate of a ward by any other person, the court shall order a citation to issue for the appearance before it of any person whom the petitioner believes (1) to have concealed, converted or embezzled or to have in his possession or control any personal property, books of account, papers or evidences of debt or title to lands which belonged to a person whose estate is being administered in that court or which belongs to his estate or to his representative or (2) to have information or knowledge withheld by the respondent from the representative and needed by the representative for the recovery of any property by suit or otherwise. The petition shall contain a request for the relief sought.

(b) The citation must be served not less than 10 days before the return day designated in the citation and must be served and returned in the manner provided for summons in civil cases. If there is a personal representative who is not the respondent, notice of the proceeding shall be given by mail or in person to the personal representative not less than 5 days before the return day designated in the citation.

(c) If the representative is the respondent, the court may appoint a special administrator to represent the estate. The court may permit the special administrator to prosecute or defend an appeal.

(d) The court may examine the respondent on oath whether or not the petitioner has proved the matters alleged in the petition, may hear the evidence offered by any party, may determine all questions of title, claims of adverse title and the right of property and may enter such orders and judgment as the case requires. If the respondent refuses to answer proper questions put to him or refuses to obey the court's order to deliver any personal property or, if converted, its proceeds or value, or books of account, papers or evidences of debt or title to lands, the court may commit him to jail until he complies with the order of the court or is discharged by due course of law and the court may enforce its order against the respondent's real and personal property in the manner in which judgments for the

payment of money are enforced. The court may tax the costs of the proceeding against the respondent and enter judgment therefor against him.
(Source: P.A. 99-93, eff. 1-1-16; 99-497, eff. 1-29-16.)

(755 ILCS 5/16-2) (from Ch. 110 1/2, par. 16-2)
Sec. 16-2. Personal property claimed by third party.) Upon the filing of a petition therefor by any person and upon such notice as the court may direct, the court may order a representative having in his possession or control any personal property, book of account, paper or evidence of title to land or of debt which belongs to the petitioner to deliver the same to the petitioner or his agent. The court may hear the evidence offered by any party, may determine all questions of title, claims of adverse title and the right of property and may enter such orders and judgment as the case requires.
(Source: P.A. 79-328.)

(755 ILCS 5/16-3) (from Ch. 110 1/2, par. 16-3)
Sec. 16-3. Trial by jury. Upon the demand of a party to a proceeding under Section 16-1 or 16-2, questions of title, claims of adverse title and the right of property shall be determined by a jury.
(Source: P.A. 91-357, eff. 7-29-99.)

(755 ILCS 5/Art. XVIII heading)

ARTICLE XVIII
CLAIMS AGAINST ESTATES

(755 ILCS 5/18-1) (from Ch. 110 1/2, par. 18-1)
Sec. 18-1. Filing of claims - mailing or delivery of copies).
(a) A claim against the estate of a decedent or ward, whether based on contract, tort, statutory custodial claim or otherwise, may be filed with the representative or the court or both. When a claim is filed with the representative but not with the court, the representative may file the claim with the court but has no duty to do so.
(b) Within 10 days after a claimant files his claim with the court, the claimant (1) shall cause a copy of the claim to be mailed or delivered to each representative to whom letters of office have been issued and not revoked, including the guardian of the person of a ward and to the representative's attorney of record, unless the representative or the attorney has in writing either consented to allowance of the claim or waived mailing or delivery of a copy, and (2) shall file with the court proof of any required mailing or delivery of copies.

Failure to mail or deliver copies of the claim or to file proof thereof does not affect the validity of the claim filing under subsection 18-1(a).
(Source: P.A. 89-396, eff. 8-20-95.)

(755 ILCS 5/18-1.1) (from Ch. 110 1/2, par. 18-1.1)

Sec. 18-1.1. Statutory custodial claim. Any spouse, parent, brother, sister, or child of a person with a disability who dedicates himself or herself to the care of the person with a disability by living with and personally caring for the person with a disability for at least 3 years shall be entitled to a claim against the estate upon the death of the person with a disability. The claim shall take into consideration the claimant's lost employment opportunities, lost lifestyle opportunities, and emotional distress experienced as a result of personally caring for the person with a disability. Notwithstanding the statutory claim amounts stated in this Section, a court may reduce an amount to the extent that the living arrangements were intended to and did in fact also provide a physical or financial benefit to the claimant. The factors a court may consider in determining whether to reduce a statutory custodial claim amount may include but are not limited to: (i) the free or low cost of housing provided to the claimant; (ii) the alleviation of the need for the claimant to be employed full time; (iii) any financial benefit provided to the claimant; (iv) the personal care received by the claimant from the decedent or others; and (v) the proximity of the care provided by the claimant to the decedent to the time of the decedent's death. The claim shall be in addition to any other claim, including without limitation a reasonable claim for nursing and other care. The claim shall be based upon the nature and extent of the person's disability and, at a minimum but subject to the extent of the assets available, shall be in the amounts set forth below:

1. 100% disability, $180,000
2. 75% disability, $135,000
3. 50% disability, $90,000
4. 25% disability, $45,000

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/18-2) (from Ch. 110 1/2, par. 18-2)

Sec. 18-2. Claim form.) Every claim filed must be in writing and state sufficient information to notify the representative of the nature of the claim or other relief sought.
(Source: P.A. 81-213.)

(755 ILCS 5/18-3) (from Ch. 110 1/2, par. 18-3)

Sec. 18-3. Notice - Publication. (a) It is the duty of the representative to publish once each week for 3 successive weeks, and to mail or deliver to each creditor of the decedent whose name and post office address are known to or are reasonably ascertainable by the representative and whose claim has not been allowed or disallowed as provided in Section 18-11, a notice stating the death of the decedent, the name and address of the representative and of his attorney of record,

that claims may be filed on or before the date stated in the notice, which date shall be not less than 6 months from the date of the first publication or 3 months from the date of mailing or delivery, whichever is later, and that any claim not filed on or before that date is barred.

(b) The published notice under subsection (a) of this Section must be published in a newspaper published in the county where the estate is being administered and may be combined with any notice under Section 6-10 or subsection (b) of Section 9-5. The representative must file proof of publication with the clerk of the court.
(Source: P.A. 86-815.)

(755 ILCS 5/18-4) (from Ch. 110 1/2, par. 18-4)

Sec. 18-4. Claims not due.) A claim against a decedent's estate that is not due may be filed and allowed and paid out of the estate as other claims but interest which has been included as a part of the principal obligation, computed from the time of the allowance of the claim to the time when it would have become due, shall be deducted.
(Source: P.A. 81-213.)

(755 ILCS 5/18-5) (from Ch. 110 1/2, par. 18-5)

Sec. 18-5. Pleadings.) (a) The representative or any other person whose rights may be affected by the allowance of a claim or counterclaim may file pleadings with the clerk of the court within 30 days after mailing or delivery of the copy of the claim. A claim or counterclaim may be filed in favor of the estate and against any claimant named in the claim.

(b) The court may order the claimant, the representative or any other interested person to file such pleadings as the court directs.
(Source: P.A. 79-328.)

(755 ILCS 5/18-6) (from Ch. 110 1/2, par. 18-6)

Sec. 18-6. Jury trial.) Any interested person may demand a jury to try the issue in accordance with the following, otherwise he waives a jury:

(a) A claimant or counterclaimant must file the jury demand at the time of filing the claim or counterclaim.

(b) A person opposing a claim or counterclaim must file the jury demand not later than the filing of his answer or other pleading.

(c) If the claimant or counterclaimant files a jury demand and thereafter waives a jury, the person opposing the claim or counterclaim shall be granted a jury trial upon demand therefor made promptly after being advised of the waiver. For good cause shown, the court may permit a jury demand to be filed after expiration of the time specified.
(Source: P.A. 80-808.)

(755 ILCS 5/18-7) (from Ch. 110 1/2, par. 18-7)

Sec. 18-7. Procedure on hearing of claims.) (a) On the call of a claim it may be allowed, set for trial, continued or dismissed. A claim which is consented to by the representative or his attorney or to which no pleading has been filed within the time provided by this Act may be taken as proved or the court may require the claimant to prove his claim.

(b) If it appears at the hearing on a counterclaim filed in favor of the estate and against a claimant that he is indebted to the estate, after allowing him all just credits, deductions and set-offs, the court may enter judgment for the amount of the indebtedness.

(Source: P.A. 84-547; 84-551.)

(755 ILCS 5/18-8) (from Ch. 110 1/2, par. 18-8)

Sec. 18-8. Claim of representative or his attorney.) If a representative or the representative's attorney has a claim against the estate, that person must file a claim as other persons and the court may appoint a special administrator to appear and defend for the estate. The court may permit the special administrator to prosecute or defend an appeal from the allowance or disallowance of the claim. In the administration of the estate of a person with a disability, notice of the claim of a representative or his or her attorney shall be given by mail or in person to the ward and to all other representatives of the ward's person or estate, within 10 days of filing.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/18-9) (from Ch. 110 1/2, par. 18-9)

Sec. 18-9. Costs.) If a claim for which a filing fee is required to be paid is filed, the clerk of the court shall collect the filing fee from the claimant. All other costs of proceedings with respect to claims and counterclaims shall be awarded in the discretion of the court.

(Source: P.A. 79-328.)

(755 ILCS 5/18-10) (from Ch. 110 1/2, par. 18-10)

Sec. 18-10. Classification of claims against decedent's estate. All claims against the estate of a decedent are divided into classes in the manner following:

1st: Funeral and burial expenses, expenses of administration, and statutory custodial claims. For the purposes of this paragraph, funeral and burial expenses paid by any person, including a surviving spouse, are funeral and burial expenses; and funeral and burial expenses include reasonable amounts paid for a burial space, crypt or niche, a marker on the burial space, care of the burial space, crypt or niche, and interest on these amounts. Interest on these amounts shall accrue beginning 60 days after issuance of letters of office to the representative of the decedent's estate, or if no such letters of office are issued, then beginning 60 days after those amounts are due, up to the rate of 9% per annum as allowed by contract or law.

2nd: The surviving spouse's or child's award.

3rd: Debts due the United States.

4th: Money due employees of the decedent of not more than $800 for each claimant for services rendered within 4 months prior to the decedent's death and expenses attending the last illness.

5th: Money and property received or held in trust by decedent which cannot be identified or traced.

6th: Debts due this State and any county, township, city, town, village or school district located within this State.

7th: All other claims.

(Source: P.A. 87-509.)

(755 ILCS 5/18-11) (from Ch. 110 1/2, par. 18-11)

Sec. 18-11. Allowance and disallowance of claims by representative. (a) The representative may at any time pay or consent in writing to all or any part of any claim that is not barred under Section 18-12, if and to the extent the claim has not been disallowed by the court and the representative determines it to be valid. Payment or consent by the representative constitutes allowance of the claim and binds the estate. When a claim filed with the court is allowed by the representative, the representative must promptly file notice of the allowance with the court, but failure to do so will not affect the allowance. At the request of any interested person the representative must establish the propriety of his allowance of any claim.

(b) The representative may at any time disallow all or any part of any claim that has not been filed with the court by mailing or delivering a notice of disallowance to the claimant, and to the claimant's attorney if the attorney's name and address are known to the representative, stating that if the claim is not filed with the court on or before the date stated in the notice, which date shall be not less than 2 months from the date of the notice, the claim will be barred. A claim disallowed by the representative under this subsection and not filed with the court on or before the date stated in the notice shall be barred under Section 18-12 in the same manner as a claim not timely filed.

(Source: P.A. 86-815.)

(755 ILCS 5/18-12) (from Ch. 110 1/2, par. 18-12)

Sec. 18-12. Limitations on payment of claims.

(a) Every claim against the estate of a decedent, except expenses of administration and surviving spouse's or child's award, is barred as to all of the decedent's estate if:

(1) Notice is given to the claimant as provided in Section 18-3 and the claimant does not file a claim with the representative or the court on or before the date stated in the notice; or

(2) Notice of disallowance is given to the claimant as provided in Section 18-11 and the claimant does not file a claim with the court on or before the date stated in the notice; or

(3) The claimant or the claimant's address is not known to or reasonably ascertainable by the representative and the claimant does not file a claim with the representative or the court on or before the date stated in the published notice as provided in Section 18-3.

(b) Unless sooner barred under subsection (a) of this Section, all claims which could have been barred under this Section are, in any event, barred 2 years after decedent's death, whether or not letters of office are issued upon the estate of the decedent.

(c) This Section does not bar actions to establish liability of the decedent to the extent the estate is protected by liability insurance.

(d) Except with respect to a claimant whose claim is known to the representative and is not paid or otherwise barred under this Section, a representative who acts in good faith to determine and give notice to creditors of a decedent, as provided in Section 18-3, is not personally liable to a creditor of a decedent, but any claim not barred under this Section may be asserted against (1) the estate, to the extent that assets have not been distributed, and (2) a distributee of the estate (other than a creditor), but only to the extent that the distributee's share of the estate will not, in effect, be diminished below what the distributee would have received had the claim been paid by the representative.
(Source: P.A. 89-21, eff. 7-1-95; 89-686, eff. 12-31-96.)

(755 ILCS 5/18-13) (from Ch. 110 1/2, par. 18-13)

Sec. 18-13. Priority of payment.) Except as provided in Section 19-6, the representative of a decedent's estate shall pay from the estate all claims entitled to be paid therefrom, in the order of their classification, and when the estate is insufficient to pay the claims in any one class, the claims in that class shall be paid pro rata.
(Source: P.A. 81-213.)

(755 ILCS 5/18-14) (from Ch. 110 1/2, par. 18-14)

Sec. 18-14. Estate chargeable with legacies, expenses and claims.) All the real and personal estate of the decedent and the income therefrom during the period of administration are chargeable with the claims against the estate, expenses of administration, estate and inheritance taxes and legacies without distinction except as otherwise provided in this Act or by decedent's will and may be leased, sold, mortgaged or pledged as the court directs in the manner prescribed in this Act. In determining what property in the estate shall be leased, sold, mortgaged or pledged for any purpose provided in this Section, there is no priority as between real and personal estate, except as provided in this Act or by decedent's will.
(Source: P.A. 79-328.)

(755 ILCS 5/18-15) (from Ch. 110 1/2, par. 18-15)

Sec. 18-15. Payment of claims against wards' estates.) Claims allowed against the estate of a ward shall be paid by the representative as he has funds therefor.
(Source: P.A. 79-328.)

(755 ILCS 5/Art. XIX heading)

ARTICLE XIX
ADMINISTRATION OF PERSONAL ESTATE

(755 ILCS 5/19-1) (from Ch. 110 1/2, par. 19-1)

Sec. 19-1. Lease, sale, mortgage or pledge of personal estate of decedent.) (a) By leave of court, a representative may lease, sell, mortgage or pledge the personal estate of the decedent when it is necessary for the proper administration of the estate. Personal property selected by the surviving spouse or child or specifically bequeathed or directed by the testator not to be sold may not be sold, mortgaged or pledged unless necessary for the payment of claims, expenses of administration, estate or inheritance taxes or the proper administration of the estate.

(b) If the sale of the personal estate is not necessary for the payment of claims or expense of administration or the proper distribution of the estate, the court may order the personal estate to be distributed in kind.

(c) The provisions of this Article for the lease, sale, mortgage or pledge of personal estate do not apply to leases, sales, mortgages or pledges made without order of court by a representative under a power given in the will. The lease, sale, mortgage or pledge of any personal estate by a representative under a power given in a will is valid regardless of the subsequent setting aside of the will or any other action which might limit or restrain the right of the representative to transfer title or to lease, sell, mortgage or pledge such personal estate. A lessee, purchaser, mortgagee or pledgee from a representative under a power in a will obtains the same title or interest as though the instrument were executed by the decedent immediately prior to his death and the rights and claims of all parties claiming under or through the decedent shall be transferred to the consideration received or to be received from the lease, sale, mortgage or pledge.
(Source: P.A. 79-328.)

(755 ILCS 5/19-2) (from Ch. 110 1/2, par. 19-2)

Sec. 19-2. Lease, sale, mortgage or pledge of personal estate of ward.) By leave of court a representative may lease, sell, mortgage or pledge any personal estate of the ward, when in the opinion of the court it is for the best interest of the ward or his estate.
(Source: P.A. 79-328.)

(755 ILCS 5/19-3) (from Ch. 110 1/2, par. 19-3)

Sec. 19-3. Mortgage of agricultural commodities.) By leave of court, a representative of an estate eligible therefor may obtain a loan and mortgage or pledge for a term of not to exceed one year agricultural commodities as security for a loan pursuant to the provisions of the federal Agricultural Adjustment Act of 1938, may execute and deliver such evidences of indebtedness, security interests,

pledges and other documents as may be required in connection therewith, and may repay the loan or deliver the commodity mortgaged or pledged therefor in accordance with the terms upon which the loan is made. The proceeds of the loan are personal estate in the hands of the representative.
(Source: P.A. 80-662.)

(755 ILCS 5/19-4) (from Ch. 110 1/2, par. 19-4)
Sec. 19-4. Petition to lease, sell, mortgage or pledge personal estate-notice.) Before leasing, selling, mortgaging or pledging any personal estate the representative shall file a petition in the court which issued his letters stating the facts and circumstances on which it is founded and a brief description of the personal estate sought to be leased, sold, mortgaged or pledged. The court may order such notice of the time and place of the hearing on the petition to be given to any interested persons as it deems expedient or the court may hear the petition without notice.
(Source: P.A. 79-328.)

(755 ILCS 5/19-5) (from Ch. 110 1/2, par. 19-5)
Sec. 19-5. Order of sale.) (a) The court shall provide in its order of sale whether the sale shall be public or private.
(b) A public sale shall be for cash or wholly or partly upon credit of not more than 12 months by taking a note with good security, as the court directs. The court shall direct that notice of a public sale be given by either of the following methods: (1) inserting a notice or advertisement of sale in a newspaper published in the county where the sale is to be made not less than once nor more than 3 times, as the court directs, the first publication to be not less than 5 nor more than 21 days before the date of sale, or (2) posting a notice or advertisement of sale in at least 4 public places in the county where the sale is to be made for a period specified by the court of not less than 5 nor more than 21 days before the date of sale.
(c) If the court orders a public sale of both personal and real estate the notice of public sale may be given as provided in Section 20-7 and both types of property shall be included in the same publication notice.
(d) A private sale shall be for cash or wholly or partly upon credit with or without security, as the court directs.
(e) In all public sales of personal estate the representative may employ necessary clerks and auctioneers who shall receive such compensation as the court deems reasonable, to be paid as expenses of administration.
(Source: P.A. 79-328.)

(755 ILCS 5/19-6) (from Ch. 110 1/2, par. 19-6)
Sec. 19-6. Operating business of decedent.) (a) Except as otherwise directed by the decedent in his will or except as otherwise provided by law, a representative has authority, for the preservation and settlement of the estate of a decedent, to continue the decedent's unincorporated business during one month next following the

date of issuance of his letters unless the court directs otherwise, and for such further time as the court from time to time may authorize, without personal liability except for malfeasance or misfeasance for losses incurred. The court may order such notice of the time and place of the hearing on the petition to be given to any interested persons as it deems expedient or the court may hear the petition without notice. Obligations incurred or contracts entered into are entitled to priority of payment out of the assets of the business, but, without approval of the court first obtained, do not involve the estate beyond these assets.

(b) During the time the business is so conducted, unless otherwise ordered by the court, the representative shall file monthly reports in the court, setting forth the receipts and disbursements of the business for the preceding month and such other pertinent information as the court may require.

(Source: P.A. 79-328.)

(755 ILCS 5/19-7) (from Ch. 110 1/2, par. 19-7)

Sec. 19-7. Operating business of ward.) Upon receiving the approval of the court, a representative may operate any unincorporated business belonging to the ward or in which he may have any interest and the court may direct the representative in connection therewith.

(Source: P.A. 79-328.)

(755 ILCS 5/19-8) (from Ch. 110 1/2, par. 19-8)

Sec. 19-8. Compounding, compromising or exchanging personal estate.) By leave of court without notice or upon such notice as the court directs, a representative may compound or compromise any claim or any interest of the ward or the decedent in any personal estate or exchange any claim or any interest in personal estate for other claims or personal estate upon such terms as the court directs.

(Source: P.A. 79-328.)

(755 ILCS 5/19-9) (from Ch. 110 1/2, par. 19-9)

Sec. 19-9. Removal of property.) The representative may not remove any personal estate of his decedent or ward beyond the limits of this State, without the order of the court. If the representative removes the estate from this State without order of court he and his surety may be sued and judgment may be rendered against him and his surety for the benefit of the estate for the full value of the personal estate removed and the damages sustained by the removal.

(Source: P.A. 79-328.)

(755 ILCS 5/19-10) (from Ch. 110 1/2, par. 19-10)

Sec. 19-10. Contracts of decedent.) By order of court a contract made by a

decedent may be performed by his representative.
(Source: P.A. 79-328.)

(755 ILCS 5/19-11) (from Ch. 110 1/2, par. 19-11)

Sec. 19-11. Desperate personal estate of decedent.) (a) Upon suggestion made in the final account or report or on petition of a representative stating that any personal estate of the decedent other than goods and chattels is of desperate value and giving the reasons therefor, the court may order the evidence of the desperate personal estate to be deposited with the clerk of the court for the benefit of such of the heirs, legatees or creditors of the decedent as may be entitled thereto, except that if it appears to the court that the desperate personal estate or any part thereof is totally worthless the court may direct the representative to destroy or otherwise dispose of the evidence thereof and file an affidavit of destruction or disposition with the clerk. Notice of the hearing on a petition under this Section shall be given, as the court directs, to unpaid creditors and to every person entitled to a share of the estate who has not received that share in full, but no notice need be given to any person who waives notice. After the deposit is made or the affidavit is filed the representative has no further responsibility with respect to or liability for the desperate personal estate.

(b) By leave of court any heir, legatee or creditor having an interest in any deposited personal estate may take action necessary to realize its value, in the name of the representative or in his own name. Upon realizing the value of the desperate personal estate or any part thereof, the heir, legatee or creditor shall report to the court and be chargeable therewith and, after deducting his claim or distributive share and reasonable compensation for realizing the value, shall distribute the overplus as directed by the court. The representative is not liable for costs or other expenses incurred in any proceeding or action under this Section.

(c) At any time after 21 years following the deposit of any desperate personal estate, by leave of the court, the clerk may destroy or otherwise dispose of the evidence without notice or upon such notice to interested persons as the court directs and shall place a certificate of destruction or of disposition in the estate file.

Any sums realized from the disposition of said personal property shall be transferred by the clerk pursuant to an order of court to the county treasurer of the county in which the estate was administered for deposit into the general fund of the county.

Any person having a right thereto may file a claim with the court which ordered the disposition of the property for the sum realized from such disposition. Upon proof of the claimant's right thereto the court may enter an order upon the county treasurer to pay the claimant the amount to which the claimant is entitled without interest.

Unless a claim is filed within one year from the date of the order transferring the sums realized to the county treasurer said sums shall escheat to and become the property of the county.
(Source: P.A. 84-555; 84-690.)

(755 ILCS 5/19-12) (from Ch. 110 1/2, par. 19-12)

Sec. 19-12. Nominee registration.) Unless otherwise provided by the will, a

representative or his agent, custodian or depositary may cause stocks, bonds and other personal property of the estate to be registered and held in the name of a nominee without mention of the fiduciary relationship in any instrument or record constituting or evidencing title thereto. The representative is liable for the acts of the nominee with respect to any property so registered. The records of the representative shall at all times show the ownership of the property. Any property so registered shall be in the possession and control of the representative and kept separate from his individual property.
(Source: P.A. 79-328.)

(755 ILCS 5/19-13) (from Ch. 110 1/2, par. 19-13)
Sec. 19-13. Decedent's account books.) The books of account of a decedent are subject to the inspection of all persons interested therein.
(Source: P.A. 79-328.)

(755 ILCS 5/19-14)
Sec. 19-14. Administrator or executor; legal proceeding; participation. If there is more than one administrator or executor of a decedent's estate and one of the administrators or executors is a corporation qualified to act as a representative of the estate of a decedent and if the administrators or executors of the decedent's estate appear for and represent the estate in a legal proceeding in which the compensation of the attorney or attorneys representing the administrators or executors is solely determined under a contingent fee arrangement, then upon petition and approval by the court, the administrator or executor of the decedent's estate which is a corporation shall not participate in or have any duty to review the prosecution of the action, to participate in or review the appropriateness of any settlement of the action, or to participate in or review any determination of the appropriateness of any fees awarded to the attorney or attorneys employed in the prosecution of the action.
(Source: P.A. 92-288, eff. 8-9-01.)

(755 ILCS 5/Art. XX heading)

ARTICLE XX
ADMINISTRATION OF REAL ESTATE

(755 ILCS 5/20-1) (from Ch. 110 1/2, par. 20-1)
Sec. 20-1. Administration and possession of decedent's real estate.) (a) Except as otherwise provided by subsection (b) of this Section or by decedent's will, every representative shall take possession, subject to the exempt estate of

homestead, of all real estate of the decedent during the period of administration and, while retaining possession, (1) shall collect the rents and earnings therefrom, (2) shall keep in tenantable repair the buildings and fixtures, (3) shall pay the taxes, mortgages and other liens thereon in accordance with their terms, (4) may protect the real estate by insurance, (5) may employ agents and custodians and (6) may make all reasonable expenditures necessary to preserve the real estate. He may maintain an action for the possession of or to determine the title to real estate, except that no action to determine the title to real estate may be commenced without authorization of the court which issued his letters.

(b) The representative may not take possession of real estate or the portion thereof occupied by the heir or legatee thereof as his residence unless otherwise provided by the decedent's will or unless the court at any time finds that possession is necessary for the payment of claims, expenses of administration, estate or inheritance taxes or legacies, the preservation of the real estate, or any part thereof, or the proper distribution of the estate.

(c) Upon petition of any interested person, the court may grant possession of real estate on such terms as it deems appropriate to the heir or legatee thereof, if it appears that the real estate or income therefrom will not be needed for the payment of claims, expenses of administration, estate or inheritance taxes or legacies. An order granting possession of real estate does not constitute a determination of title to the real estate.

(d) Nothing in this Section affects the power of the representative to sell or mortgage any real estate of the decedent under this Act.
(Source: P.A. 79-328.)

(755 ILCS 5/20-2) (from Ch. 110 1/2, par. 20-2)

Sec. 20-2. Leasing real estate.

(a) A representative may lease the real estate of a decedent or ward upon such terms and for such length of time not inconsistent with the provisions of the decedent's will, if any, as the court may authorize. Real estate specifically bequeathed may not be leased without the written assent of the legatee filed with the court.

(b) Before leasing real estate, a representative must file in the court which issued his letters a petition setting forth a description of the real estate sought to be leased, its improvements, and the facts and circumstances upon which the petition is founded. A copy of the proposed lease must be attached to the petition. Upon the filing of the petition the court shall set it for hearing not less than 10 days thereafter. It is the duty of the petitioner to mail a notice of the hearing and a copy of the petition to the heirs or legatees of the decedent or to the ward, as the case may be, not less than 5 days prior to the hearing, but where the duration of a lease of a ward's real estate does not exceed 5 years or extend beyond the minority of the ward, the court in its discretion may hear the petition without notice.

(c) A representative who has a lease of farm property owned by a decedent or ward in existence on or before the date he or she assumed the duty of representative may continue according to the terms of the lease until (1) the estate of the decedent is closed, (2) the wardship is terminated, or (3) a court order is entered finding that the terms of the lease are unfair or that service as a representative, under the facts before the court, is incompatible with the representative's operation of the decedent's or ward's farm property. The fact that the representative receives profits from the lease is not a violation of the representative's fiduciary duty imposed by this Act.
(Source: P.A. 89-540, eff. 1-1-97.)

(755 ILCS 5/20-3) (from Ch. 110 1/2, par. 20-3)

Sec. 20-3. Sale or mortgage of ward's real estate.) By leave of court and upon such terms as the court directs, a representative of a ward may sell or mortgage the ward's real estate or any interest in real estate including the oil, gas, coal or other mineral interest therein, when the court deems it necessary or expedient for the support and education of the persons entitled thereto under this Act, for the payment of the debts of the ward or for reinvestment.

(Source: P.A. 79-328.)

(755 ILCS 5/20-4) (from Ch. 110 1/2, par. 20-4)

Sec. 20-4. Sale or mortgage of decedent's real estate.) (a) By leave of court and upon such terms as the court directs, a representative of a decedent's estate may sell or mortgage any real estate or interest therein to which the decedent had claim or title, including the oil, gas, coal or other mineral interest therein, when it is necessary for the proper administration of the decedent's estate.

(b) Real estate specifically bequeathed or directed by the testator not to be sold may not be sold or mortgaged unless necessary for the payment of claims, expenses of administration or estate or inheritance taxes or the proper distribution of the estate.

(Source: P.A. 84-395.)

(755 ILCS 5/20-5) (from Ch. 110 1/2, par. 20-5)

Sec. 20-5. Procedure for sale or mortgage of real estate.) (a) Before selling or mortgaging real estate, the representative shall file a petition in the court which issued his letters setting forth the facts and circumstances upon which it is founded, a description of the real estate or interest therein, or of the oil, gas, coal or other mineral interest involved, the approximate value thereof, the interest of the ward or decedent therein, and the nature and extent of all liens upon and other interests, if any, in the real estate, or in the oil, gas, coal or other mineral interest so far as they may be known to the petitioner. A copy of the proposed mortgage or of the proposed contract for sale of the real estate, if any, shall be attached to the petition.

(b) All persons holding liens against or having an interest in the real estate, or in the oil, gas, coal or other mineral interest or in any part thereof, described in the petition, in possession or otherwise, whose rights are sought to be affected by the order, except the ward shall be made parties defendant.

(c) Upon the filing of the petition, process shall be issued, served and returned as in other civil cases.

(d) The court shall appoint a guardian ad litem for any party to the proceeding who is a ward and who is not represented by a guardian. If it appears that any person not in being upon coming into being is or may become or may claim to be entitled to any interest in the property sought to be sold or mortgaged, the court shall appoint some competent and disinterested person as guardian ad litem to appear for and represent such interest in the proceeding and to defend the

proceeding on behalf of the person not in being, and any judgment or order rendered in the proceeding is as effectual for all purposes as though the person were in being and were a party to the proceeding.

(e) On or before entry of an order authorizing a sale or mortgage under this Article, it is the duty of the petitioner to comply with the provisions of Section 12-9.

(Source: P.A. 84-555; 84-690.)

(755 ILCS 5/20-6) (from Ch. 110 1/2, par. 20-6)

Sec. 20-6. Power of court.) In any proceeding to sell or mortgage real estate the court may:

(a) investigate and determine all questions of conflicting and controverted titles arising between any of the parties, remove clouds from any title or interest involved therein, and invest the mortgagee or purchaser with a good and indefeasible title to the property sold or mortgaged;

(b) direct the sale or mortgage of the property free of all mortgage, judgment or other liens that are due, provide for the satisfaction of all those liens out of the proceeds of the sale or mortgage and settle and adjust all equities and all questions of priority among all interested persons;

(c) with the assent of the owner of a mortgage lien that is not due, direct that the property be sold or mortgaged free of the lien and provide for the satisfaction of the lien out of the proceeds of the sale or mortgage;

(d) set off the homestead and order the sale of the balance of the premises, or if the value of the premises exceeds the exemption and the premises cannot be divided, the court may order the sale of the whole free of homestead with or without the consent of the person entitled thereto and shall ascertain the value of the homestead and shall order that a sum of money equal to the gross value of the homestead be paid from the proceeds of the sale to the person entitled thereto;

(e) upon the filing in court of the written consent of the person entitled to an estate for life or for years, order the sale or mortgage free of the estate, but the court shall ascertain the value of the estate and order that a sum of money equal to the gross value of the estate be paid from the proceeds of the sale or mortgage to the person entitled thereto or that a proper proportion of the proceeds of the sale or mortgage as ascertained by the court be invested and the income paid to the person entitled thereto during the continuance of the estate;

(f) direct the sale of the property free of any lien or claim for lien of this State (except the lien for general taxes), provide for the satisfaction of the lien or claim for lien out of the proceeds of sale according to its relative priority in respect to other liens to the extent the proceeds are available, and adjudicate the priority of the State's lien or claim for lien with respect to all other liens against the property. The petition must describe the lien of the State. Not less than 20 days before the hearing on the petition, the petitioner must notify the Attorney General of the filing of the petition by delivering or mailing 2 copies of the petition to the Attorney General's office in Springfield, Illinois. The petitioner must file proof of the delivery or mailing in the proceeding in which the estate is being administered. The Attorney General may intervene and take such action as he deems expedient to protect the interest of the State.

(Source: P.A. 79-328.)

(755 ILCS 5/20-7) (from Ch. 110 1/2, par. 20-7)

Sec. 20-7. Place and terms of sale.

(a) The court may designate the place and manner of holding the sale, whether private or public, and whether for cash or on reasonable credit. The sale may be conducted by means of the Internet or any other electronic medium as approved by the court. When mining, oil or gas rights only are sold, the court may require security of the purchaser and may direct the sale to be made upon a royalty basis or for a lump sum in such manner and upon such terms as appears to the court to be to the best interests of the estate.

(b) Every public sale under this Article, except a sale conducted by means of the Internet or another electronic medium, shall be held between the hours of 10:00 o'clock in the forenoon and 5:00 o'clock in the afternoon of the same day. Notice of the time, place and terms of holding the sale, containing a description of the property sought to be sold, must be published once each week for 3 successive weeks, the first publication to be not less than 25 days prior to the sale, in some newspaper published in the county where the property sought to be sold, or the greater part thereof, lies.

A sale conducted by means of the Internet or another electronic medium shall be conducted according to terms and notice given by means of the Internet or other electronic medium. The notice required under this paragraph must include a statement that public access to the Internet is available at public libraries. Any notice required under this paragraph is in addition to any other notice required under this subsection (b).

(Source: P.A. 92-97, eff. 7-18-01.)

(755 ILCS 5/20-8) (from Ch. 110 1/2, par. 20-8)

Sec. 20-8. Appointment of appraisers.) The court may appoint 1, 2 or 3 disinterested appraisers, who, after taking an oath fairly to appraise the property, shall go upon the premises, make an appraisal, and report to the court in writing the result of the appraisal. The court shall fix a reasonable sum for the services of the appraisers, which, with the expenses of the appraisal, shall be allowed as costs. When the property lies in more than one county the court may appoint appraisers for the tracts in each county. If an appraisal is made, the sale may not be made for a sum less than 2/3 of the appraised value of the property to be sold, but each tract need not bring 2/3 of its appraised value if the total sum received for all tracts equals 2/3 of the appraised value of all tracts.

(Source: P.A. 79-328.)

(755 ILCS 5/20-9) (from Ch. 110 1/2, par. 20-9)

Sec. 20-9. Report of sale and approval.) (a) It is the duty of the representative to present to the court authorizing the sale a verified report of the sale describing the property sold and stating the name of the purchaser, the date and the terms of the sale, and the manner in which the terms of the order were executed, but no report of sale is required if the sale has been made under a contract authorized by the court upon petition under Section 20-5. Notice of the hearing on a report of sale, accompanied by a copy of the report, shall be given as the court directs to all persons who have entered their appearance in the proceeding.

(b) Upon the hearing the court may approve the report and confirm the sale or

disapprove the report and order the property to be resold.
(Source: P.A. 79-328.)

(755 ILCS 5/20-10) (from Ch. 110 1/2, par. 20-10)
Sec. 20-10. Deed or conveyance.) (a) Within 30 days after the court approves report of sale, it is the duty of the representative to execute and deliver to the purchaser a deed or other conveyance conveying the interest of the ward or the decedent in the property ordered to be sold.
(b) If the representative dies, becomes incapacitated or is removed before the execution of the deed, conveyance or mortgage, his successor in office shall proceed in the premises and execute the deed, conveyance or mortgage in the same manner as if he had originally been the petitioner.
(Source: P.A. 79-328.)

(755 ILCS 5/20-11) (from Ch. 110 1/2, par. 20-11)
Sec. 20-11. Terms of mortgage.) An order authorizing that a mortgage be made must designate the time of the maturity thereof, the amount of the indebtedness and the rate of interest to be paid thereon.
(Source: P.A. 79-328.)

(755 ILCS 5/20-12) (from Ch. 110 1/2, par. 20-12)
Sec. 20-12. Accounting for proceeds of sale or mortgage.) It is the duty of the representative to account for the proceeds of every sale or mortgage under this Article in his next current or final account filed in the court where the estate is being administered.
(Source: P.A. 79-328.)

(755 ILCS 5/20-13) (from Ch. 110 1/2, par. 20-13)
Sec. 20-13. Compelling lease, sale or mortgage of real estate.) The court may make all necessary orders to compel the representative to perform such acts as may be necessary to lease, sell or mortgage the real estate or interest therein for any purpose authorized by this Article.
(Source: P.A. 79-328.)

(755 ILCS 5/20-14) (from Ch. 110 1/2, par. 20-14)
Sec. 20-14. No strict foreclosure.) No order of strict foreclosure may be made upon any mortgage executed or joined in under this Article, but redemption shall be allowed as is provided by law in cases of sale for the enforcement of a judgment

for the payment of money.
(Source: P.A. 83-346.)

(755 ILCS 5/20-15) (from Ch. 110 1/2, par. 20-15)

Sec. 20-15. Lease, sale or mortgage of real estate under power in will or under subsection (i) of Section 28-8.) The provisions of this Article for the lease, sale or mortgage of real estate or interest therein do not apply to leases, sales or mortgages made without order of court by a representative under a power given in the will or under subsection (i) of Section 28-8, but before making a sale or mortgage of real estate it is the duty of the representative to comply with the provisions of Section 12-9. If a contract of the decedent to convey or lease real estate or interest therein requires the giving of warranties, the instrument given by the representative in fulfillment of the contract shall contain the warranties required and they bind the estate as though made by the decedent but do not bind the representative personally. If a representative leases, sells or mortgages a decedent's real estate or interest, the lease, sale or mortgage is valid regardless of the subsequent setting aside of the will or any other action which might limit or restrain the right of the representative to lease or to convey title or to mortgage the real estate or interest. A lessee, purchaser or mortgagee from a representative obtains the same title or interest as though the instrument were executed by the decedent immediately prior to his death, and the rights and claims of all parties claiming under or through the decedent thereupon are transferred to the consideration received or to be received from such lease, sale or mortgage.
(Source: P.A. 84-555; 84-690.)

(755 ILCS 5/20-16) (from Ch. 110 1/2, par. 20-16)

Sec. 20-16. Completion of decedent's contract to purchase real estate.) (a) When a decedent has contracted to purchase real estate and the payment therefor has not been completed, the representative may file a petition in the court which issued his letters asking for leave to complete the payment therefor or for directions as to the manner in which he may proceed with respect to the real estate. The court may authorize the payment out of the estate of the decedent in the name of the representative or the persons entitled to the estate, or may direct the representative as to the manner in which he shall deal with the real estate. This Section does not supersede the provisions of the will of the decedent or the rights of the vendor under the contract of sale.

(b) The petition must state a description of the real estate involved, the nature of the improvements thereon, if any, an estimate of the value of the real estate and the amount unpaid on the purchase price thereof. Notice of the time and place of the hearing on the petition must be given as the court directs or the court may hear the petition without notice if it finds that notice is not required to be given to any interested person to protect his interests.
(Source: P.A. 79-328.)

(755 ILCS 5/20-17) (from Ch. 110 1/2, par. 20-17)

Sec. 20-17. Completion of contract to convey or lease real estate.) Upon petition of a representative of a decedent's or ward's estate or other interested person, the court, without notice or upon such notice as it orders, may direct the representative to perform a contract of the decedent or ward, which was legally subsisting at the time of his death or adjudication, to convey real estate or interest therein and to execute a deed, lease or other instrument in fulfillment thereof. The petition must show the description of the real estate and the facts upon which the right to a conveyance or lease is based. The court may authorize the representative to waive a default or to compound or compromise any balance due upon such terms as the court orders. If the contract requires the giving of warranties, the instrument to be given by the representative shall contain the warranties required and they shall bind the estate as though made by the decedent or ward but shall not bind the representative personally.

(Source: P.A. 79-328.)

(755 ILCS 5/20-18) (from Ch. 110 1/2, par. 20-18)

Sec. 20-18. Effect of proceedings.) All deeds or conveyances executed by a representative to the purchaser under this Act convey to and vest in the purchaser all the estate, right, title and interest, legal or equitable, of the decedent or ward in the real estate or interest therein sold. All mortgages executed by a representative under this Act convey to and vest in the mortgagee all the estate, right, title and interest, legal or equitable, of the decedent or ward in the property mortgaged for the purpose, and as security for the indebtedness, described in the mortgage and intended to be secured thereby.

(Source: P.A. 80-808.)

(755 ILCS 5/20-19) (from Ch. 110 1/2, par. 20-19)

Sec. 20-19. No exoneration of encumbered interests in real estate.) Except as otherwise expressly provided by decedent's will:

(a) When any real estate or leasehold estate in real estate subject to an encumbrance, or any beneficial interest under a trust of real estate or leasehold estate in real estate subject to an encumbrance, is specifically bequeathed or passes by joint tenancy with right of survivorship or by the terms of a trust agreement or other nontestamentary instrument, the legatee, surviving tenant or beneficiary to whom the real estate, leasehold estate or beneficial interest is given or passes, takes it subject to the encumbrance and is not entitled to have the indebtedness paid from other real or personal estate of the decedent.

(b) If the representative pays all or any part of the indebtedness from assets other than the real estate, leasehold estate or beneficial interest or the income or proceeds therefrom, he is entitled to reimbursement from the legatee, surviving tenant or beneficiary and, in the event of nonreimbursement, the court may adjudge a lien on the real estate, leasehold estate or beneficial interest for the amount so paid with interest.

(c) If the encumbrance embraces or extends to other property, the reimbursement shall be limited to the portion of the amount paid by the representative which the value of the real estate, leasehold interest or beneficial interest bears to the value of all property subject to the encumbrance as of the date of the decedent's

death.
(Source: P.A. 79-328.)

(755 ILCS 5/20-20) (from Ch. 110 1/2, par. 20-20)

Sec. 20-20. Leasing for oil, gas, coal and other mineral developments.) (a) A representative may lease for oil, gas, coal or other mineral development, the real estate or any interest in real estate of the decedent or the ward upon such terms and conditions as the court may authorize. This includes the authority to join or participate in a cooperative coal marketing association or similar entity.

(b) The lease for oil, gas and other minerals, except coal, may be for a term not exceeding 10 years and for as long thereafter as oil, gas, or other minerals except coal, may be produced from the premises embraced in the lease even though in the case of a ward the term of the lease may exceed the period of disability of the ward. The lease for coal or participation in a cooperative coal marketing association or similar entity, may be for a term not exceeding 15 years and for as long thereafter as coal may be produced from the mining area described in the lease or the cooperative coal marketing association agreement even though in the case of a ward the term of the lease or the cooperative coal marketing association may exceed the period of disability of the ward.

(c) The representative shall file in the court of the county where his letters were issued, a petition for authority to lease the real estate or interest therein for oil, gas, coal or other mineral development. The petition must set forth the description of the real estate or interest therein to be leased and the reasons it is for the best interests of the estate of the decedent or the ward to enter into the lease. A copy of the proposed lease must be attached to the petition.

(d) Upon the filing of the petition, the court shall set it for hearing not less than 10 days thereafter. It is the duty of the petitioner to mail a notice of the hearing and a copy of the petition to the heirs or legatees of the decedent or to the ward, as the case may be, not less than 5 days before the hearing. No guardian ad litem need be appointed for any ward unless the court finds it necessary for his protection.

(e) Upon the hearing the court may authorize the representative to execute and deliver a lease of the real estate or interest therein by a private letting with the proposed lessee on the form proposed or such form as is satisfactory to the court, or the court may order the leasing of the real estate or interest therein to be conducted at a public letting. If a public letting is ordered, the court shall designate the time, place and manner of holding the letting and the time and manner in which notice thereof shall be given. In case of a public letting, it is the duty of the representative to file with the court, within 10 days after the letting, a verified report describing the real estate or interest therein let, the name of the lessee, the terms of the letting, and the manner in which the terms of the order of the court were executed. Within 5 days after the time for filing the report has expired any person interested in the property leased may file objections to the report. Upon the hearing, the court may approve the report, confirm the letting, and authorize the representative to execute and deliver the lease or disapprove the report and order the property to be reoffered. When the making of a lease has been authorized as provided in this Section, it shall be executed by the representative and shall be valid and binding.

(f) Upon the filing of a petition and upon such notice as the court directs, the court may authorize a representative who has leased the real estate or interest therein of the decedent or ward for oil, gas, coal or other mineral purposes to enter into agreements unitizing any part or all of the real estate or interest therein so leased with adjacent lands so that the entire unitized tract may be

developed and operated as a unit for the production of oil, gas, coal and other minerals, or any of them. In like manner, the court may authorize a representative to execute agreements supplemental to or amendatory of any oil, gas, coal or mineral leases, including without being limited to agreements relating to secondary recovery operations on the lands of the decedent or ward alone or in conjunction with other lands.

(g) The court may authorize a representative to sell upon such terms as the court directs all or any part of the oil, gas, coal or other mineral estate reserved to the lessor in any lease, including all or part of the royalty or other income reserved to the lessor by the lease, by following the procedure provided in this Act for the sale of real estate.

(Source: P.A. 81-401.)

(755 ILCS 5/20-21) (from Ch. 110 1/2, par. 20-21)

Sec. 20-21. Joining with spouse of ward in sale or mortgage.) By leave of the court and upon such terms as the court directs, a representative of a ward may join in the execution and delivery of a deed or mortgage in the name of the ward or otherwise release or convey the right of the ward to homestead. Leave of court must be obtained in the same manner as nearly may be as in the case of leasing a ward's real estate.

(Source: P.A. 79-328.)

(755 ILCS 5/20-22) (from Ch. 110 1/2, par. 20-22)

Sec. 20-22. Assent to sale free of ward's interest.) When any court in this State is about to order the sale of real estate in which a ward has an estate of homestead or any other interest, the representative may assent in writing on behalf of the sale of the homestead or other interest of the ward pursuant to the direction of the court by which the representative was appointed. On the filing of the assent in the court in which the proceeding for the sale of the real estate is pending, that court may order the sale of the real estate free of the homestead or other interest of the ward, but the court shall ascertain the value of the homestead or other interest and order that a sum of money equal to the gross value of the homestead or other interest be paid from the proceeds of the sale to the representative, less any portion of the costs equitably chargeable to the ward's interest.

(Source: P.A. 79-328.)

(755 ILCS 5/20-23) (from Ch. 110 1/2, par. 20-23)

Sec. 20-23. Representative may be authorized to pay taxes.) When it appears to the court that it is for the interest of any estate being administered in that court that the taxes on real estate forming a part of the estate not in possession of the representative under Section 20-1 be paid, the court may authorize the representative to pay taxes from any money on hand.

(Source: P.A. 79-328.)

(755 ILCS 5/20-24) (from Ch. 110 1/2, par. 20-24)

Sec. 20-24. Notice of probate - Recorder's filing. (a) If a decedent's estate in supervised or independent administration includes an interest in real estate that is not sold or conveyed by the representative during administration, the representative shall sign and record a notice of probate. The notice shall include the decedent's name, address and date of death, the legal description and street address (if any) of the real estate, the court name and case number to identify the estate, the date the representative was appointed, and the representative's name and address. The notice shall be recorded in the county where the real estate is located before the representative is discharged.

(b) Any heir or legatee who claims title to an interest in real estate from a decedent for whose estate no notice has been recorded under subsection (a) of this Section (or any successor in interest to such an heir or legatee) may record a notice of probate in substantially the same form as that required in subsection (a).

(c) A representative acting under independent administration may combine in one instrument the notice of probate and release as provided in Section 28-10.
(Source: P.A. 85-376.)

(755 ILCS 5/Art. XXI heading)

ARTICLE XXI
INVESTMENTS BY REPRESENTATIVE

(755 ILCS 5/21-1) (from Ch. 110 1/2, par. 21-1)

Sec. 21-1. Investments - decedent's estate.) In addition to any investments which a decedent may authorize his executor to make by the terms of his will, the representative of his estate, in his discretion, may invest money of the estate of a decedent in any one or more of the investments specified in Sections 21-1.01 through 21-1.07.
(Source: P.A. 84-494.)

(755 ILCS 5/21-1.01) (from Ch. 110 1/2, par. 21-1.01)

Sec. 21-1.01. Direct obligations of the United States or any instrumentality or agency thereof or obligations fully guaranteed by the United States, or any instrumentality or agency thereof, if the maturity date of the obligations is no longer than 5 years from the date of purchase.
(Source: P.A. 79-328.)

(755 ILCS 5/21-1.02) (from Ch. 110 1/2, par. 21-1.02)

Sec. 21-1.02. Obligations of a local public agency (as defined in Section 110(h) of the federal Housing Act of 1949) or of a public housing agency (as defined in the federal Housing Act of 1937, as amended) which have a maturity of not more than 18 months if such obligations are secured by an agreement between the obligor agency and the Secretary of Housing and Urban Development in which the agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the agency, prior to the maturity of such obligations, money in an amount which (together with any other money irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity, which money under the terms of the agreement is required to be used for that purpose.

(Source: P.A. 79-328.)

(755 ILCS 5/21-1.03) (from Ch. 110 1/2, par. 21-1.03)

Sec. 21-1.03. Savings accounts or certificates of deposit of a state bank or a national bank doing business in Illinois to the extent that the deposits are insured by the United States or any agency thereof, even though the bank of deposit is the representative of the estate, but this authority does not affect the power of a representative to establish a checking account or continue in his or the decedent's name a decedent's savings deposit, time certificate of deposit or checking account in any amount.

(Source: P.A. 79-328.)

(755 ILCS 5/21-1.04) (from Ch. 110 1/2, par. 21-1.04)

Sec. 21-1.04. Withdrawable capital accounts, deposits, investment certificates or certificates of deposit of a state savings and loan association or a federal savings and loan association doing business in this State to the extent that such accounts, deposits or certificates are insured by the United States or any agency thereof.

(Source: P.A. 81-403.)

(755 ILCS 5/21-1.05) (from Ch. 110 1/2, par. 21-1.05)

Sec. 21-1.05. Interests in one or more common trust funds, as defined in and from time to time established, maintained and administered pursuant to the Common Trust Fund Act, the investments of which are not restricted to the investments otherwise authorized for representatives by Sections 21-1.01 through 21-1.04 and 21-1.06 of this Act, provided that the investment in such common trust fund meets the standard of the prudent person rule for the investment of trust funds; and provided further that in the case of an administrator, the approval of the court,

by written order, be first obtained.
(Source: P.A. 84-494.)

(755 ILCS 5/21-1.05a) (from Ch. 110 1/2, par. 21-1.05a)

Sec. 21-1.05a. Interests in any open-end registered investment company registered under the federal Investment Company Act of 1940, provided that the portfolio of any such company is limited to securities and investments authorized for investment by representatives in Sections 21-1.01 through 21-1.06 of this Act and to agreements to repurchase such obligations, which agreements, with respect to principal and interest are (1) at least 100% collateralized by such obligations marked to market on a daily basis, and (2) the investment company takes delivery of such obligations either directly or through an independent custodian. To the extent that such investment company engages in when issued or delayed delivery transactions, it may do so only as a part of its normal security acquisition practices and not as a means of speculating on interest rates.
(Source: P.A. 85-639.)

(755 ILCS 5/21-1.06) (from Ch. 110 1/2, par. 21-1.06)

Sec. 21-1.06. Any other investments authorized by a court of competent jurisdiction or which from time to time have been or may be expressly declared by the General Assembly to be legal investments by representatives of decedents' estates.
(Source: P.A. 79-328.)

(755 ILCS 5/21-1.07) (from Ch. 110 1/2, par. 21-1.07)

Sec. 21-1.07. Interests in any open-end or closed-end management type investment company or investment trust (hereafter referred to as a "mutual fund") registered under the Investment Company Act of 1940, the investments of which are not restricted to the investments otherwise authorized for representatives in Sections 21-1.01 through 21-1.06 of this Act, including without limitation a mutual fund that receives services from or pays fees to the representative or its affiliate, provided that the investment in the mutual fund or funds meets the standard of the prudent investor rule for the investment of trust funds. A representative or its affiliate is not required to reduce or waive its compensation for services provided in connection with the investment and administration of the estate because the representative invests, reinvests, or retains estate assets in a mutual fund for which it or its affiliate provides services and receives compensation, if the total compensation paid by the estate as fees of the representative and mutual fund fees, including any advisory or management fees, is reasonable. However, a representative may receive fees equal to the amount of those fees that would be paid to any other party under Securities and Exchange Commission Rule 12b-1.
(Source: P.A. 89-344, eff. 8-17-95.)

(755 ILCS 5/21-2) (from Ch. 110 1/2, par. 21-2)

Sec. 21-2. Investments; ward's estate.

(a) It is the duty of the representative to invest the ward's money. A representative is chargeable with interest at a rate equal to the rate on 90-day United States Treasury Bills upon any money that the representative wrongfully or negligently allows to remain uninvested after it might have been invested. Reasonable sums of money retained uninvested by the representative in order to pay for the current or imminent expenses of the ward shall not be considered wrongfully or negligently uninvested.

(b) Upon receiving the approval of the court, a representative may hold any investments, or any increase thereof, received by the representative at the time of the representative's appointment or acquired by the ward, although the investment is not otherwise authorized under this Act, and the court has power to direct the representative in connection therewith.

(c) A representative may invest only in the types of property specified in Sections 21-2.01 through 21-2.15.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.01) (from Ch. 110 1/2, par. 21-2.01)

Sec. 21-2.01. Obligations of the United States.

(Source: P.A. 84-494.)

(755 ILCS 5/21-2.02) (from Ch. 110 1/2, par. 21-2.02)

Sec. 21-2.02. Obligations of which both the principal and interest are guaranteed unconditionally by the United States.

(Source: P.A. 84-494.)

(755 ILCS 5/21-2.03) (from Ch. 110 1/2, par. 21-2.03)

Sec. 21-2.03. Obligations of any corporation wholly owned, directly or indirectly, by the United States or any agency or instrumentality of the United States.

(Source: P.A. 84-494.)

(755 ILCS 5/21-2.04) (from Ch. 110 1/2, par. 21-2.04)

Sec. 21-2.04. Insured accounts, deposits, and certificates.Withdrawable capital accounts, deposits, investment certificates or certificates of deposit of state and federal savings and loan associations but, unless otherwise authorized by a court

of competent jurisdiction, only to the extent that the accounts, deposits or certificates are insured by the United States or any of its agencies, and share accounts in federal and state credit unions if the credit unions are insured by the National Credit Union Administration. Amounts invested in a savings and loan association in excess of the amount insured by the United States or any of its agencies shall be secured by a surety bond taken from a surety authorized to transact business in this State in such sum, under such conditions, and with such security sufficient to save the estate from loss.
(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.05) (from Ch. 110 1/2, par. 21-2.05)

Sec. 21-2.05. Municipal bonds. Instruments providing for the payment of money executed by or on behalf of any state of the United States or the District of Columbia or any governmental entity organized by or under the laws of any state of the United States or the District of Columbia, to carry out a public governmental or proprietary function, acting through its corporate authorities, or that any governmental entity has assumed or agreed to pay and that, at the time of investment, have been given one of the top 4 rating grades by a nationally recognized rating service.
(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.06) (from Ch. 110 1/2, par. 21-2.06)

Sec. 21-2.06. Savings and time deposit certificates of a state bank or a national bank doing business in this State but, unless otherwise authorized by a court of competent jurisdiction, only to the extent that such deposits are insured by the United States or any agency thereof, even though the bank of deposit is the representative of the ward's estate. Amounts deposited in savings and time deposit certificates of such bank in excess of the amount insured by the United States or any agency thereof shall be secured by a surety bond taken from a surety authorized to transact business in this State in such sum, under such conditions and with such security sufficient to save the estate from loss.
(Source: P.A. 83-1445.)

(755 ILCS 5/21-2.07) (from Ch. 110 1/2, par. 21-2.07)

Sec. 21-2.07. Notes secured by real estate. All of the notes secured by a first mortgage or trust deed upon improved or income producing real estate situated in this State and not exceeding two-thirds of the value thereof at the time of the investment.
(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.08) (from Ch. 110 1/2, par. 21-2.08)

Sec. 21-2.08. Corporate obligations. Obligations of any company incorporated under the laws of the United States or of any state of the United States or the District of Columbia that, at the time of investment, have been given one of the top 4 rating grades by a nationally recognized rating service.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.09) (from Ch. 110 1/2, par. 21-2.09)

Sec. 21-2.09. (Repealed).

(Source: P.A. 79-328. Repealed by P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.10) (from Ch. 110 1/2, par. 21-2.10)

Sec. 21-2.10. Real estate located in any state of the United States or the District of Columbia.

(Source: P.A. 79-328.)

(755 ILCS 5/21-2.11) (from Ch. 110 1/2, par. 21-2.11)

Sec. 21-2.11. Life, endowment, or annuity policies. Life, endowment, or annuity policies on the life of the ward, or on the life of any person in whose life the ward has an insurable interest, if the ward is the beneficiary, when the policies are issued by companies, associations or fraternal organizations that, at the time of investment, have been given one of the top 4 rating grades by a nationally recognized rating service. The order may authorize the payment of annual premiums without further application to the court.

(Source: P.A. 90-796, eff. 12-15-98; 91-357, eff. 7-29-99.)

(755 ILCS 5/21-2.12) (from Ch. 110 1/2, par. 21-2.12)

Sec. 21-2.12. Stock. Shares of any corporation with a market capitalization of over $200,000,000 if the shares are listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange or an electronic securities quotation system regulated by the Securities and Exchange Commission.

No investment in shares of a corporation may be made under this Section that, at the time such investment is made, would cause the market value of all stock held in the ward's estate to exceed two-thirds of the market value of the estate then held by the representative.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.13) (from Ch. 110 1/2, par. 21-2.13)

Sec. 21-2.13. Common trust funds. Interests in one or more common trust funds, as defined in and from time to time established, maintained and administered pursuant to the Common Trust Fund Act, the investments of which are not restricted to the investments otherwise authorized for representatives by Sections 21-2.01 through 21-2.12 and 21-2.14 of this Act, provided that the investment in such common trust fund meets the standard of the prudent investor rule for the investment of trust funds.

(Source: P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.13a) (from Ch. 110 1/2, par. 21-2.13a)

Sec. 21-2.13a. (Repealed).

(Source: P.A. 85-639. Repealed by P.A. 90-796, eff. 12-15-98.)

(755 ILCS 5/21-2.14) (from Ch. 110 1/2, par. 21-2.14)

Sec. 21-2.14. Mutual funds. Interests in any open-end management type investment company or investment trust (hereafter referred to as a "mutual fund") registered under the Investment Company Act of 1940, the investments of which are not restricted to the investments otherwise authorized for representatives in Sections 21-2.01 through 21-2.13 and 21-2.15, including without limitation a mutual fund that receives services from or pays fees to the representative or its affiliate, provided that the investment in the mutual fund or funds meets the standard of the prudent investor rule for the investment of trust funds. A representative or its affiliate is not required to reduce or waive its compensation for services provided in connection with the investment and administration of the estate because the representative invests, reinvests, or retains estate assets in a mutual fund for which it or its affiliate provides services and receives compensation if the total compensation paid by the estate as fees of the representative and mutual fund fees, including any advisory or management fees, is reasonable. However, a representative may receive fees equal to the amount of those fees that would be paid to any other party under Securities and Exchange Commission Rule 12b-1.

(Source: P.A. 89-344, eff. 8-17-95.)

(755 ILCS 5/21-2.14a)

Sec. 21-2.14a. Illinois prepaid tuition contract. An Illinois prepaid tuition contract, as defined under the Illinois Prepaid Tuition Act.

(Source: P.A. 91-867, eff. 6-22-00.)

(755 ILCS 5/21-2.15) (from Ch. 110 1/2, par. 21-2.15)

Sec. 21-2.15. Any other investments which from time to time have been or may be

expressly declared by the General Assembly to be legal investments for representatives of wards' estates.
(Source: P.A. 84-494.)

(755 ILCS 5/Art. XXII heading)

ARTICLE XXII
NONRESIDENT REPRESENTATIVE

(755 ILCS 5/22-1) (from Ch. 110 1/2, par. 22-1)

Sec. 22-1. Power to collect and remove personal estate.) A representative to whom letters are issued on the estate of a nonresident decedent or ward by a court of competent jurisdiction of any other state, territory, country or the District of Columbia may collect and receive any personal estate in this State of the decedent or ward and remove it to the jurisdiction in which his letters are issued upon delivering to the person or corporation indebted to or holding the personal estate of the decedent or ward, the following: (a) an affidavit by the representative that to his knowledge no letters, which have been issued upon the petition of an heir, legatee or creditor of the decedent or kindred of the ward, are then outstanding on the estate in this State, no petition for letters by an heir, legatee or creditor of the decedent or kindred of the ward is pending on the estate in this State, and there are no creditors of the estate in this State, and (b) a copy of his letters certified within 60 days before the date of presentation. Upon payment or delivery of the assets, after receipt of the affidavit and certified copy, the person or corporation is released to the same extent as if the payment or delivery had been made to a legally qualified resident representative and is not required to see to the application or disposition of the property; but no payment or delivery may be made sooner than 30 days after decedent's death.
(Source: P.A. 79-328.)

(755 ILCS 5/22-2) (from Ch. 110 1/2, par. 22-2)

Sec. 22-2. Transfer of estate of nonresident ward to nonresident representative when letters issued in this State.) If it appears to the court of this State which has appointed a representative of the estate of a nonresident ward that the removal of the ward's estate will not conflict with the interest of the ward, the terms of limitations attending the right by which the ward owns the estate or the rights of creditors, the court may order the resident representative to pay and deliver to the nonresident representative the whole or any part of the ward's estate. The order may be entered only upon petition of the nonresident representative and the production of a copy of his letters authenticated within 60 days before the date of presentation. Unless excused by the court for good cause shown, 10 days' notice of the hearing on the petition shall be given to the resident representative.
(Source: P.A. 79-328.)

(755 ILCS 5/22-3) (from Ch. 110 1/2, par. 22-3)

Sec. 22-3. Right to sue.) If no letters are issued in this State upon the estate of a nonresident decedent or ward, a representative to whom letters are issued on the estate by a court of competent jurisdiction of any other state, territory, country or the District of Columbia may sue in this State in any case in which a resident representative may sue. The court in which the suit is filed may order the nonresident representative to give bond for costs as in case of other nonresidents.

(Source: P.A. 79-328.)

(755 ILCS 5/22-4) (from Ch. 110 1/2, par. 22-4)

Sec. 22-4. Lease, sale or mortgage of real or personal estate.) (a) If no letters are issued in this State upon the estate of a decedent who at the time of his death owned real or personal estate or any interest therein within this State or upon the estate of a ward who owns real or personal estate or any interest therein within this State and if any person is appointed in any other state, territory, country or the District of Columbia as representative of the estate of the decedent or as guardian, conservator, committee or in any like capacity for the ward, the person so appointed may file his petition for leave to lease, sell or mortgage the real or personal estate or the mining, oil or gas rights or other interest therein for any of the purposes for which a representative appointed in this State may lease, sell or mortgage under this Act or for such other purposes as the court which appointed such person may direct. A petition under this Section must be filed in the court of the county in which the personal estate, or the greater part thereof, or the real estate, or the greater part thereof, as the case may be, may be located.

(b) The nonresident representative must file with the petition: (1) a copy of his letters authenticated within 60 days before the date of presentation, (2) an authenticated copy of the order of the court which issued letters to him authorizing him to apply to a court in this State for leave to lease, sell or mortgage the property, (3) an authenticated copy of any bond required by the court which issued letters to him and (4) an authenticated copy of the order of the court which issued letters to him approving any bond required to be filed.

(c) The practice and procedure in the proceedings commenced by a nonresident representative are the same, as near as may be, as the practice and procedure in similar proceedings brought by resident representatives.

(Source: P.A. 79-328.)

(755 ILCS 5/22-5) (from Ch. 110 1/2, par. 22-5)

Sec. 22-5. Letters issued in this State.) If after any proceedings are commenced by a nonresident representative under Section 22-3 or 22-4, letters are issued on the estate of the decedent or ward in this State, on motion the resident representative shall be substituted as petitioner in the proceedings, which shall be heard and determined as if originally instituted by the resident representative

and the benefits of the judgment or order shall inure to him and are assets in his hands.
(Source: P.A. 79-328.)

(755 ILCS 5/22-6) (from Ch. 110 1/2, par. 22-6)
Sec. 22-6. Deed by foreign executor under will.) A deed executed under the power vested in a representative to whom letters of office were issued by any court of competent jurisdiction in any other state of the United States or the District of Columbia under a foreign will admitted to probate in that jurisdiction is evidence of title in the grantee to the same extent as was vested in the testator at the time of his death, if the will is admitted to probate in the court of the proper county in this State before delivery of the deed, unless letters of office on the estate of the decedent have been issued in this State and remain unrevoked.
(Source: P.A. 79-328.)

(755 ILCS 5/Art. XXIII heading)

ARTICLE XXIII
RESIGNATION AND REMOVAL OF REPRESENTATIVE

(755 ILCS 5/23-1) (from Ch. 110 1/2, par. 23-1)
Sec. 23-1. Resignation.) Upon petition of a representative, the court may permit him to resign. The petition may be heard without notice or after giving notice to such persons and in such manner as the court directs. If the petitioner is permitted to resign the court shall revoke his letters.
(Source: P.A. 79-328.)

(755 ILCS 5/23-2) (from Ch. 110 1/2, par. 23-2)
Sec. 23-2. Removal.
(a) On petition of any interested person or on the court's own motion, the court may remove a representative if:
(1) the representative is acting under letters secured by false pretenses;
(2) the representative is adjudged a person subject to involuntary admission under the Mental Health and Developmental Disabilities Code or is adjudged a person with a disability;
(3) the representative is convicted of a felony;
(4) the representative wastes or mismanages the estate;

(5) the representative conducts himself or herself in such a manner as to endanger any co-representative or the surety on the representative's bond;

(6) the representative fails to give sufficient bond or security, counter security or a new bond, after being ordered by the court to do so;

(7) the representative fails to file an inventory or accounting after being ordered by the court to do so;

(8) the representative conceals himself or herself so that process cannot be served upon the representative or notice cannot be given to the representative;

(9) the representative becomes incapable of or unsuitable for the discharge of the representative's duties; or

(10) there is other good cause.

(b) If the representative becomes a nonresident of the United States, the court may remove the representative as such representative.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/23-3) (from Ch. 110 1/2, par. 23-3)

Sec. 23-3. Procedure on removal.) (a) Before removing a representative for any of the causes set forth in Section 23-2, the court shall order a citation to issue directing the respondent to show cause why he should not be removed for the cause stated in the citation. The citation must be served not less than 10 days before the return day designated in the citation and must be served and returned in the manner provided for summons in civil cases. The address recorded by the representative with the clerk of the court shall be considered the place where citations, notices or other process may be served upon him.

(b) If (1) the petitioner or his attorney files in the office of the clerk of the court an affidavit stating that the respondent resides or has gone out of this State, is concealed within this State, or on due inquiry cannot be found so that the citation cannot be served on him, and stating the last known post office address of the respondent or (2) the citation is issued on the court's own motion and is not served on the respondent, the clerk shall prepare a notice which must state the name of the decedent or ward, the number of the case, the name of the person to whom the notice is given, the alleged cause of removal and place of hearing and shall direct the respondent to appear and show cause why he should not be removed. Not less than 15 days before the return day designated in the notice, the clerk of the court shall send by registered mail one copy of the notice to the respondent at his last known post office address as stated in the affidavit if one is filed, one copy of the notice to the respondent at his last known post office address as shown by the last document filed in the court in which he stated his post office address and one copy of the notice to his attorney of record.

(c) The representative whose removal is sought may file a pleading to the petition or charges for removal on or before the return day designated in the citation or notice or within such further time as the court permits. If on the hearing the court finds that he should be removed for any cause listed in Section 23-2, the court may remove him and revoke his letters.

(d) The court may assess the costs of the proceeding against a representative who is removed for any cause listed in Section 23-2.
(Source: P.A. 79-328.)

(755 ILCS 5/23-4) (from Ch. 110 1/2, par. 23-4)

Sec. 23-4. Transfer to another county in the State.) If it appears to the court in which a ward's estate is being administered that the interests of the ward are best served by the transfer of the administration of the ward's estate to another county in this State by reason of the residence of the ward or of the representative or of the location of the major portion of the ward's property in that county, the court may enter an order in the estate transferring the administration of the estate to the court of that county. Upon the filing of authenticated copies of the order of transfer and of all documents filed and all orders entered in the court from which the transfer is made and the qualifying by the representative in the court to which the transfer is made, that court shall enter the estate upon its docket, issue letters of office and direct the administration of the estate as if letters of office had originally issued from that court. Upon the filing of an authenticated copy of the letters in the court from which the transfer is made, the letters issued by that court shall be revoked. The representative shall file in the court to which the transfer is made authenticated copies of his final account and all orders in connection therewith entered in the court from which the transfer is made. Authenticated copies of documents and orders of the court from which the transfer is made have the same force and effect as if the documents were filed or the orders entered in the court to which the transfer is made.

(Source: P.A. 79-328.)

(755 ILCS 5/23-5) (from Ch. 110 1/2, par. 23-5)

Sec. 23-5. Letters revoked when will is produced.) If the will of a decedent is admitted to probate after letters of administration have been issued on his estate, the letters of administration shall be revoked.

(Source: P.A. 79-328.)

(755 ILCS 5/23-6) (from Ch. 110 1/2, par. 23-6)

Sec. 23-6. Letters revoked when will is set aside.) If a will which has been admitted to probate is set aside after letters of office are issued thereon, the letters shall be revoked.

(Source: P.A. 79-328.)

(755 ILCS 5/23-8) (from Ch. 110 1/2, par. 23-8)

Sec. 23-8. Acts done before revocation of letters are valid.) If the letters of a representative are revoked, all acts done by him according to law before the revocation of his letters are valid.

(Source: P.A. 79-328.)

(755 ILCS 5/Art. XXIV heading)

ARTICLE XXIV
ACCOUNTS

(755 ILCS 5/24-1) (from Ch. 110 1/2, par. 24-1)

Sec. 24-1. Duty to account.) (a) Except as provided in subsection (b), within 60 days after the expiration of 12 months after the issuance of letters or within such further time as the court allows and thereafter whenever required by the court until the administration is completed, and if the letters are revoked, within such time as the court directs, every representative of a decedent's estate shall prepare and present a verified account of his administration to the court which issued his letters. The account shall state the receipts and disbursements of the representative since his last accounting and all real and personal estate which is on hand and shall be accompanied by such evidence of the disbursements as the court may require.

(b) If written consents of all interested persons are filed in the court, the court may excuse the preparation and presentation of an account, subject to such conditions as the court deems appropriate.

(Source: P.A. 84-555; 84-690.)

(755 ILCS 5/24-2) (from Ch. 110 1/2, par. 24-2)

Sec. 24-2. Notice of accounting - effect.) Notice of the hearing on any account of a representative of a decedent's estate shall be given as the court directs to unpaid creditors and to all other interested persons. If the account is approved by the court upon the hearing, in the absence of fraud, accident or mistake, the account as approved is binding upon all persons to whom the notice was given. No notice, however, shall be required under this Section either (a) to any person from whom a receipt in full is exhibited to the court or who waives notice, or (b) whenever a trustee of a trust is an interested person, to any beneficiary of the trust by reason of the beneficiary's interest in the trust, but a trustee given notice of an account under this Section shall be liable to the trust beneficiaries for any breach of fiduciary duty by the trustee in connection with the account.

(Source: P.A. 85-994.)

(755 ILCS 5/24-3) (from Ch. 110 1/2, par. 24-3)

Sec. 24-3. Order of distribution, abatement and contribution on settlement of estate.) (a) The court may enforce the settlement of estates. On every settlement the court may order the representative of a decedent's estate to pay the claims

against the estate, as provided in Section 18-13. If it appears that there are sufficient assets to pay all claims against the estate the court may order the representative to distribute the estate to the persons entitled thereto.

(b) Unless otherwise provided by the will, if the estate of a testator is insufficient to pay all legacies under his will, specific legacies shall be satisfied pro rata before general legacies, and general legacies shall be satisfied pro rata, without any priority in either case as between real and personal estate.

(c) If real or personal estate which has been specifically bequeathed is sold by the representative, the other legatees shall contribute to the legatee whose legacy has been sold, so as to accomplish abatement and equalization as provided in this Section. The court shall determine the amount of the respective contributions, the manner in which they shall be paid, and whether with or without security.

(d) On final distribution of an estate, payments made from principal or income shall be accounted for as provided in Sections 5 and 6 of the Principal and Income Act.

(Source: P.A. 84-395.)

(755 ILCS 5/24-4) (from Ch. 110 1/2, par. 24-4)

Sec. 24-4. Distribution before the expiration of the period when claims are barred.) (a) If it appears that there are sufficient assets to pay all claims against the estate of a decedent, the court may order the representative to pay the distributive share to a distributee before the expiration of the period when claims are barred under Section 18-12 if the distributee gives bond payable to and for the indemnity of the representative in double the value of the distributive share to be paid, with surety to be approved by the court, conditioned to refund the due proportion of any claim entitled to be paid from the estate distributed together with the expenses of recovery, including reasonable attorneys' fees and additional expenses of administration.

(b) If at any time after payment of a distributive share it becomes necessary for all or any part of the distributive share to be refunded for the payment of any claim entitled to be paid from the estate distributed, upon petition of any interested person the court shall order the distributee to refund that portion of his distributive share which is necessary to pay the claim. If there is more than one distributee, the court shall apportion among the distributees the amount to be refunded according to the amount received by each of them, but specific and general legacies need not be refunded unless the residue is insufficient to satisfy the claims entitled to be paid from the estate distributed. If a distributee refuses to refund within 60 days after being ordered by the court to do so and upon demand, the refusal is deemed a breach of the bond and a civil action may be maintained by the representative against the distributee and the surety or either of them for the amount due together with the expenses of recovery, including reasonable attorneys' fees. The order of the court is evidence of the amount due.

(Source: P.A. 84-395.)

(755 ILCS 5/24-5) (from Ch. 110 1/2, par. 24-5)

Sec. 24-5. Distribution on presumption of death - deposit in court or in depositaries.) (a) Before distribution is made to a distributee of the estate of a person presumed to be dead, the distributee or someone for and on behalf of the distributee must give bond payable to the people of the State of Illinois in double

the value of the distributive share to be paid, with surety to be approved by the court, conditioned to refund to the person presumed to be dead, if alive, or to any other person lawfully entitled thereto, the share received by the distributee. The bond may provide that it is binding on the surety for a period of not to exceed 10 years from the date thereof, but the release of the surety at the expiration of the 10 years does not release the distributee from liability to refund the distributive share received by him.

(b) In any case where funds have been deposited pursuant to the order of any court in the office of the county treasury or any other depositary for the benefit of any person and have there remained for a period of 20 years or more without lawful claim being made therefor, the funds are thereafter distributable to the heirs or legatees of such person under the presumption of death testate or intestate, as found by any court of competent jurisdiction, upon the entry into bond by each distributee, without surety, conditioned to refund on demand, to the presumed decedent, if alive, or to any other person lawfully entitled thereto, all money and other property or assets received by the distributee as heir or legatee; and in all cases of distribution there shall not thereafter be any recourse to, or liability on the part of the treasurer, depositary or any representative or officer of court.

(Source: P.A. 79-328.)

(755 ILCS 5/24-6) (from Ch. 110 1/2, par. 24-6)

Sec. 24-6. Filing of bond.) After approval by the court, the bonds provided for in Section 24-4 or 24-5 of this Act must be filed with the clerk of the court.

(Source: P.A. 79-328.)

(755 ILCS 5/24-7) (from Ch. 110 1/2, par. 24-7)

Sec. 24-7. When estate does not exceed surviving spouse's award.) If it appears to the court that the value of the real and personal estate of a decedent after payment of 1st class claims does not exceed the amount of the surviving spouse's or child's award, or both, the court shall order the representative to deliver the personal estate to the person entitled to the award and discharge the representative. The order operates to vest the person entitled to the award with complete title to the personal estate. The person entitled to the award is liable only for unpaid 1st class claims against the estate to the extent of the personal estate so delivered to that person.

(Source: P.A. 79-328.)

(755 ILCS 5/24-8) (from Ch. 110 1/2, par. 24-8)

Sec. 24-8. Accounting to distributee.) If a representative has taken possession of all or a part of the estate of the decedent and refuses or fails to pay the claims, to account or to pay the distributive share to any distributee including a co-representative who is entitled to a distributive share, after being ordered to do so by the court, the distributee may maintain an action for an accounting and to

recover the proportion of the estate belonging to or due him.
(Source: P.A. 79-328.)

(755 ILCS 5/24-9) (from Ch. 110 1/2, par. 24-9)

Sec. 24-9. Reopening estate.) If a decedent's estate has been closed and the representative discharged, it may be reopened to permit the administration of a newly discovered asset or of an unsettled portion of the estate on the petition of any interested person. If the petition asks the appointment of the former representative or a successor designated by the will, the court may order such notice of the hearing on the petition to be given to any interested persons as it directs or the court may hear the petition without notice. If the petition asks the appointment of a representative other than the one who was acting when the prior administration was completed or a successor designated by the will, notice of the hearing on the petition must be given as the court directs to the former representative and to all persons entitled either to administer or to nominate a person to administer equally with or in preference to the petitioner. No notice need be given to any person who personally appears at the hearing or who files his waiver of notice. On the hearing, the court may vacate the order of discharge or issue letters of office as the case requires. A new bond based on the value of the newly discovered asset or the unsettled portion of the estate and limited to the administration thereof must be furnished as provided by this Act.
(Source: P.A. 79-328.)

(755 ILCS 5/24-10) (from Ch. 110 1/2, par. 24-10)

Sec. 24-10. Interest on property withheld by representative of decedent's estate.) At the expiration of a period of 2 years after the issuance of letters of office in a decedent's estate, the representative shall be charged with interest at the rate of 10% per year on the fair market value of all the personal estate which has come into his possession or control and has not been properly paid out or distributed, except for good cause shown. The interest shall run from 2 years after the issuance of letters or if personal estate comes into his possession or control subsequent to 2 years after the issuance of letters, interest on the subsequently acquired personal estate runs from 6 months after such personal estate comes into his possession or control, except for good cause shown.
(Source: P.A. 79-328.)

(755 ILCS 5/24-11) (from Ch. 110 1/2, par. 24-11)

Sec. 24-11. Duty to account - ward's estate.) (a) The representative of a ward's estate shall present a verified account of his administration to the court which issued his letters within 30 days after the expiration of one year after the issuance of letters or within such further time as the court allows; within 30 days after the termination of his office or within such further time as the court allows, and whenever required by the court until the office is terminated; provided however, if no time is set by the court, the representative shall present a verified account within 30 days after the expiration of 3 years from the date of

the preceding account or within such further time as the court allows. The account shall state the receipts and disbursements of the representative since his last accounting and all personal estate which is on hand, and shall be accompanied by such evidence of the disbursements as the court may require. On every accounting the court may require the representative to produce satisfactory evidence that he has in his possession or control the personal estate shown by the account to be on hand.

(b) If the estate of a ward is derived in whole or in part from payments of compensation, adjusted compensation, pension, insurance or other similar benefits made directly to the estate by the Veterans Administration, notice of the hearing on any account filed in the ward's estate and a copy of the account must be given to the Veterans' Administration Regional Office at least 10 days before the hearing. If notice of the hearing on any account except the final account of a representative is served at least 10 days before the hearing on the account and the court appoints a guardian ad litem to represent the ward at the hearing, in the absence of fraud, accident or mistake the account as approved is binding upon the ward. Notice of the hearing on any final account of a representative must be given to the ward if he is living and to such other persons and in such manner as the court directs.

(c) On final settlement of the estate of a ward or sooner if the court directs, the representative shall pay and deliver the estate and title papers of the ward in the hands of the representative or with which he is chargeable to the person entitled thereto.

(Source: P.A. 84-494.)

(755 ILCS 5/24-12) (from Ch. 110 1/2, par. 24-12)

Sec. 24-12. Termination of office of a representative of a ward.) The office of a representative of a ward terminates when the ward if a minor attains his majority, when the letters of a representative are revoked, when the representative dies or, subject to Section 24-19, when the ward dies. The marriage of a minor ward terminates the right of the minor's guardian to the ward's custody and education but not to the minor's estate.

(Source: P.A. 80-1364.)

(755 ILCS 5/24-13) (from Ch. 110 1/2, par. 24-13)

Sec. 24-13. Accounting for a deceased representative or a representative under legal disability.) If a representative dies or is adjudged to be under legal disability or is adjudged a person subject to involuntary admission or meeting the standard for judicial admission under the Mental Health and Developmental Disabilities Code before he is discharged, the surety on his bond or his representative or any of his heirs or legatees may present an account in his behalf.

(Source: P.A. 83-706.)

(755 ILCS 5/24-14) (from Ch. 110 1/2, par. 24-14)

Sec. 24-14. Accounting by surety on bond of representative.) If the letters issued to a representative are revoked and he fails or refuses to file an account within the time fixed by the court, the surety on his bond may present an account in his behalf.

(Source: P.A. 79-328.)

(755 ILCS 5/24-15) (from Ch. 110 1/2, par. 24-15)

Sec. 24-15. Stating an account.) The court may state an account on behalf of a representative who dies or is adjudged to be a person under legal disability and on whose behalf an account is not presented to the court within 60 days after the death or adjudication or who fails or refuses to present an account as required by law. When entered of record the account is binding and conclusive against the representative and the surety on his bond.

(Source: P.A. 83-706.)

(755 ILCS 5/24-16) (from Ch. 110 1/2, par. 24-16)

Sec. 24-16. Citation - attachment.) (a) If the representative fails or refuses to make settlement within 30 days after the expiration of the time provided by this Act, the court may order a citation to issue directing the respondent to appear on the return day designated in the citation and to make settlement of the estate or to show cause why settlement is not made. The citation must be served not less than 10 days before the return day designated in the citation and be served and returned in the manner provided for summons in civil cases. If the respondent appears in court on the return of the citation and fails or refuses to make settlement within the time ordered by the court or to show cause why settlement is not made, he may be dealt with as for contempt and may be removed as representative.

(b) If after being served with the citation, the respondent fails to appear before the court on the return day designated in the citation, the court may order an attachment to issue requiring the sheriff to bring the body of the respondent before the court forthwith. If after having been so attached, the respondent fails to make settlement under the order of the court he may be dealt with as for contempt and may be removed as representative.

(c) If a representative fails or refuses to pay any money or deliver any property to a person entitled thereto in pursuance of the lawful order of the court within 30 days after demand therefor is made upon the representative, except for good cause shown, on the petition of any interested party or on the court's own motion, the court may order an attachment to issue requiring the sheriff to bring the body of the respondent before the court forthwith and may commit him to jail until he complies with the order of the court or until he is discharged by due course of law and may remove him as representative.

(d) The costs of the citation and attachment shall be paid by the delinquent respondent and the court may enter judgment therefor.

(Source: P.A. 79-328.)

(755 ILCS 5/24-17) (from Ch. 110 1/2, par. 24-17)

Sec. 24-17. Devastavit.) The failure or refusal of a representative to pay any money or deliver any property to the person entitled thereto in pursuance of the lawful order of the court within 30 days after demand therefor amounts to a devastavit and an action upon the representative's bond may be forthwith instituted and maintained. The failure or refusal to pay or deliver is sufficient breach of the condition of the bond to authorize a recovery thereon against the representative and his surety, or either.

(Source: P.A. 79-328.)

(755 ILCS 5/24-18) (from Ch. 110 1/2, par. 24-18)

Sec. 24-18. Liability for mismanagement.) A representative and the surety on his bond are liable to a successor representative, to a co-representative or to any person aggrieved thereby for any mismanagement of the estate committed to his care. The successor representative, the co-representative or the person so aggrieved may institute and maintain an action against the representative and the surety on his bond for all money and property which have come into his possession and are withheld or may have been wasted, embezzled or misapplied and no satisfaction made therefor.

(Source: P.A. 79-328.)

(755 ILCS 5/24-19) (from Ch. 110 1/2, par. 24-19)

Sec. 24-19. Administration of deceased ward's estate.) (a) Without order of appointment and until the issuance of letters testamentary or of administration or until sooner discharged by the court, a representative of the estate of a deceased ward has the powers and duties of an administrator to collect.

(b) When 30 days or such further time as the court allows have elapsed after the death of a ward, letters of administration may be issued to the person who was guardian of the estate of the deceased ward upon his petition therefor, unless a petition for letters has theretofore been presented to the court of the proper county, in which case the court shall first dispose of the pending petition before issuing letters to the representative. If letters of administration are issued to another on a petition filed, letters may not be issued to the person who was guardian.

(Source: P.A. 85-692.)

(755 ILCS 5/24-20) (from Ch. 110 1/2, par. 24-20)

Sec. 24-20. Deposit of unclaimed money. When the receipt of a ward, a distributee of an estate, or a claimant cannot be obtained for money or any other asset of the estate, the representative by leave of court may sell the asset and deposit the net proceeds together with any other money of the estate belonging to the ward, distributee, or claimant with the county treasurer of the county in which the estate is being administered. The representative shall notify the county treasurer in writing of the identity of the persons entitled thereto and, if known, their last known post office address. The county treasurer shall give the

representative a receipt therefor which shall be filed in the court. The person entitled to the money so deposited may obtain it, plus interest at a rate equal to the average interest rate on 3 month United States Treasury Bills issued during the time the money was on deposit, upon application to the court and satisfactory proof of his right thereto.
(Source: P.A. 88-46.)

(755 ILCS 5/24-21) (from Ch. 110 1/2, par. 24-21)

Sec. 24-21. Deposit or investment of money of a ward, subject to court order.) (a) If the estate of a ward consists only of money, on the petition of the representative of the estate or of the representative of an estate of which the ward is a legatee or heir, or of any other interested person, or on its own motion, the court may, if it appears practicable and to the best interests of the ward to do so, order the money (1) deposited in a bank to the credit of the ward at interest or otherwise but, unless otherwise authorized by the court, only to an amount not exceeding the amount for which it is insured by the Federal Deposit Insurance Corporation, or (2) deposited in any state or federal savings and loan association but, unless otherwise authorized by the court, only to an amount not exceeding the amount for which it is insured by the Federal Savings and Loan Insurance Corporation, or (3) invested in United States obligations and deposited for safekeeping for the account of the ward in a bank or trust company qualified to accept and execute trusts in this State, or with the Secretary of the Treasury of the United States or in a Federal Reserve Bank or in such other agency as may be designated by the Secretary of the Treasury, or (4) invested in shares of any state or federal credit union to the credit of the ward at interest or otherwise to an amount not exceeding the amount for which said shares are insured as required by The Illinois Credit Union Act or the Federal Credit Union Act, as applicable. The receipt of the bank or trust company constitutes a voucher for accounting purposes. Amounts deposited pursuant to clauses (1), (2) and (4) herein, in excess of the amount insured by the United States or any agency thereof shall be secured by a surety bond taken from a surety authorized to transact business in this State in such sum, under such conditions and with such security sufficient to save the estate from loss.

(b) If a representative of the estate has been appointed for a ward, the court may direct the representative to file a final account and excuse him from further duty and release him and the sureties on his bond, until further order of court.

(c) On the petition of the spouse, parent or person standing in loco parentis to or having responsibility for the custody or support of the ward, the court may order any money so deposited or invested to be withdrawn and used for the comfort, support, education or other benefit of the ward or his dependents. The petitioner shall appear in open court unless his appearance is excused by the court and shall furnish such evidence of the necessity for the withdrawal as the court may require. The bank of deposit or agency for safekeeping shall be released in making payment or delivery (1) in accordance with the order of the court, (2) directly to the ward upon his attaining legal age or restoration, as the case may be, or (3) directly to the representative of the ward in case of his death, and in any such case it may not be required to see to the application or disposition of the funds or property.
(Source: P.A. 82-415.)

(755 ILCS 5/24-22) (from Ch. 110 1/2, par. 24-22)

Sec. 24-22. Interest of administrator of veterans affairs.) The interest of the Administrator of Veterans Affairs in the estate of a ward shall be limited to that part of the estate, invested or uninvested, which is derived from payments made directly to the estate by the Veterans Administration. When a part of the estate of a ward is derived from sources other than the Veterans Administration, it is presumed that authorized or approved expenditures made under Section 11-13 are made first out of receipts from the Veterans Administration unless it appears otherwise from the order of court authorizing or approving the expenditures.
(Source: P.A. 79-328.)

(755 ILCS 5/Art. XXV heading)

ARTICLE XXV
SMALL ESTATES

(755 ILCS 5/25-1) (from Ch. 110 1/2, par. 25-1)

Sec. 25-1. Payment or delivery of small estate of decedent upon affidavit.

(a) When any person, corporation, or financial institution (1) indebted to or holding personal estate of a decedent, (2) controlling the right of access to decedent's safe deposit box or (3) acting as registrar or transfer agent of any evidence of interest, indebtedness, property or right is furnished with a small estate affidavit in substantially the form hereinafter set forth, that person, corporation, or financial institution shall pay the indebtedness, grant access to the safe deposit box, deliver the personal estate or transfer or issue the evidence of interest, indebtedness, property or right to persons and in the manner specified in the affidavit or to an agent appointed as hereinafter set forth.

(b) Small Estate Affidavit

I, (name of affiant) , on oath state:

1. (a) My post office address is: ;

(b) My residence address is: ; and

(c) I understand that, if I am an out-of-state resident, I submit myself to the jurisdiction of Illinois courts for all matters related to the preparation and use of this affidavit. My agent for service of process in Illinois is:

NAME.....

ADDRESS.....

CITY.....

TELEPHONE (IF ANY).....

I understand that if no person is named above as my agent for service or, if for any reason, service on the named person cannot be effectuated, the clerk of the circuit court of .....(County) (Judicial Circuit) Illinois is recognized by Illinois law as my agent for service of process.

2. The decedent's name is ;

3. The date of the decedent's death was , and I have attached a copy of the death certificate hereto.

4. The decedent's place of residence immediately before his death was ;

5. No letters of office are now outstanding on the decedent's estate and no petition for letters is contemplated or pending in Illinois or in any other jurisdiction, to my knowledge;

6. The gross value of the decedent's entire personal estate, including the value of all property passing to any party either by intestacy or under a will, does not exceed $100,000. (Here, list each asset, e.g., cash, stock, and its fair market value.);

7. (a) All of the decedent's funeral expenses and other debts have been paid, or

(b) All of the decedent's known unpaid debts are listed and classified as follows (include the name, post office address, and amount):

Class 1: funeral and burial expenses, which include reasonable amounts paid for a burial space, crypt, or niche; a marker on the burial space; and care of the burial space, crypt, or niche; expenses of administration; and statutory custodial claims as follows:

.....

Class 2: the surviving spouse's award or child's award, if applicable, as follows:

.....

Class 3: debts due the United States, as follows:

.....

Class 4: money due employees of the decedent of not more than $800 for each claimant for services rendered within 4 months prior to the decedent's death and expenses attending the last illness, as follows:

.....

Class 5: money and property received or held in trust by the decedent which cannot be identified or traced, as follows:

.....

Class 6: debts due the State of Illinois and any county, township, city, town, village, or school district located within Illinois, as follows:

.....

Class 7: all other claims, as follows:

.....

(Strike either 7(a) or 7(b)).

7.5. I understand that all valid claims against the decedent's estate described in paragraph 7 must be paid by me from the decedent's estate before any distribution is made to any heir or legatee. I further understand that the decedent's estate should pay all claims in the order set forth above, and if the decedent's estate is insufficient to pay the claims in any one class, the claims in that class shall be paid pro rata.

8. There is no known unpaid claimant or contested claim against the decedent, except as stated in paragraph 7.

9. (a) The names and places of residence of any surviving spouse, minor children and adult dependent* children of the decedent are as follows:

Name and Relationship	Place of Residence	Age of minor child

*(Note: An adult dependent child is one who is unable to maintain himself and is likely to become a public charge.)

(b) The award allowable to the surviving spouse of a decedent who was an Illinois resident is $..... ($20,000, plus $10,000 multiplied by the number of minor children and adult dependent children who resided with the surviving spouse at the time of the decedent's death. If any such child did not reside with the surviving spouse at the time of the decedent's death, so indicate).

(c) If there is no surviving spouse, the award allowable to the minor children and adult dependent children of a decedent who was an Illinois resident is $..... ($20,000, plus $10,000 multiplied by the number of minor children and adult dependent children), to be divided among them in equal shares.

10. (a) The decedent left no will. The names, places of residence and relationships of the decedent's heirs, and the portion of the estate to which each heir is entitled under the law where decedent died intestate are as follows:

Name, relationship and place of residence	Age of minor	Portion of Estate

OR

(b) The decedent left a will, which has been filed with the clerk of an appropriate court. A certified copy of the will on file is attached. To the best of my knowledge and belief the will on file is the decedent's last will and was signed by the decedent and the attesting witnesses as required by law and would be admittable to probate. The names and places of residence of the legatees and the portion of the estate, if any, to which each legatee is entitled are as follows:

Name, relationship and place of residence	Age of minor	Portion of Estate

(Strike either 10(a) or 10(b)).

(c) Affiant is unaware of any dispute or potential conflict as to the heirship or will of the decedent.

10.3. My relationship to the decedent or the decedent's estate is as follows:.

10.5. (The following paragraph should appear in bold type and in not less than 14-point font):

I understand that the decedent's estate must be distributed first to satisfy claims against the decedent's estate as set forth in paragraph 7.5 of this affidavit before any distribution is made to any heir or legatee. By signing this affidavit, I agree to indemnify and hold harmless all creditors of the decedent's estate, the decedent's heirs and legatees, and other persons, corporations, or financial institutions relying upon this affidavit who incur any loss because of reliance on this affidavit, up to the amount lost because of any act or omission by me. I further understand that any person, corporation, or financial institution recovering under this indemnification provision shall be entitled to reasonable attorney's fees and the expenses of recovery.

11. After payment by me from the decedent's estate of all debts and expenses listed in paragraph 7, any remaining property described in paragraph 6 of this affidavit should be distributed as follows:

Name	Specific sum or property to be distributed

The foregoing statement is made under the penalties of perjury*.

.....
Signature of Affiant

Signed and sworn before me on (insert date).

.....
Notary Public

*(Note: A fraudulent statement made under the penalties of perjury is perjury, as defined in Section 32-2 of the Criminal Code of 2012.)

(c) Appointment of Agent. If safe deposit access is involved or if sale of any personal property is desirable to facilitate distribution pursuant to the small

estate affidavit, the affiant under the small estate affidavit may in writing appoint one or more persons as the affiant's agent for that purpose. The agent shall have power, without court approval, to gain access to, sell, and distribute the property in the manner specified in paragraphs 7.5 and 11 of the affidavit; and the payment, delivery, transfer, access or issuance shall be made or granted to or on the order of the agent. The affiant may appoint himself or herself as the designated representative to exercise the powers and perform the duties of an agent described in this subsection (c).

(d) Reliance and Release. Any person, corporation, or financial institution who acts in good faith reliance on a copy of a document purporting to be a small estate affidavit that is substantially in compliance with subsection (b) of this Section shall be fully protected and released upon payment, delivery, transfer, access or issuance pursuant to such a document to the same extent as if the payment, delivery, transfer, access or issuance had been made or granted to the representative of the estate. Such person, corporation, or financial institution is not required to see to the application or disposition of the property; but each person to whom a payment, delivery, transfer, access or issuance is made or given is answerable therefor to any person having a prior right and is accountable to any representative of the estate.

(e) Distributions pursuant to an affidavit substantially in the form set forth in subsection (b) of this Section may be made to the affiant, if so specified in paragraph 11, notwithstanding the disclosure of known unpaid debts. The affiant, acting on behalf of the decedent's estate, is obligated to pay all valid claims against the decedent's estate before any distribution is made to any heir or legatee. The affiant signing the small estate affidavit prepared pursuant to subsection (b) of this Section shall indemnify and hold harmless all creditors, heirs, and legatees of the decedent and other persons, corporations, or financial institutions relying upon the affidavit who incur loss because of such reliance. That indemnification shall only be up to the amount lost because of the act or omission of the affiant. Any person, corporation, or financial institution recovering under this subsection (e) shall be entitled to reasonable attorney's fees and the expenses of recovery.

(f) The affiant of a small estate affidavit who is a non-resident of Illinois submits himself or herself to the jurisdiction of Illinois courts for all matters related to the preparation or use of the affidavit. The affidavit shall provide the name, address, and phone number of a person whom the affiant names as his agent for service of process. If no such person is named or if, for any reason, service on the named person cannot be effectuated, the clerk of the circuit court of the county or judicial circuit of which the decedent was a resident at the time of his death shall be the agent for service of process.

(g) Any action properly taken under this Section, as amended by Public Act 93-877, on or after August 6, 2004 (the effective date of Public Act 93-877) is valid regardless of the date of death of the decedent.

(h) The changes made by this amendatory Act of the 96th General Assembly apply to a decedent whose date of death is on or after the effective date of this amendatory Act of the 96th General Assembly.

(i) The changes made by this amendatory Act of the 98th General Assembly apply to a decedent whose date of death is on or after the effective date of this amendatory Act of the 98th General Assembly.

(Source: P.A. 97-1150, eff. 1-25-13; 98-836, eff. 1-1-15.)

(755 ILCS 5/25-2) (from Ch. 110 1/2, par. 25-2)

Sec. 25-2. When appointment of representative of ward unnecessary.) Upon

receiving an affidavit that the personal estate of a ward does not exceed $10,000 in value, that no representative has been appointed for his estate and that the affiant is a parent or a person standing in loco parentis to the minor or is the spouse of the ward or, if there is no spouse of the ward, that affiant is a relative having the responsibility of the support of the person under legal disability or ward, any person or corporation indebted to or holding personal estate of the ward may pay the amount of the indebtedness or deliver the personal estate to the affiant. In the same manner and upon like proof, any person or corporation having the responsibility for the issuance or transfer of stocks, bonds or other personal estate may issue or transfer the stocks, bonds or other personal estate to or in the name of the affiant. Upon the payment, delivery, transfer or issuance pursuant to the affidavit, the person or corporation is released to the same extent as if the payment, delivery, transfer or issuance had been made to the legally qualified representative of the ward and is not required to see to the application or disposition of the property.
(Source: P.A. 90-307, eff. 8-1-97.)

(755 ILCS 5/25-3) (from Ch. 110 1/2, par. 25-3)

Sec. 25-3. Recovery upon refusal to pay or deliver.) If a person or corporation to whom an affidavit under Section 25-1 or Section 25-2 is delivered refuses to pay, deliver, transfer or issue the personal estate as provided by this Article, it may be recovered in a civil action by or on behalf of the person entitled to receive it upon proof of the facts required to be stated in the affidavit. For the purpose of the action the affidavit is prima facie proof of the facts stated therein.
(Source: P.A. 79-328.)

(755 ILCS 5/25-4) (from Ch. 110 1/2, par. 25-4)

Sec. 25-4. Sale of small real estate interest of ward.) If the interest of a ward in any parcel of real estate does not exceed $2,500 in value and a private sale thereof can be made for cash, the interest may be sold as provided in this Section instead of as prescribed elsewhere in this Act. The representative of the estate of the ward may file a petition setting forth: (a) the description of the real estate, the interest of the ward therein and the value of the interest sought to be sold; (b) the name and post office address of the ward; (c) a private sale of the ward's interest can be made for cash; and (d) it is for the best interest of the ward that his interest in the real estate be sold. Upon the filing of the petition the court shall set it for hearing not less than 20 days thereafter. Not less than 15 days before the date of hearing of the petition, the clerk of the court shall mail a notice of the time and place of the hearing to the ward. No guardian ad litem need be appointed for the ward unless the court finds it necessary for the ward's protection. If on the hearing the court finds that the ward's interest in the real estate to be sold does not exceed $2,500 in value, a private sale of the ward's interest can be made for cash and it is for the best interest of the ward that the sale be made, the court shall direct the petitioner to sell the ward's interest at private sale for cash for such price as the court determines and upon receipt of the purchase price to execute and deliver a deed to the purchaser. The court shall require the representative to furnish a bond conditioned upon his disposing of the proceeds of sale in the manner required by

law, and with or without sureties and in such amount as the court directs; and it is the duty of the representative to file the bond in and have it approved by the court.
(Source: P.A. 79-328.)

(755 ILCS 5/Art. XXVI heading)

ARTICLE XXVI
APPEALS AND POST-JUDGMENT MOTIONS

(Source: P.A. 97-1095, eff. 8-24-12.)

(755 ILCS 5/26-1) (from Ch. 110 1/2, par. 26-1)

Sec. 26-1. Appeals.) Appeals may be taken as in other civil cases.
(Source: P.A. 80-808.)

(755 ILCS 5/26-2) (from Ch. 110 1/2, par. 26-2)

Sec. 26-2. Effect of appeal from order.) An appeal from an order (a) appointing an administrator to collect or a temporary guardian, (b) removing a representative for any cause listed in Section 23-2 or (c) appointing a successor to one so removed does not affect the order until it is reversed, unless stayed in accordance with the rules of the Supreme Court of this State governing appeals.
(Source: P.A. 81-795.)

(755 ILCS 5/26-3)

Sec. 26-3. Effect of post-judgment motions. Unless stayed by the court, an order adjudicating a person as a person with a disability and appointing a plenary, limited, or successor guardian pursuant to Section 11a-3, 11a-12, 11a-14, or 11a-15 of this Act shall not be suspended or the enforcement thereof stayed pending the filing and resolution of any post-judgment motion.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/Art. XXVII heading)

ARTICLE XXVII
MISCELLANEOUS

(755 ILCS 5/27-1) (from Ch. 110 1/2, par. 27-1)

Sec. 27-1. Fees of representative. A representative is entitled to reasonable compensation for his services, but no fees, charges or other compensation may be allowed a public administrator for services performed in administering that part of the estate of any United States war veteran which consists of compensation, insurance or other monies due or payable from the United States because of the veteran's war service. No fees, charges or other compensation may be allowed an employee of the Department of Human Services or the Department of Children and Family Services designated under paragraph (b) of Section 11-3 for services as guardian of the estate of a patient or resident in a State mental health or developmental disabilities facility or other State institution.
(Source: P.A. 89-507, eff. 7-1-97.)

(755 ILCS 5/27-2) (from Ch. 110 1/2, par. 27-2)

Sec. 27-2. Attorney's fees.)

(a) The attorney for a representative is entitled to reasonable compensation for his services.

(b) An attorney who withdraws from representing a representative must file a petition for fees and costs within 30 days after the withdrawal is approved by the court. If within 30 days after the court approves the withdrawal of an attorney from representing a representative, a motion is filed for an extension of time for the filing of a petition for fees and costs, the court may grant additional time for the filing of that petition.
(Source: P.A. 96-981, eff. 7-2-10.)

(755 ILCS 5/27-3) (from Ch. 110 1/2, par. 27-3)

Sec. 27-3. Duties of a guardian ad litem.) A guardian ad litem appointed under this Act shall file an answer, appear and defend on behalf of the ward or person not in being whom he represents.
(Source: P.A. 79-328.)

(755 ILCS 5/27-4) (from Ch. 110 1/2, par. 27-4)

Sec. 27-4. Compensation of a guardian ad litem or special administrator.) A guardian ad litem or special administrator is entitled to such reasonable compensation as may be fixed by the court to be taxed as costs in the proceedings and paid in due course of administration.
(Source: P.A. 79-328.)

(755 ILCS 5/27-5) (from Ch. 110 1/2, par. 27-5)

Sec. 27-5. Selection of guardian ad litem or special administrator.) The person appointed as guardian ad litem or special administrator under this Act may not be selected upon the recommendation of any person having an interest adverse to the person represented by the guardian ad litem or special administrator or by the attorney for the adverse party.

(Source: P.A. 79-328.)

(755 ILCS 5/27-6) (from Ch. 110 1/2, par. 27-6)

Sec. 27-6. Actions which survive.) In addition to the actions which survive by the common law, the following also survive: actions of replevin, actions to recover damages for an injury to the person (except slander and libel), actions to recover damages for an injury to real or personal property or for the detention or conversion of personal property, actions against officers for misfeasance, malfeasance, nonfeasance of themselves or their deputies, actions for fraud or deceit, and actions provided in Section 6-21 of "An Act relating to alcoholic liquors".

(Source: P.A. 82-783.)

(755 ILCS 5/27-7) (from Ch. 110 1/2, par. 27-7)

Sec. 27-7. Joint tax returns.) Unless otherwise directed by the decedent in his will, a representative may join with the spouse of the decedent or of the ward in the making of a joint federal or state income tax return for the decedent or ward and his spouse and to consent for federal or state gift tax purposes to gifts made by the spouse of the decedent or ward to the end that gifts to which consent is given are treated for federal or state gift tax purposes as made 1/2 by the decedent or ward and 1/2 by his spouse. Any liability incurred by a representative pursuant to any such joinder or consent is incurred on behalf of the estate of the decedent or ward and not individually.

(Source: P.A. 79-328.)

(755 ILCS 5/27-8) (from Ch. 110 1/2, par. 27-8)

Sec. 27-8. Publication of notice in county in which no newspaper is published.) When a notice is required by this Act to be published in a newspaper in a particular county and there is no newspaper published in that county, the notice must be published in such other newspaper in this State as the court directs.

(Source: P.A. 79-328.)

(755 ILCS 5/27-9) (from Ch. 110 1/2, par. 27-9)

Sec. 27-9. Publication of notice by clerk.) When the clerk of the court is required by this Act to publish a notice in a newspaper, the representative or his attorney has the right to direct in what newspaper the notice shall be published. If the clerk makes publication contrary to directions, he may not collect the costs thereof. This Section does not apply in any case where the court directs in what newspaper publication is to be made.

(Source: P.A. 79-328.)

(755 ILCS 5/Art. XXVIII heading)

ARTICLE XXVIII
INDEPENDENT ADMINISTRATION OF DECEDENTS' ESTATES

(755 ILCS 5/28-1) (from Ch. 110 1/2, par. 28-1)

Sec. 28-1. Purpose and scope of Article.) This Article permits an executor or administrator to administer the estate without court order or filings, except to the extent that court order or filing is required by this Article or is requested by any interested person pursuant to this Article. This Article shall apply to all estates after the effective date of this Amendatory Act of 1983, whether letters of office are issued before, on or after that date. All provisions of this Act dealing with decedents' estates that are not inconsistent with this Article apply to and govern independent administration.

(Source: P.A. 83-900.)

(755 ILCS 5/28-2) (from Ch. 110 1/2, par. 28-2)

Sec. 28-2. Order for independent administration - notice of appointment of independent administrator.)

(a) Unless the will, if any, expressly forbids independent administration or supervised administration is required under subsection (b), the court shall grant independent administration (1) when an order is entered appointing a representative pursuant to a petition which does not request supervised administration and which is filed under Section 6-2, 6-9, 6-20, 7-2, 8-2, 9-4 or 9-6 and (2) on petition by the representative at any time or times during supervised administration and such notice to interested persons as the court directs. Notwithstanding any contrary provision of the preceding sentence, if there is an interested person who is a minor or person with a disability, the court may require supervised administration (or may grant independent administration on such conditions as its deems adequate to protect the ward's interest) whenever the court finds that (1) the interests of

the ward are not adequately represented by a personal fiduciary acting or designated to act pursuant to Section 28-3 or by another party having a substantially identical interest in the estate and the ward is not represented by a guardian of his estate and (2) supervised administration is necessary to protect the ward's interests. When independent administration is granted, the independent representative shall include with each notice required to be mailed to heirs or legatees under Section 6-10 or Section 9-5 an explanation of the rights of heirs and legatees under this Article and the form of petition which may be used to terminate independent administration under subsection 28-4(a). The form and substance of the notice of rights and the petition to terminate shall be prescribed by rule of the Supreme Court of this State. Each order granting independent administration and the letters shall state that the representative is appointed as independent executor or independent administrator, as the case may be. The independent representative shall file proof of mailing with the clerk of the court.

(b) If an interested person objects to the grant of independent administration under subsection (a), the court shall require supervised administration, except:

(1) If the will, if any, directs independent administration, supervised administration shall be required only if the court finds there is good cause to require supervised administration.

(2) If the objector is a creditor or a legatee other than a residuary legatee, supervised administration shall be required only if the court finds it is necessary to protect the objector's interest, and instead of ordering supervised administration, the court may require such other action as it deems adequate to protect the objector's interest.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/28-3) (from Ch. 110 1/2, par. 28-3)

Sec. 28-3. Protection of persons under disability during independent administration.)

(a) A personal fiduciary acting pursuant to this Article has full power and the responsibility to protect the interests of his ward during independent administration and to do all acts necessary or appropriate for that purpose which the ward might do if not under disability. Approval of any act of the independent representative or of his final report by the personal fiduciary, or failure of the personal fiduciary to object after notice pursuant to this Article, binds the ward. Unless the ward is bound under the preceding sentence, the independent representative is accountable to the ward for damages incurred as a consequence of willful default by the independent representative until the expiration of a period of 6 months after the ward's disability is removed, and any action must be commenced before the expiration of that period. Upon the entry of an order pursuant to Section 28-4 terminating independent administration status, the personal fiduciary's powers and responsibility for continuing to protect the ward's interest terminate. The fact that a personal fiduciary is acting does not limit the right of any person as next friend of the ward to inform the court of any circumstances that may adversely affect the ward's interests in the estate.

(b) The following persons are entitled to act as personal fiduciary for a ward in the order of preference indicated:

(1) The representative of the ward's estate acting in Illinois or, if none, the representative of the ward's estate acting in any other jurisdiction.

(2) The person designated as personal fiduciary in the decedent's will, if any.

(3) The person designated as personal fiduciary by the independent representative in a petition for letters of office or other instrument filed with the clerk of the court.

No person may act as personal fiduciary who is a minor or person with a disability, who has been convicted of a felony or whose interests conflict with the ward's interests in the decedent's estate. A personal fiduciary designated under subparagraph (3) above shall be a spouse, descendant, parent, grandparent, brother, sister, uncle or aunt of the ward, a guardian of the person of the ward or a party having an interest in the estate substantially identical to that of the ward. The responsibility of a personal fiduciary begins on delivery of his written acceptance of the office to the independent representative. Any personal fiduciary may refuse to act or may resign at any time by instrument delivered to the independent representative. When a personal fiduciary has been appointed and there is a change of personal fiduciary or a vacancy in that office, the independent representative shall inform the court; and the court may designate any suitable person as personal fiduciary when there is a vacancy that has not been filled by the independent representative in accordance with this Section 28-3.

(c) A personal fiduciary is entitled to such reasonable compensation for his services as may be approved by the independent representative or, in the absence of approval, as may be fixed by the court, to be paid out of the estate as an expense of administration.

(d) A personal fiduciary is liable to the ward only for willful default and not for errors in judgment.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/28-4) (from Ch. 110 1/2, par. 28-4)

Sec. 28-4. Termination of independent administration status.) (a) Upon petition by any interested person, mailed or delivered to the clerk of the court, the court shall enter an order terminating the independent administration status of the estate, except:

(1) If the will, if any, directs independent administration, independent administration status shall be terminated only if the court finds there is good cause to require supervised administration.

(2) If the petitioner is a creditor or a legatee other than a residuary legatee, independent administration status shall be terminated only if the court finds that termination is necessary to protect the petitioner's interest, and instead of terminating independent administration status, the court may require such other action as it deems adequate to protect the petitioner's interest. Upon termination of independent administration, the representative must mail notice of the termination to all interested persons whose names and post office addresses are known to the representative and file proof of mailing with the clerk of the court.

(b) After entry of an order terminating independent administration status, the representative shall be governed by all provisions of the Act applicable to the estate in supervised administration, and the order of termination shall direct the representative as to the time and manner for the performance of any acts (such as the filing of an inventory or account) which would have been required to be done earlier in supervised administration.

(c) After entry of an order terminating independent administration status, the independent representative may not exercise any power pursuant to this Article and is liable for any damages caused by any such exercise, but the validity of the independent representative's actions pursuant to this Article after termination with respect to any person other than beneficiaries and creditors of the estate will not be affected by termination of independent administration unless such

person has actual knowledge of termination.
(Source: P.A. 81-1453.)

(755 ILCS 5/28-5) (from Ch. 110 1/2, par. 28-5)

Sec. 28-5. Court proceedings during independent administration.) At any time or times during independent administration any interested person may petition the court for a hearing and order as to any matter germane to the administration of the estate, and the provisions of this Act other than this Article shall govern any such court proceedings in the same manner as under supervised administration. If the independent representative petitions the court for instructions as to the exercise of any discretionary power, he renounces his discretion with respect to the matter before the court and the court shall substitute its judgment for his.
(Source: P.A. 81-213.)

(755 ILCS 5/28-6) (from Ch. 110 1/2, par. 28-6)

Sec. 28-6. Service of inventory.) (a) Not less than 30 days prior to filing of the verified report required by Section 28-11, an independent representative shall mail or deliver a copy of an inventory of the estate to each interested person; provided, however, that prior to that time any interested person shall be given a copy of an inventory upon written request. An independent representative need not file the inventory with the court.

(b) Within 90 days after issuance of letters of office to an independent administrator, said administrator shall provide to the surety on the bond, by certified mail, a copy of the inventory of the real and personal estate which has come to his knowledge. The same procedure shall apply to property coming to his knowledge after the original inventory is completed. Failure to comply with this provision may result in termination of independent administration status under the provisions of Section 28-4.
(Source: P.A. 84-555; 84-690.)

(755 ILCS 5/28-7) (from Ch. 110 1/2, par. 28-7)

Sec. 28-7. Spouse and child awards.) (a) When an award under Section 15-1 or 15-2 is allowable and is not waived or barred, an independent representative may pay the award determined under Section 15-1 or 15-2 without application to the court unless the aggregate of all awards exceeds 5% of the gross value of the estate at the date of death, as determined by the independent representative; but the minimum amount of any award under Section 15-1 or 15-2 may be paid in any event without application to the court.

(b) The independent representative shall give notice of the allowance of the award as provided in subsection 15-3(a). When an independent representative makes an award without application to the court, each person having a right of selection of goods and chattels under Section 15-4 may file his selection with the independent representative within 30 days after he is notified in writing of the allowance of the award.
(Source: P.A. 81-213.)

(755 ILCS 5/28-8) (from Ch. 110 1/2, par. 28-8)

Sec. 28-8. Administrative powers. An independent representative acting reasonably for the best interests of the estate has the powers granted in the will and the following powers, all exercisable without court order, except to the extent that the following powers are inconsistent with the will:

(a) To lease, sell at public or private sale, for cash or on credit, mortgage or pledge the personal estate of the decedent and to distribute in kind any personal estate the sale of which is not necessary;

(b) To borrow money with or without security;

(c) To mortgage or pledge agricultural commodities as provided in Section 19-3;

(d) To continue the decedent's unincorporated business without personal liability except for malfeasance or misfeasance for losses incurred; and obligations incurred or contracts entered into by the independent representative with respect to the business are entitled to priority of payment out of the assets of the business but, without approval of the court first obtained, do not involve the estate beyond those assets;

(e) To settle, compound or compromise any claim or interest of the decedent in any property or exchange any such claim or interest for other claims or property; and to settle compound or compromise and pay all claims against the estate as provided in Sections 18-11 and 18-13, but claims of the independent representative or his attorney shall be subject to Section 18-8;

(f) To perform any contract of the decedent;

(g) To employ agents, accountants and counsel, including legal and investment counsel; to delegate to them the performance of any act of administration, whether or not discretionary; and to pay them reasonable compensation;

(h) To hold stocks, bonds and other personal property in the name of a nominee as provided in Section 19-12;

(i) To take possession, administer and grant possession of the decedent's real estate, which term in this subsection includes oil, gas, coal and other mineral interests therein; to pay taxes on decedent's real estate whether or not in possession of the representative; to lease the decedent's real estate upon such terms and for such length of time as he deems advisable; to sell at public or private sale, for cash or on credit, or mortgage any real estate or interest therein to which the decedent had claim or title, but real estate specifically bequeathed shall not be leased, sold or mortgaged without the written consent of the legatee; and to confirm the title of any heir or legatee to real estate by recording and delivering to the heir or legatee an instrument releasing the estate's interest; and

(j) To retain property properly acquired, without regard to its suitability for original purchase; and to invest money of the estate (1) in any one or more of the investments described in Section 21-1 or (2) if the independent representative determines that the estate is solvent and all interested persons other than creditors approve, in any investments authorized for trustees under the prudent man rule stated in Section 5 of the "Trusts and Trustees Act", as now or hereafter amended.

(Source: P.A. 81-213.)

(755 ILCS 5/28-9) (from Ch. 110 1/2, par. 28-9)

Sec. 28-9. Protection of persons dealing with an independent representative.) No person dealing with an independent representative is obliged to inquire as to the independent representative's powers under any will or court order or see to the application of any money or property paid or delivered to the independent representative. No will or court order limiting an independent representative's powers is effective as to a person with whom the independent representative deals, and such person may assume that the independent representative's act is in accordance with any applicable will or court order, unless such person has actual knowledge of the limitation. If property or a security interest therein is acquired in good faith by a purchaser or lender for value from an independent representative, the purchaser or lender takes title free of the rights of all persons having an interest in the estate and incurs no liability to the estate, whether or not the action of the independent representative was proper.
(Source: P.A. 81-213.)

(755 ILCS 5/28-10) (from Ch. 110 1/2, par. 28-10)

Sec. 28-10. Distribution.)

(a) If it appears to the independent representative that there are sufficient assets to pay all claims, the independent representative may at any time or times distribute the estate to the persons entitled thereto. As a condition of any distribution, the independent representative may require the distributee to give him a refunding bond in any amount the independent representative deems reasonable, with surety approved by the independent representative or without surety. If the distribution is made before the expiration of the period when claims are barred under Section 18-12, the independent representative must require the distributee to give him a refunding bond as provided in Section 24-4. If the estate includes an interest in real estate that has not been sold by the independent representative, the independent representative must record and deliver to the persons entitled thereto an instrument which contains the legal description of the real estate and releases the estate's interest.

(b) If abatement or equalization of legacies pursuant to subsection 24-3(b) or (c) is required, the independent representative shall determine the amount of the respective contributions, the manner in which they are paid and whether security is required.

(c) If it appears to the independent representative that the value of the estate of the decedent remaining after payment of 1st class claims does not exceed the amount of the surviving spouse's and child's awards due, the independent representative may deliver the personal estate to the persons entitled to the awards and close the estate as provided in Section 28-11, without waiting until the expiration of the period when claims are barred under Section 18-12.

(d) If property distributed in kind, or a security interest therein, is acquired in good faith by a purchaser or lender for value from a distributee (or from the successors in interest to a distributee) who has received physical delivery or an assignment, deed, release or other instrument of distribution from an independent representative, the purchaser or lender takes title free of the rights of all persons having an interest in the estate and incurs no liability to the estate, whether or not the distribution was proper.

(e) If a distributee is a minor or a person with a disability, the independent representative may make distribution to the ward's representative, if any, to a custodian for the ward under the Illinois Uniform Transfers to Minors Act or the corresponding statute of any other state in which the ward or the custodian

resides, by deposit or investment of the ward's property subject to court order under Section 24-21 or in any other manner authorized by law.
(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/28-11) (from Ch. 110 1/2, par. 28-11)

Sec. 28-11. Closing the estate.

(a) An independent representative is accountable to all interested persons for his administration and distribution of the estate but need not present an account to the court unless an interested person requests court accounting as in supervised administration.

(b) An independent representative seeking discharge shall mail or deliver to all interested persons an accounting and shall file in the court a verified report stating substantially as follows:

(1) In a testate estate, that notice has been given to the extent required by Section 6-10.

(2) In an intestate estate, that notice has been given to the extent required by Section 9-5.

(3) That the notice required by Section 18-3 has been published, that reasonable care was used to determine the creditors of the decedent and that all known creditors have been given notice as required under Section 18-3.

(4) That copies of an inventory and an accounting have been mailed or delivered to the extent required by Section 28-6 and this Section.

(5) That each claim filed has been allowed, disallowed, compromised, dismissed or is barred and that all claims allowed have been paid in full, or, if the estate was not sufficient to pay all the claims in full, that the claims have been paid according to their respective priorities.

(6) That all death taxes have been determined and paid or otherwise provided for or that the estate is not subject to death taxes.

(7) That all administration expenses and other liabilities of the estate have been paid and that administration has been completed, or to the extent not completed has been provided for as specified in the report.

(8) That the remaining assets of the estate have been distributed to the persons entitled thereto.

(9) That the fees paid or payable to the independent representative and his attorney have been approved by all interested persons, except as otherwise indicated.

(10) The name and post office address, if known, of each person entitled to notice of the filing of the report.

(c) Notice of the filing of the report shall be given to all interested persons, except:

(1) Creditors whose written approvals of the report are filed with the report or whose claims have been paid according to statutory priority or compromise agreed to by the creditor;

(2) Heirs and legatees whose signed receipts for payment or distribution in full are filed with the report; but the receipt by each interested person whose share of the estate is affected by the amount of the fees paid or payable to the representative and his attorney shall also state that such fees are approved and the receipt by each interested person

whose payment or distribution is affected by the size of the estate shall also state that an inventory has been received and an accounting has been approved; and

(3) Whenever a trustee of a trust is an interested person, beneficiaries of the trust by reason of the beneficiaries' interest in the trust.

(d) If pursuant to subsections (c)(1), (c)(2) and (c)(3) no person need be given notice, the court shall enter an order discharging the independent representative and declaring the estate closed.

(e) In all cases not covered by subsection (d), not more than 14 days after the filing of the report the independent representative shall mail a copy of the report showing the date of its filing to each person who is entitled to and has not waived notice thereof and shall notify each such person that if no objection is filed within 42 days after the report was filed, the independent representative will be discharged and the estate closed. If the name or post office address of any person entitled to notice is not stated in the report or if the estate was opened on the presumption of death, the independent representative shall publish a notice stating that the report was filed on the date stated and that if no objection is filed within 42 days after the filing of the report, the independent representative will be discharged and the estate closed. The notice shall be published once a week for 3 successive weeks, the first publication to be not more than 14 days after the filing of the report. The notice shall be published in a newspaper published in the county where the independent representative's letters of office were issued. At any time after the expiration of a period of 42 days from the filing of the independent representative's report, the independent representative may apply to the court for a discharge and, if no objection is then pending in the court, the court shall enter an order discharging the independent representative and declaring the estate closed. If any objection is then pending, the court shall order that notice be given to all interested persons and may order the independent representative to present a verified account of his administration within such time as the court directs. The independent representative shall file proof of mailing and publication, if publication is required, with the clerk of the court.

The changes made by this amendatory Act of 1995 apply to reports filed on or after the effective date of this amendatory Act of 1995.

(f) In the absence of fraud, accident or mistake, an order discharging the independent representative and declaring the estate closed is binding on each person whose receipt or approval was filed with the report and on each person to whom notice thereof was given in compliance with subsection (e) except a ward for whom no personal fiduciary is acting.

(Source: P.A. 89-364, eff. 8-18-95.)

(755 ILCS 5/28-12) (from Ch. 110 1/2, par. 28-12)

Sec. 28-12. Notice.) Notice or other information mailed to an interested person at his last address known to the sender shall be deemed given to the person for all purposes of this Article at the time of mailing.

(Source: P.A. 81-213.)

(755 ILCS 5/Art. XXX heading)

ARTICLE XXX

REPEAL - SAVINGS CLAUSE - EFFECTIVE DATE

(755 ILCS 5/30-1) (from Ch. 110 1/2, par. 30-1)

Sec. 30-1. Repeal.) The "Probate Act", approved July 24, 1939, as amended, is repealed.

(Source: P.A. 79-328.)

(755 ILCS 5/30-2) (from Ch. 110 1/2, par. 30-2)

Sec. 30-2. Savings clause.) The provisions for repeal contained in this Act shall not in any way:

(a) affect an offense committed, an act done, a penalty, punishment or forfeiture incurred, or a claim, right, power or remedy accrued under any law in force before January 1, 1976; nor affect the jurisdiction of any court to hear and determine any cause of action based on a right of action arising before January 1, 1976 and under any law in force before January 1, 1976 if the cause of action was filed before the expiration of 12 months after January 1, 1976.

(b) invalidate any of the following that have been validated by any former law: any act done by an executor, administrator, guardian or conservator; any order, judgment or decree entered by a court; or the recordation of any will.

(Source: P.A. 79-328.)

(755 ILCS 5/30-3) (from Ch. 110 1/2, par. 30-3)

Sec. 30-3. Effective date of Act.) This Act shall take effect on January 1, 1976.

(Source: P.A. 79-328.)

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