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

(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.)