

CHAPTER 149

PROBATE, TRUSTS, AND FIDUCIARIES

HOUSE BILL 08-1153

BY REPRESENTATIVE(S) Roberts, Buescher, Kerr J., McGihon, and Solano;
also SENATOR(S) Morse.**AN ACT****CONCERNING THE OVERSIGHT OF FIDUCIARIES UNDER THE PROVISIONS OF THE COLORADO PROBATE CODE.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** Article 10 of title 15, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:**PART 5
FIDUCIARY OVERSIGHT, REMOVAL,
SANCTIONS, AND CONTEMPT**

15-10-501. Court powers - definitions - application. (1) **Court powers.** A COURT, INCIDENT TO A COURT PROCEEDING, POSSESSES AND MAY EMPLOY ALL OF THE POWERS AND AUTHORITY EXPRESSED IN THE PROVISIONS OF THIS PART 5 TO MAINTAIN THE DEGREE OF SUPERVISION NECESSARY TO ENSURE THE TIMELY AND PROPER ADMINISTRATION OF ESTATES BY FIDUCIARIES OVER WHOM THE COURT HAS OBTAINED JURISDICTION. NOTHING IN THIS PART 5 SHALL BE INTERPRETED TO LIMIT A COURT'S POWERS UNDER COLORADO LAW. THE POWERS OF A COURT AS DESCRIBED IN THIS PART 5 DO NOT CONFER JURISDICTION OVER THE FIDUCIARIES OF NONSUPERVISED TRUSTS, PRIVATE TRUSTS, AGENCIES CREATED BY POWERS OF ATTORNEY, AND CUSTODIAL ACCOUNTS CREATED UNDER THE "COLORADO UNIFORM TRANSFERS TO MINORS ACT", ARTICLE 50 OF TITLE 11, C.R.S., EXCEPT AS PROVIDED IN PARAGRAPH (c) OF SUBSECTION (2) OF THIS SECTION.

(2) **Definitions.** AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COURT" MEANS A DISTRICT COURT OF COLORADO AND THE PROBATE COURT

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

OF THE CITY AND COUNTY OF DENVER.

(b) "ESTATE" MEANS THE ESTATE OF A DECEDENT; A GUARDIANSHIP; A PROTECTIVE PROCEEDING; A TRUST, INCLUDING AN IMPLIED TRUST; AN AGENCY CREATED BY A POWER OF ATTORNEY; OR A CUSTODIAL ACCOUNT CREATED UNDER THE "COLORADO UNIFORM TRANSFERS TO MINORS ACT", ARTICLE 50 OF TITLE 11, C.R.S.

(c) "JURISDICTION" MEANS, AND IS RESTRICTED TO, THE PERSONAL JURISDICTION OBTAINED BY A COURT OVER A FIDUCIARY AS A RESULT OF THE FILING OF A PROCEEDING CONCERNING THE ESTATE. THE FILING OF A TRUST REGISTRATION STATEMENT, BY ITSELF, SHALL NOT CONSTITUTE A PROCEEDING FOR THE PURPOSES OF THIS PART 5.

(3) **Application.** THE PROVISIONS OF THIS PART 5 SHALL APPLY TO ANY FIDUCIARY OVER WHOM A COURT HAS OBTAINED JURISDICTION, INCLUDING BUT NOT LIMITED TO A PERSONAL REPRESENTATIVE, SPECIAL ADMINISTRATOR, GUARDIAN, CONSERVATOR, SPECIAL CONSERVATOR, TRUSTEE, AGENT UNDER A POWER OF ATTORNEY, AND CUSTODIAN, INCLUDING A CUSTODIAN OF ASSETS OR ACCOUNTS CREATED UNDER THE "COLORADO UNIFORM TRANSFERS TO MINORS ACT", ARTICLE 50 OF TITLE 11, C.R.S.

15-10-502. Initial investigation. (1) IF, DURING THE ADMINISTRATION OF AN ESTATE, A COURT DESIRES TO BE INFORMED ABOUT THE CURRENT STATUS OF THE ADMINISTRATION, THEN THE COURT, ON ITS OWN MOTION OR THE REQUEST OF AN INTERESTED PERSON, AND WITHOUT THE NEED TO STATE ANY REASON FOR ITS ACTIONS, MAY:

(a) SEND A LETTER TO THE FIDUCIARY OF THE ESTATE DIRECTING THE FIDUCIARY TO FILE WITH THE COURT ONE OR MORE OF THE FOLLOWING DOCUMENTS ON OR BEFORE A DATE TO BE DETERMINED BY THE COURT:

- (I) A STATUS REPORT;
- (II) AN INVENTORY OF THE CURRENT ASSETS OF THE ESTATE;
- (III) AN UP-TO-DATE INTERIM ACCOUNTING; OR
- (IV) A FINANCIAL REPORT CONCERNING THE ESTATE;

(b) ORDER THE FIDUCIARY TO FILE OR APPEAR BEFORE THE COURT TO SUBMIT ONE OR MORE OF THE DOCUMENTS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) ON OR BEFORE A DATE TO BE DETERMINED BY THE COURT.

(2) WHEN A COURT HAS DIRECTED A FIDUCIARY TO FILE OR APPEAR BEFORE THE COURT TO SUBMIT ONE OR MORE OF THE DOCUMENTS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1), THE FIDUCIARY MAY REQUEST THAT THE DOCUMENTS BE PLACED UNDER SECURITY PURSUANT TO RULE 20 OF THE COLORADO RULES OF PROBATE PROCEDURE.

15-10-503. Power of a court to address the conduct of a fiduciary -

emergencies - nonemergencies. (1) Emergency situations - court action without the requirement of prior notice or hearing. IF IT APPEARS TO A COURT THAT AN EMERGENCY EXISTS BECAUSE A FIDUCIARY'S ACTIONS OR OMISSIONS POSE AN IMMINENT RISK OF SUBSTANTIAL HARM TO A WARD'S OR PROTECTED PERSON'S HEALTH, SAFETY, OR WELFARE OR TO THE FINANCIAL INTERESTS OF AN ESTATE, THE COURT MAY, ON ITS OWN MOTION OR UPON THE REQUEST OF AN INTERESTED PERSON, WITHOUT A HEARING AND WITHOUT FOLLOWING ANY OF THE PROCEDURES AUTHORIZED BY SECTION 15-10-502, ORDER THE IMMEDIATE RESTRAINT, RESTRICTION, OR SUSPENSION OF THE POWERS OF THE FIDUCIARY; DIRECT THE FIDUCIARY TO APPEAR BEFORE THE COURT; OR TAKE SUCH FURTHER ACTION AS THE COURT DEEMS APPROPRIATE TO PROTECT THE WARD OR PROTECTED PERSON OR THE ASSETS OF THE ESTATE. IF A COURT RESTRAINS, RESTRICTS, OR SUSPENDS THE POWERS OF A FIDUCIARY, THE COURT SHALL SET A HEARING AND DIRECT THAT NOTICE BE GIVEN PURSUANT TO SECTION 15-10-505. THE CLERK OF THE COURT SHALL IMMEDIATELY NOTE THE RESTRAINT, RESTRICTION, OR SUSPENSION ON THE FIDUCIARY'S LETTERS, IF ANY. ANY ACTION FOR THE REMOVAL, SURCHARGE, OR SANCTION OF A FIDUCIARY SHALL BE GOVERNED BY SUBSECTION (2) OF THIS SECTION.

(2) Nonemergency situations - court action after notice and hearing. UPON PETITION BY A PERSON WHO APPEARS TO HAVE AN INTEREST IN AN ESTATE, OR UPON THE COURT'S OWN MOTION, AND AFTER A HEARING FOR WHICH NOTICE TO THE FIDUCIARY HAS BEEN PROVIDED PURSUANT TO SECTION 15-10-505, A COURT MAY ORDER ANY ONE OR MORE OF THE FOLLOWING:

(a) SUPERVISED ADMINISTRATION OF A DECEDENT'S ESTATE, AS DESCRIBED IN PART 5 OF ARTICLE 12 OF THIS TITLE. THE DEGREE AND EXTENT OF THE SUPERVISION SHALL BE ENDORSED UPON THE FIDUCIARY'S LETTERS, IF ANY.

(b) A TEMPORARY RESTRAINT ON THE FIDUCIARY'S PERFORMANCE OF SPECIFIED ACTS OF ADMINISTRATION, DISBURSEMENT, OR DISTRIBUTION; A TEMPORARY RESTRAINT ON THE FIDUCIARY'S EXERCISE OF ANY POWERS OR DISCHARGE OF ANY DUTIES OF THE OFFICE OF THE FIDUCIARY; OR ANY OTHER ORDER TO SECURE PROPER PERFORMANCE OF THE FIDUCIARY'S DUTY IF IT APPEARS TO THE COURT THAT, IN THE ABSENCE OF SUCH AN ORDER, THE FIDUCIARY MAY TAKE SOME ACTION THAT WOULD UNREASONABLY JEOPARDIZE THE INTEREST OF THE PETITIONER OR OF SOME OTHER INTERESTED PERSON. THE COURT MAY MAKE PERSONS WITH WHOM THE FIDUCIARY MAY TRANSACT BUSINESS PARTIES TO ANY ORDER ISSUED PURSUANT TO THIS PARAGRAPH (b). THE RESTRAINT SHALL BE ENDORSED UPON THE FIDUCIARY'S LETTERS, IF ANY.

(c) ADDITIONAL RESTRICTIONS ON THE POWERS OF THE FIDUCIARY. THE RESTRICTIONS SHALL BE ENDORSED UPON THE FIDUCIARY'S LETTERS, IF ANY.

(d) THE SUSPENSION OF THE FIDUCIARY IF THE COURT DETERMINES THAT THE FIDUCIARY HAS VIOLATED HIS, HER, OR ITS FIDUCIARY DUTIES. IF A COURT ORDERS THE SUSPENSION OF A FIDUCIARY PURSUANT TO THIS PARAGRAPH (d), THE COURT SHALL DIRECT THAT THE SUSPENSION BE ENDORSED UPON THE FIDUCIARY'S LETTERS, IF ANY.

(e) THE REMOVAL OF THE FIDUCIARY. A COURT MAY REMOVE A FIDUCIARY FOR

CAUSE AT ANY TIME, AND THE FOLLOWING PROVISIONS SHALL APPLY:

(I) AFTER A FIDUCIARY RECEIVES NOTICE OF PROCEEDINGS FOR HIS, HER, OR ITS REMOVAL, THE FIDUCIARY SHALL NOT ACT EXCEPT TO ACCOUNT, TO CORRECT MALADMINISTRATION, OR TO PRESERVE THE ESTATE.

(II) IF A COURT ORDERS THE REMOVAL OF A FIDUCIARY, THE COURT SHALL DIRECT BY ORDER THE DISPOSITION OF THE ASSETS REMAINING IN THE NAME OF, OR UNDER THE CONTROL OF, THE FIDUCIARY BEING REMOVED.

(III) CAUSE FOR REMOVAL OF A FIDUCIARY EXISTS WHEN REMOVAL WOULD BE IN THE BEST INTERESTS OF THE ESTATE OR IF IT IS SHOWN THAT THE FIDUCIARY OR THE PERSON SEEKING THE FIDUCIARY'S APPOINTMENT INTENTIONALLY MISREPRESENTED MATERIAL FACTS IN THE PROCEEDINGS LEADING TO THE FIDUCIARY'S APPOINTMENT, OR THAT THE FIDUCIARY HAS DISREGARDED AN ORDER OF THE COURT, HAS BECOME INCAPABLE OF DISCHARGING THE DUTIES OF THE OFFICE, OR HAS MISMANAGED THE ESTATE OR FAILED TO PERFORM ANY DUTY PERTAINING TO THE OFFICE.

(IV) IF A COURT ORDERS THE REMOVAL OF A FIDUCIARY, THE COURT SHALL DIRECT THAT THE FIDUCIARY'S LETTERS, IF ANY, BE REVOKED AND SUCH REVOCATION BE ENDORSED UPON THE FIDUCIARY'S LETTERS, IF ANY.

(f) THE APPOINTMENT OF A TEMPORARY OR PERMANENT SUCCESSOR FIDUCIARY;

(g) A REVIEW OF THE FIDUCIARY'S CONDUCT. IF A COURT ORDERS A REVIEW OF THE FIDUCIARY'S CONDUCT, THE COURT SHALL SPECIFY THE SCOPE AND DURATION OF THE REVIEW IN THE COURT'S ORDER.

(h) A SURCHARGE OR SANCTION OF THE FIDUCIARY PURSUANT TO SECTION 15-10-504; OR

(i) SUCH FURTHER RELIEF AS THE COURT DEEMS APPROPRIATE TO PROTECT THE WARD OR PROTECTED PERSON OR THE ASSETS OF THE ESTATE.

15-10-504. Surcharge - contempt - sanctions against fiduciaries. (1) Notice. EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, NOTICE TO A FIDUCIARY CONCERNING ANY MATTERS GOVERNED BY THE PROVISIONS OF THIS SECTION SHALL BE PROVIDED PURSUANT TO SECTION 15-10-505.

(2) **Surcharge.** (a) IF A COURT, AFTER A HEARING, DETERMINES THAT A BREACH OF FIDUCIARY DUTY HAS OCCURRED OR AN EXERCISE OF POWER BY A FIDUCIARY HAS BEEN IMPROPER, THE COURT MAY SURCHARGE THE FIDUCIARY FOR ANY DAMAGE OR LOSS TO THE ESTATE, BENEFICIARIES, OR INTERESTED PERSONS. SUCH DAMAGES MAY INCLUDE COMPENSATORY DAMAGES, INTEREST, AND ATTORNEY FEES AND COSTS.

(b) IN AWARDING ATTORNEY FEES AND COSTS PURSUANT TO THIS SECTION, A COURT MAY CONSIDER THE PROVISIONS OF SECTIONS 15-12-719, 15-12-720, AND 15-14-417.

(3) **Contempt proceedings against fiduciary.** NOTHING IN THIS PART 5 SHALL

BE INTERPRETED TO LIMIT OR RESTRICT A COURT'S AUTHORITY TO PROCEED AGAINST A FIDUCIARY FOR DIRECT CONTEMPT AS PROVIDED IN RULE 107 OF THE COLORADO RULES OF CIVIL PROCEDURE. IN ADDITION, IF A FIDUCIARY FAILS TO COMPLY WITH AN ORDER OF A COURT ISSUED PURSUANT TO THIS PART 5, THE COURT MAY PROCEED AGAINST THE FIDUCIARY FOR INDIRECT CONTEMPT AS PROVIDED IN RULE 107 OF THE COLORADO RULES OF CIVIL PROCEDURE. A COURT MAY INITIATE INDIRECT CONTEMPT PROCEEDINGS ON ITS OWN MOTION OR UPON THE FILING OF A MOTION SUPPORTED BY AFFIDAVIT AS DESCRIBED IN RULE 107 OF THE COLORADO RULES OF CIVIL PROCEDURE.

(4) Sanctions. IF A COURT DETERMINES THAT A BREACH OF FIDUCIARY DUTY HAS OCCURRED OR AN EXERCISE OF POWER BY A FIDUCIARY HAS BEEN IMPROPER, THE COURT, AFTER A HEARING, MAY ORDER SUCH OTHER SANCTIONS AS THE COURT DEEMS APPROPRIATE.

15-10-505. Notice to fiduciary - current address on file. (1) IN ALL ACTIONS UNDERTAKEN PURSUANT TO THIS PART 5, THE FOLLOWING PROVISIONS SHALL GOVERN NOTICE TO FIDUCIARIES:

(a) In emergency situations. IF IT APPEARS TO A COURT THAT AN EMERGENCY EXISTS BECAUSE THERE IS AN IMMINENT RISK OF SUBSTANTIAL HARM TO A WARD'S OR PROTECTED PERSON'S HEALTH, SAFETY, OR WELFARE OR TO THE FINANCIAL INTERESTS OF AN ESTATE, THE COURT MAY TAKE APPROPRIATE ACTION AND ISSUE AN ORDER WITH OR WITHOUT PRIOR NOTICE TO A FIDUCIARY AS THE COURT DETERMINES APPROPRIATE BASED UPON THE NATURE OF THE EMERGENCY. IF A FIDUCIARY OF AN ESTATE IS NOT PRESENT WHEN AN EMERGENCY ORDER IS ENTERED CONCERNING THE ADMINISTRATION OF THE ESTATE, THE COURT SHALL ATTEMPT TO NOTIFY THE FIDUCIARY OF THE COURT'S ACTION AND MAIL A COPY OF THE COURT'S ORDER TO THE FIDUCIARY AT THE FIDUCIARY'S LAST ADDRESS OF RECORD ON FILE WITH THE COURT. NOTICE OF THE COURT'S ORDER SHALL ALSO BE SERVED, PURSUANT TO SECTION 15-10-401, UPON ALL INTERESTED PERSONS OR AS THE COURT DIRECTS. NOTICE OF ALL HEARINGS SET UNDER SECTION 15-10-503 (1) SHALL BE GIVEN PURSUANT TO SECTION 15-10-401.

(b) In nonemergency situations. IN NONEMERGENCY SITUATIONS, NOTICE TO A FIDUCIARY SHALL BE GOVERNED BY SECTION 15-10-401.

(c) Contempt. FOR A HEARING TO DETERMINE POSSIBLE CONTEMPT OF A FIDUCIARY, THE COURT SHALL PROVIDE NOTICE TO THE FIDUCIARY AS REQUIRED BY RULE 107 OF THE COLORADO RULES OF CIVIL PROCEDURE.

(2) Fiduciary's responsibility to keep current address in court file. EVERY FIDUCIARY APPOINTED BY A COURT IS REQUIRED TO KEEP HIS, HER, OR ITS CURRENT ADDRESS AND TELEPHONE NUMBER ON FILE WITH THE COURT. THE FIDUCIARY SHALL PROMPTLY NOTIFY THE COURT OF ANY CHANGE IN THE FIDUCIARY'S ADDRESS OR TELEPHONE NUMBER.

SECTION 2. 15-12-602, Colorado Revised Statutes, is amended to read:

15-12-602. Acceptance of appointment - consent to jurisdiction. By accepting appointment, a personal representative submits personally to the jurisdiction of the

court in any proceeding relating to the estate that may be instituted by any interested person. Notice of any proceeding shall be ~~delivered~~ PROVIDED to the personal representative or mailed to him by ordinary first class mail at his address as listed in the application or petition for appointment or as thereafter reported to the court and to his address as then known to the petitioner PURSUANT TO SECTION 15-10-401.

SECTION 3. 15-12-607, Colorado Revised Statutes, is amended to read:

15-12-607. Order restraining personal representative. (1) On petition of any person who appears to have an interest in the estate, ~~the~~ OR ON ITS OWN MOTION, A court by temporary order may restrain a personal representative from performing specified acts of administration, disbursement, or distribution, or 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 personal representative otherwise may take some action which would jeopardize unreasonably the interest of the applicant or of some other interested person. Persons with whom the personal representative may transact business may be made parties PURSUANT TO SECTION 15-10-503.

(2) ~~The matter shall be set for hearing within ten days unless the parties otherwise agree. Notice as the court directs shall be given to the personal representative and his attorney of record, if any, and to any other parties named defendant in the petition.~~

SECTION 4. 15-12-611, Colorado Revised Statutes, is amended to read:

15-12-611. Termination of appointment by removal - cause - procedure. (1) The court shall have the power to remove a personal representative for cause at any time. Removal proceedings ~~may be commenced by the court upon its own motion or upon petition of any interested person. Upon filing of such a petition, the court shall fix a time and place for hearing. Notice shall be given by the petitioner or by the court if the proceeding is on the court's own motion to the personal representative and to other persons as the court may order. Except as otherwise ordered as provided in section 15-12-607, after receipt of notice of removal proceedings, the personal representative shall not act except to account, to correct maladministration, or to preserve the estate. If removal is ordered, the court also shall direct by order the disposition of the assets remaining in the name of, or under the control of, the personal representative being removed SHALL BE GOVERNED BY THE PROVISIONS OF SECTION 15-10-503.~~

(2) ~~Cause for removal exists when removal would be in the best interests of the estate, or if it is shown that a personal representative or the person seeking his appointment intentionally misrepresented material facts in the proceedings leading to his appointment, or that the personal representative has disregarded an order of the court, has become incapable of discharging the duties of his office, or has mismanaged the estate or failed to perform any duty pertaining to the office. Unless the decedent's will directs otherwise, a personal representative appointed at the decedent's domicile, incident to securing appointment of himself or HERSELF OR his OR HER nominee as ancillary personal representative, may obtain removal of another who was appointed personal representative in this state to administer local assets.~~

SECTION 5. 15-12-705 (1), Colorado Revised Statutes, is amended to read:

15-12-705. Duty of personal representative - information to heirs and devisees. (1) Not later than thirty days after appointment, every personal representative, except any special administrator, shall give information of his or her appointment to the heirs and devisees, including, if there has been no formal testacy proceeding and if the personal representative was appointed on the assumption that the decedent died intestate, the devisees in any will mentioned in the application for appointment of a personal representative. The information shall be delivered or sent by ordinary mail to each of the heirs and devisees whose address is reasonably available to the personal representative. The duty does not extend to require information to persons who have been adjudicated in a prior formal testacy proceeding to have no interest in the estate. The information shall:

- (a) Include the name and address of the personal representative;
- (b) Indicate that it is being sent to persons who have or may have some interest in the estate being administered;
- (c) Indicate whether bond has been filed;
- (d) Describe the court where papers relating to the estate are on file;
- (e) Indicate that the surviving spouse, children under twenty-one years of age, and dependent children may be entitled to exempt property and a family allowance if a request for payment is made in the manner and within the time limits prescribed by statutes; ~~and~~
- (f) Indicate that the surviving spouse may have a right of election to take a portion of the augmented estate if a petition is filed within the time limits prescribed by statute;
- (g) INDICATE THAT, BECAUSE A COURT WILL NOT ROUTINELY REVIEW OR ADJUDICATE MATTERS UNLESS IT IS SPECIFICALLY REQUESTED TO DO SO BY A BENEFICIARY, CREDITOR, OR OTHER INTERESTED PERSON, ALL INTERESTED PERSONS, INCLUDING BENEFICIARIES AND CREDITORS, HAVE THE RESPONSIBILITY TO PROTECT THEIR OWN RIGHTS AND INTERESTS IN THE ESTATE IN THE MANNER PROVIDED BY THE PROVISIONS OF THIS CODE BY FILING AN APPROPRIATE PLEADING WITH THE COURT BY WHICH THE ESTATE IS BEING ADMINISTERED AND SERVING IT ON ALL INTERESTED PERSONS PURSUANT TO SECTION 15-10-401; AND
- (h) INDICATE THAT ALL INTERESTED PARTIES HAVE THE RIGHT TO OBTAIN INFORMATION ABOUT THE ESTATE BY FILING A DEMAND FOR NOTICE PURSUANT TO SECTION 15-12-204.

SECTION 6. 15-12-712, Colorado Revised Statutes, is amended to read:

15-12-712. Improper exercise of power - breach of fiduciary duty. If the exercise of power concerning the estate is improper, the personal representative IS SUBJECT TO THE PROVISIONS OF SECTION 15-10-504 AND is liable to interested persons for damage or loss resulting from breach of his OR HER fiduciary duty to the

same extent as a trustee of an express trust. The rights of purchasers and others dealing with a personal representative shall be determined as provided in sections 15-12-713 and 15-12-714.

SECTION 7. Repeal. 15-12-722, Colorado Revised Statutes, is repealed.

SECTION 8. 15-12-808 (4), Colorado Revised Statutes, is amended to read:

15-12-808. Individual liability of personal representative. (4) Issues of liability as between the estate and the personal representative individually may be determined:

(a) IN A PROCEEDING PURSUANT TO SECTION 15-10-504;

(b) In a proceeding for accounting, surcharge, ~~or~~ indemnification, SANCTIONS, OR REMOVAL; or

(c) IN other appropriate ~~proceeding~~ PROCEEDINGS.

SECTION 9. 15-14-112 (2), Colorado Revised Statutes, is amended to read:

15-14-112. Termination of or change in guardian's or conservator's appointment. (2) ~~A ward, protected person, or person interested in the welfare of a ward or protected person may petition for removal of a guardian or conservator on the ground that removal would be in the best interest of the ward or protected person or for other good cause.~~ A guardian or conservator may petition for permission to resign. A PETITION FOR REMOVAL OF A GUARDIAN OR CONSERVATOR SHALL BE GOVERNED BY THE PROVISIONS OF SECTION 15-10-503. A petition for removal or permission to resign may include a request for appointment of a successor guardian or conservator.

SECTION 10. 15-14-210, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

15-14-210. Termination of guardianship - other proceedings after appointment. (3) ISSUES OF LIABILITY AS BETWEEN AN ESTATE AND THE ESTATE'S GUARDIAN INDIVIDUALLY MAY BE DETERMINED:

(a) IN A PROCEEDING PURSUANT TO SECTION 15-10-504;

(b) IN A PROCEEDING FOR ACCOUNTING, SURCHARGE, INDEMNIFICATION, SANCTIONS, OR REMOVAL; OR

(c) IN OTHER APPROPRIATE PROCEEDINGS.

SECTION 11. 15-14-318 (4), Colorado Revised Statutes, is amended, and the said 15-14-318 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

15-14-318. Termination or modification of guardianship - resignation or removal of guardian. (4) The court may remove a guardian PURSUANT TO

SECTION 15-10-503 or permit the guardian to resign as set forth in section 15-14-112.

(5) ISSUES OF LIABILITY AS BETWEEN AN ESTATE AND THE ESTATE'S GUARDIAN INDIVIDUALLY MAY BE DETERMINED:

(a) IN A PROCEEDING PURSUANT TO SECTION 15-10-504;

(b) IN A PROCEEDING FOR ACCOUNTING, SURCHARGE, INDEMNIFICATION, SANCTIONS, OR REMOVAL; OR

(c) IN OTHER APPROPRIATE PROCEEDINGS.

SECTION 12. 15-14-414 (1) (d), Colorado Revised Statutes, is amended to read:

15-14-414. Petition for order subsequent to appointment. (1) A protected person or a person interested in the welfare of a protected person may file a petition in the appointing court for an order:

(d) Removing the conservator PURSUANT TO SECTION 15-10-503 and appointing a ~~temporary~~ SPECIAL or successor conservator;

SECTION 13. 15-14-430 (4), Colorado Revised Statutes, is amended to read:

15-14-430. Personal liability of conservator. (4) A question of liability between the estate and the conservator personally may be determined:

(a) IN A PROCEEDING PURSUANT TO SECTION 15-10-504;

(b) In a proceeding for accounting, surcharge, ~~or~~ indemnification, SANCTIONS, OR REMOVAL; or

(c) In another appropriate proceeding or action.

SECTION 14. 15-16-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

15-16-102. Registration procedures and content of statement. (2.5) THE TRUST REGISTRATION STATEMENT SHALL CONTAIN LANGUAGE INDICATING THAT, BECAUSE A COURT WILL NOT ROUTINELY REVIEW OR ADJUDICATE MATTERS UNLESS IT IS SPECIFICALLY REQUESTED TO DO SO BY A BENEFICIARY, CREDITOR, OR OTHER INTERESTED PERSON, ALL INTERESTED PERSONS, INCLUDING BENEFICIARIES AND CREDITORS, HAVE THE RESPONSIBILITY TO PROTECT THEIR OWN RIGHTS AND INTERESTS IN THE ESTATE IN THE MANNER PROVIDED BY THE PROVISIONS OF THIS CODE BY FILING AN APPROPRIATE PLEADING WITH THE COURT BY WHICH THE ESTATE IS BEING ADMINISTERED AND SERVING IT ON ALL INTERESTED PERSONS PURSUANT TO SECTION 15-10-401.

SECTION 15. 15-16-103 (1), Colorado Revised Statutes, is amended to read:

15-16-103. Effect of registration. (1) By registering a trust, or accepting the

trusteeship of a registered trust, the trustee submits personally to the jurisdiction of the court in any proceeding under section 15-16-201 relating to the trust that may be initiated by any interested person while the trust remains registered. Notice of any proceeding shall be ~~delivered to the trustee, or mailed to him by ordinary first class mail at his address as listed in the registration or as thereafter reported to the court and to his address as then known to the petitioner~~ PROVIDED PURSUANT TO SECTION 15-10-401.

SECTION 16. 15-16-306 (4), Colorado Revised Statutes, is amended to read:

15-16-306. Personal liability of trustee to third parties. (4) The question of liability as between the trust estate and the trustee individually may be determined:

(a) IN A PROCEEDING PURSUANT TO SECTION 15-10-504;

(b) In a proceeding for accounting, surcharge, ~~or~~ indemnification, SANCTIONS, OR REMOVAL; or

(c) In other appropriate ~~proceeding~~ PROCEEDINGS.

SECTION 17. Effective date. This act shall take effect July 1, 2008.

SECTION 18. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 17, 2008