

Chapter 4 Foreign Personal Representatives - Ancillary Administration

Part 1 Definitions

75-4-101 Definitions.

As used in this chapter:

- (1) "Local administration" means administration by a personal representative appointed in this state pursuant to appointment proceedings described in Chapter 3, Probate of Wills and Administration.
- (2) "Local personal representative" includes any personal representative appointed in this state pursuant to appointment proceedings described in Chapter 3, Probate of Wills and Administration, and excludes foreign personal representatives who acquire the power of a local personal representative under Section 75-4-205.
- (3) "Resident creditor" means a person domiciled in, or doing business in this state, who is, or could be, a claimant against an estate of a nonresident decedent.

Enacted by Chapter 150, 1975 General Session

Part 2 Powers of Foreign Personal Representatives

75-4-201 Payment of debt and delivery of property to domiciliary foreign personal representative without local administration.

At any time after the expiration of 60 days from the death of a nonresident decedent, any person indebted to the estate of the nonresident decedent or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock, or chose in action belonging to the estate of the nonresident decedent may pay the debt, deliver the personal property, or the instrument evidencing the debt, obligation, stock, or chose in action, to the domiciliary foreign personal representative of the nonresident decedent upon being presented with proof of his appointment and an affidavit made by or on behalf of the representative stating:

- (1) the date of the death of the nonresident decedent;
- (2) that no local administration, or application or petition therefor, is pending in this state;
- (3) that the domiciliary foreign personal representative is entitled to payment or delivery.

Amended by Chapter 30, 1992 General Session

75-4-202 Payment or delivery discharges.

Payment or delivery made in good faith on the basis of the proof of authority and affidavit under Section 75-4-201 releases the debtor or person having possession of the personal property to the same extent as if payment or delivery had been made to a local personal representative.

Enacted by Chapter 150, 1975 General Session

75-4-203 Resident creditor notice.

Payment or delivery under Section 75-4-201 may not be made if a resident creditor of the nonresident decedent has notified the debtor of the nonresident decedent or the person having possession of the personal property belonging to the nonresident decedent that the debt should not be paid nor the property delivered to the domiciliary foreign personal representative.

Enacted by Chapter 150, 1975 General Session

75-4-204 Proof of authority -- Bond.

If no local administration or application or petition therefor is pending in this state, a domiciliary foreign personal representative may file with a court in this state in a county in which property belonging to the decedent is located, authenticated copies of his appointment and of any official bond he has given.

Enacted by Chapter 150, 1975 General Session

75-4-205 Powers.

A domiciliary foreign personal representative who has complied with Section 75-4-204 may exercise as to assets in this state all powers of a local personal representative and may maintain actions and proceedings in this state subject to any conditions imposed upon nonresident parties generally. The provisions of this section shall not apply to persons other than individuals acting as foreign personal representatives unless the state of the principal place of business of such foreign personal representative provides substantially similar provisions applicable to personal representatives from this state.

Enacted by Chapter 150, 1975 General Session

75-4-206 Power of representatives in transition.

The power of a domiciliary foreign personal representative under Section 75-4-201 or 75-4-205 shall be exercised only if there is no administration or application therefor pending in this state. An application or petition for local administration of the estate terminates the power of the foreign personal representative to act under Section 75-4-205, but the local court may allow the foreign personal representative to exercise limited powers to preserve the estate. No person who, before receiving actual notice of a pending local administration, has changed his position in reliance upon the powers of a foreign personal representative shall be prejudiced by reason of the application or petition for, or grant of, local administration. The local personal representative is subject to all duties and obligations which have accrued by virtue of the exercise of the powers by the foreign personal representative and may be substituted for him in any action or proceedings in this state.

Enacted by Chapter 150, 1975 General Session

75-4-207 Ancillary and other local administrations -- Provisions governing.

In respect to a nonresident decedent, the provisions of Chapter 3, Probate of Wills and Administration, govern proceedings, if any, in a court of this state for probate of the will, appointment, removal, supervision, and discharge of the local personal representative, and any other order concerning the estate; and the status, powers, duties, and liabilities of any local personal representative and the rights of claimants, purchasers, distributees, and others in regard to a local administration.

Enacted by Chapter 150, 1975 General Session

Part 3 Jurisdiction Over Foreign Representatives

75-4-301 Jurisdiction by act of foreign personal representative.

A foreign personal representative submits personally to the jurisdiction of the courts of this state in any proceeding relating to the estate by:

- (1) filing authenticated copies of his appointment as provided in Section 75-4-204;
- (2) receiving payment of money or taking delivery of personal property under Section 75-4-201; or
- (3) doing any act as a personal representative in this state which would have given the state jurisdiction over him as an individual. Jurisdiction under Subsection (2) is limited to the money or value of personal property collected.

Amended by Chapter 30, 1992 General Session

75-4-302 Jurisdiction by act of decedent.

In addition to jurisdiction conferred by Section 75-4-301, a foreign personal representative is subject to the jurisdiction of the courts of this state to the same extent that his decedent was subject to jurisdiction immediately prior to death.

Enacted by Chapter 150, 1975 General Session

75-4-303 Service on foreign personal representative.

- (1) Service of process may be made upon the foreign personal representative by registered or certified mail, addressed to his last reasonably ascertainable address, and requesting a return receipt signed by addressee only. Notice by ordinary first class mail is sufficient if registered or certified mail service to the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could have been made under other laws of this state on either the foreign personal representative or his decedent immediately prior to death.
- (2) If service is made upon a foreign personal representative as provided in Subsection (1) above he shall be allowed at least 30 days within which to appear or respond.

Enacted by Chapter 150, 1975 General Session

Part 4 Judgments and Personal Representative

75-4-401 Effect of adjudication for or against personal representative.

An adjudication rendered in any jurisdiction in favor of or against any personal representative of the estate is as binding on the local personal representative as if he were a party to the adjudication.

Enacted by Chapter 150, 1975 General Session

