

Probate Amendments
2025 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies provisions of the Utah Uniform Probate Code.

Highlighted Provisions:

This bill:

- enacts within the Utah Uniform Probate Code a separate process for transferring a beneficiary's interest that is purchased by a third party in certain circumstances;
- provides a process for the transfer and requirements for written agreements to purchase a beneficiary's interest;
- provides for an optional hearing in relation to the transfer; and
- provides a penalty for a willful violation of the process.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

75-3-918, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **75-3-918** is enacted to read:

**75-3-918 . Distribution to a purchaser of interest in a decedent's estate --
Exclusions -- Requirements for filing and agreement contents and form -- Redactions
required -- Hearing -- Probate action in another state.**
(1) As used in this section:

(a) "Interest" has the same meaning as "estate, trust, or other beneficial interest" as defined in Section 75A-2-211.

(b) "Purchaser of interest" means a person who:

(i) purchases, by means of a written agreement, an interest from a beneficiary in exchange for consideration; and

(ii) regularly engages in, either directly or indirectly, the purchase of beneficial interests in estates in exchange for consideration.

(2) The requirements of this section apply to a distribution from a decedent's estate that is made to a purchaser of interest.

(3) This section does not apply to:

(a) a transferee who is a beneficiary of the estate;

(b) a person who has a claim to distribution from the estate under another instrument or by intestate succession;

(c) a transferee who is the registered domestic partner of the beneficiary, or who is related by blood, marriage, or adoption to the beneficiary or the decedent;

(d) a transaction made under Title 70C, Utah Consumer Credit Code; or

(e) a transferee who is engaged in the business of locating missing or unknown heirs and who acquires an interest from a beneficiary solely in exchange for providing information or services associated with locating the heir or beneficiary.

(4)(a) A written agreement under this section shall:

(i) be printed in 10-point type or larger, including any accompanying documents provided by the purchaser of interest in relation to the written agreement;

(ii) state the amount of consideration paid to the beneficiary;

(iii) provide a description of the transferred interest; and

(iv) if the written agreement so provides, state the amount by which the transferee for value would have its distribution reduced if the beneficial interest assigned is distributed prior to a specified date.

(b) A written agreement under this section may not contain any of the following provisions, and if any such provision is included, the prohibited provision is null and void:

(i) a provision that holds the purchaser of interest harmless, other than for liability arising out of fraud by the beneficiary;

(ii) a provision granting the purchaser of interest agency powers to represent the beneficiary's interest in the decedent's estate beyond the interest to be transferred;

- (iii) a provision requiring the beneficiary to pay the purchaser of interest for services that are not related to the written agreement or for services other than the transfer of interest under the written agreement; or
- (iv) a provision permitting the purchaser of interest to have recourse against the beneficiary if the distribution from the estate in satisfaction of the beneficial interest is less than the beneficial interest assigned to the purchaser of interest, other than recourse for any expense or damage arising out of the material breach of the agreement or fraud by the beneficiary.
- (c) Before a copy of a written agreement under this section is filed, served, or otherwise publicly distributed as may be required by law, the purchaser of interest shall redact from that copy all information that personally identifies the beneficiary, other than the name and address of the beneficiary.
- (5) To request a transfer of the interest as provided under this section, the purchaser of interest shall, not later than 30 days following the date of execution of the written agreement or, if administration of the decedent's estate has not commenced, then within 30 days of issuance of the letters of administration or letters testamentary, but in no event later than 15 days prior to the hearing on the petition for final distribution:
- (a) provide a copy of the written agreement to the beneficiary, and if all or some of the negotiation or discussion that resulted in the execution of the written agreement by the beneficiary was conducted in a language other than English, provide the beneficiary with a copy of the written agreement in English, together with a copy of the written agreement translated into the language in which the written agreement was negotiated or discussed;
- (b) file a copy of the written agreement that meets the requirements of this section, and that is redacted in accordance with the requirements of Subsection (4)(c), with the court; and
- (c) provide notice of the assignment on the personal representative or the attorney of record for the personal representative.
- (6)(a) The beneficiary may file a motion in opposition, which motion may also request that the court schedule a hearing, within 10 calendar days of receipt of the written agreement.
- (b) The court on its own motion, or in response to a motion under Subsection (6)(a), may inquire into the circumstances surrounding the execution of, and the consideration for, the written agreement to determine that the requirements of this section have

96 been satisfied.

97 (c) Notice of a hearing on any motion brought under this section shall be served on the
98 beneficiary and on the purchaser of interest at least 15 days before the date of the
99 hearing.

100 (7)(a) Except as provided in Subsections (7)(b) and (7)(c), if no motion in opposition has
101 been filed under Subsection (6)(a), the court shall allow the transfer.

102 (b) The court may order distribution under the written agreement, or may order
103 distribution on any terms that the court considers equitable, if the court finds that the
104 purchaser of interest did not substantially comply with the requirements of this
105 section, or if the court finds that any of the following conditions existed at the time of
106 transfer:

107 (i) fees, charges, or consideration paid or agreed to be paid by the beneficiary were
108 grossly unreasonable; or

109 (ii) the transfer of the beneficial interest was obtained by duress, fraud, or undue
110 influence.

111 (c) In addition to any remedy specified in this section, for any willful violation of the
112 requirements of this section found to be committed in bad faith, the court may require
113 the purchaser of interest to pay to the beneficiary up to twice the value paid for the
114 assignment.

115 (8) If the decedent's estate is not subject to a pending court proceeding under Title 75, Utah
116 Uniform Probate Code, but is the subject of a probate proceeding in another state, the
117 purchaser of interest shall not be required to submit to the court a copy of the written
118 agreement as required under Subsection (5).

119 Section 2. **Effective Date.**

120 This bill takes effect on May 7, 2025.