

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 18

AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-36-7-13, AS ADDED BY P.L.50-2021, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 13. As used in this chapter, "health care representative" means a competent adult **or other person** designated by a declarant in an advance directive to:

- (1) make health care decisions; and
- (2) receive health information;

regarding the declarant. The term includes a person who receives and holds validly delegated authority from a designated health care representative.

SECTION 2. IC 23-18-6-4, AS AMENDED BY P.L.156-2023, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 4. (a) Unless otherwise provided in a written operating agreement, a limited liability company existing under this article on or before June 30, 1999, is governed by this section.

(b) Except as otherwise provided in a written operating agreement, if a limited liability company has at least two (2) members, an assignee of an interest may become a member only if the other members unanimously consent. If a limited liability company has only one (1) member, an assignee of the entire interest may become a member:

- (1) under the terms of an agreement between the assignor and the assignee; or

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(2) except as otherwise provided in a written operating agreement by a specific reference to this subsection or as otherwise provided in an agreement between the assignor and the assignee, automatically upon the voluntary assignment by the sole member of all the member's interest to a single assignee that the member consented to at the time of the assignment and that was not affected by foreclosure or other similar legal process.

The consent of a member may be evidenced in any manner specified in writing in an operating agreement, but in the absence of a specification, consent must be evidenced by a written instrument, dated and signed by the member.

(c) If:

- (1) a limited liability company has one (1) member;**
- (2) the member of the limited liability company dies;**
- (3) the deceased member's interest in the limited liability company is not registered in beneficiary form under IC 32-17-14; and**
- (4) the limited liability company does not have a written operating agreement that controls or specifies the transfer or other disposition of the deceased member's interest;**

the deceased member's interest passes as described in subsection (d).

(d) This subsection applies to the transfer of a deceased member's interest under the circumstances described in subsection (c). Unless otherwise provided in a written operating agreement or a valid disclaimer under IC 32-17.5, the deceased member's interest in a limited liability company passes automatically upon death to:

- (1) a legatee identified in the deceased member's will admitted to probate under IC 29-1-7; or**
- (2) the deceased member's heirs under IC 29-1-2-1 if the deceased member died intestate.**

A transfer of an interest under this subsection is subject to IC 29-1-7-23 and does not affect the enforceability of a timely filed claim by a creditor against the estate of the deceased member. A legatee or an heir is automatically admitted as a member of the limited liability company under this subsection.

(e) If a personal representative is appointed under IC 29-1-10 for the estate of a deceased member described in subsection (c), the personal representative possesses and may exercise all rights and powers of the deceased member's interest before the interest of the deceased member is distributed to the deceased member's legatees



or heirs under this section.

(e) (f) An assignee who becomes a member:

- (1) has, to the extent assigned, the rights and powers and is subject to the restrictions and liabilities of a member under the articles of organization, any operating agreement, and this article; and
- (2) is liable for any obligations of the member's assignor for unpaid contributions under IC 23-18-5-1 or for any wrongful distributions under IC 23-18-5-7.

However, the assignee is not obligated for liabilities of which the assignee had no knowledge at the time the assignee became a member and that could not be ascertained from a written operating agreement.

(d) (g) Whether or not an assignee of an interest becomes a member, the assignor is not released from the assignor's liability to the limited liability company for unpaid contributions under IC 23-18-5-1 or for any wrongful distributions under IC 23-18-5-7 that are solely a result of the assignment.

(e) (h) Unless otherwise provided in a written operating agreement, a member who assigns the member's entire interest in the limited liability company ceases to be a member or to have the power to exercise any rights of a member when an assignee of the member's interest becomes a member with respect to the assigned interest.

SECTION 3. IC 23-18-6-4.1, AS AMENDED BY P.L.156-2023, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 4.1. (a) A limited liability company formed under this article after June 30, 1999, is governed by this section.

(b) Except as otherwise provided in a written operating agreement, if a limited liability company has at least two (2) members, an assignee of an interest may become a member only if the other members unanimously consent. If a limited liability company has only one (1) member, an assignee of the entire interest may become a member:

- (1) in accordance with the terms of an agreement between the assignor and the assignee; or
- (2) except as otherwise provided in a written operating agreement by a specific reference to this subsection or as otherwise provided in an agreement between the assignor and the assignee, automatically upon the voluntary assignment by the sole member of all of the member's interest to a single assignee that the member consented to at the time of the assignment and that was not affected by foreclosure or other similar legal process.

The consent of a member may be evidenced in any manner specified in writing in an operating agreement, but in the absence of a



specification, consent must be evidenced by a written instrument, dated and signed by the member.

(c) If:

- (1) a limited liability company has one (1) member;**
- (2) the member of the limited liability company dies;**
- (3) the deceased member's interest in the limited liability company is not registered in beneficiary form under IC 32-17-14; and**
- (4) the limited liability company does not have a written operating agreement that controls or specifies the transfer or other disposition of the deceased member's interest;**

the deceased member's interest passes as described in subsection (d).

(d) This subsection applies to the transfer of a deceased member's interest under the circumstances described in subsection (c). Unless otherwise provided in a written operating agreement or a valid disclaimer under IC 32-17.5, the deceased member's interest in a limited liability company passes automatically upon death to:

- (1) a legatee identified in the deceased member's will admitted to probate under IC 29-1-7; or**
- (2) the deceased member's heirs under IC 29-1-2-1 if the deceased member died intestate.**

A transfer of an interest under this subsection is subject to IC 29-1-7-23 and does not affect the enforceability of a timely filed claim by a creditor against the estate of the deceased member. A legatee or an heir is automatically admitted as a successor member or a member of the limited liability company under this subsection.

(e) If a personal representative is appointed under IC 29-1-10 for the estate of a deceased member described in subsection (c), the personal representative possesses and may exercise all rights and powers of the deceased member's interest before the interest of the deceased member is distributed to the deceased member's legatees or heirs under this section.

(f) An assignee who becomes a member:

- (1) has, to the extent assigned, the rights and powers and is subject to the restrictions and liabilities of a member under the articles of organization, any operating agreement, and this article; and**
- (2) is liable for any obligations of the member's assignor for unpaid contributions under IC 23-18-5-1 or for any wrongful distributions under IC 23-18-5-7.**



However, the assignee is not obligated for liabilities of which the assignee had no knowledge at the time the assignee became a member and that could not be ascertained from a written operating agreement.

~~(d)~~ **(g)** Whether or not an assignee of an interest becomes a member, the assignor is not released from the assignor's liability to the limited liability company for unpaid contributions under IC 23-18-5-1 or for any wrongful distributions under IC 23-18-5-7 that are solely a result of the assignment.

~~(e)~~ **(h)** Unless otherwise provided in a written operating agreement, a member who assigns the member's entire interest in the limited liability company ceases to be a member or to have the power to exercise any rights of a member.

SECTION 4. IC 23-18-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 5. (a) A person ceases to be a member of a limited liability company upon the occurrence of any of the following events:

- (1) The person withdraws from the limited liability company as provided in section 6 of this chapter.
- (2) The person ceases to be a member as provided in section ~~4(e)~~ **or 4.1(e) 4(h) or 4.1(h)** of this chapter.
- (3) The person is removed as a member:
 - (A) in accordance with the operating agreement; or
 - (B) unless otherwise provided in a written operating agreement, by the affirmative vote, approval, or consent of a majority in interest of the members after the member has assigned the member's entire interest in the limited liability company.
- (4) Unless otherwise provided in a written operating agreement or with the written consent of all other members, in the case of a member who is an individual, the individual's death.
- (5) Unless otherwise provided in a written operating agreement or with the written consent of all other members, in the case of a member who is acting as a member by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee.
- (6) Unless otherwise provided in a written operating agreement or with the written consent of all other members, in the case of a member that is a partnership, limited partnership, or another limited liability company, the dissolution and commencement of winding up of the partnership, limited partnership, or limited liability company.
- (7) Unless otherwise provided in a written operating agreement or



with the written consent of all other members, in the case of a member that is a corporation, the dissolution of the corporation.

(8) Unless otherwise provided in a written operating agreement or with the written consent of all other members, in the case of a member that is an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.

(b) A written operating agreement may provide for other events that result in a person ceasing to be a member of the limited liability company, including insolvency, bankruptcy, and adjudicated incompetency.

SECTION 5. IC 23-18-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. (a) Unless otherwise provided in a written operating agreement, a limited liability company existing under this article on or before June 30, 1999, is governed by this section.

(b) A limited liability company is dissolved and its affairs must be wound up on the first of the following to occur:

(1) At the time or on the occurrence of events specified in writing in the articles of organization or operating agreement.

(2) Written consent of all the members.

(3) **Except as provided in IC 23-18-6-4(c), upon the death of the member of a limited liability company that had one (1) member,** an event of dissociation occurs with respect to a member, unless the business of the limited liability company is continued by the consent of all the remaining members not more than ninety (90) days after the occurrence of the event or as otherwise provided in writing in the articles of organization or operating agreement.

(4) Entry of a decree of judicial dissolution under section 2 of this chapter.

SECTION 6. IC 23-18-9-1.1, AS AMENDED BY P.L.40-2013, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1.1. (a) A limited liability company formed under this article after June 30, 1999, is governed by this section.

(b) A limited liability company is dissolved and the limited liability company's affairs must be wound up when the first of the following occurs:

(1) At the time or on the occurrence of events specified in writing in the articles of organization or operating agreement.

(2) Subject to IC 23-18-4-4(a)(4)(A), for a limited liability company:

(A) formed under this article after June 30, 2013, the



unanimous consent of the members, unless a written operating agreement provides that dissolution may be authorized by the vote of members holding fewer than all the interests in the limited liability company or holding fewer than all interests in one (1) or more classes of members; or

(B) formed under this article after June 30, 1999, and before July 1, 2013, if there is:

- (i) one (1) class or group of members, written consent of two-thirds (2/3) in interest of the members; or
- (ii) more than one (1) class or group of members, written consent of two-thirds (2/3) in interest of each class or group of members.

(3) Entry of a decree of judicial dissolution under section 2 of this chapter.

(c) Except as provided in IC 23-18-6-4.1(c), upon the death of the member of a limited liability company that had one (1) member, a limited liability company is dissolved and the limited liability company's affairs must be wound up if there are no members. However, this subsection does not apply if, under a provision in the operating agreement, not more than ninety (90) days after the occurrence of the event that caused the last remaining member to cease to be a member, either:

(1) the personal representative of the last remaining member agrees in writing:

- (A) to continue the business of the limited liability company; and
- (B) to the admission of the personal representative or the personal representative's nominee or designee to the limited liability company as a member; or

(2) a member is admitted to the limited liability company in the manner provided for in the operating agreement specifically for the admission of a member to the limited liability company after the last remaining member ceases to be a member;

effective as of the time of the event that caused the last remaining member to cease to be a member.

SECTION 7. IC 29-1-5-8, AS AMENDED BY P.L.136-2018, SECTION 214, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 8. If after making a will the ~~testator is divorced,~~ **testator's marriage is dissolved or annulled,** all provisions in the will in favor of the testator's **former** spouse are revoked **as of the time of the dissolution or annulment of the marriage. The will provisions are reinstated if the testator**



remarries the former spouse. Annulment of the testator's marriage shall have the same effect as a divorce. With this exception, no written will, nor any part of the will, can be revoked by any change in the circumstances or condition of the testator.

SECTION 8. IC 29-1-10-1, AS AMENDED BY P.L.38-2023, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. (a) Domiciliary letters testamentary or domiciliary letters of general administration may be granted to one (1) or more of the persons mentioned in this subsection, natural or corporate, who are not disqualified, in the following order:

- (1) To the executor or executors designated in a will that has been admitted to probate.
- (2) To a surviving spouse who is a devisee in a will that has been admitted to probate.
- (3) To a devisee in a will that has been admitted to probate.
- (4) To the surviving spouse, or to the person or persons nominated by the surviving spouse or to the surviving spouse and the person or persons nominated by the surviving spouse.
- (5) To:
 - (A) an heir;
 - (B) the person or persons nominated by an heir; or
 - (C) an heir and the person or persons nominated by an heir.
- (6) If there is not a person listed in subdivisions (1) through (5), then to any other qualified person.

(b) **Except as provided in subsection (g)**, no person is qualified to serve as a domiciliary personal representative who is:

- (1) under eighteen (18) years of age;
- (2) incapacitated unless the incapacity is caused only by:
 - (A) physical illness;
 - (B) physical impairment; or
 - (C) physical infirmity;
- (3) a convicted felon, either under the laws of the United States or of any state or territory of the United States;
- (4) a resident corporation not authorized to act as a fiduciary in this state; or
- (5) a person whom the court finds unsuitable.

(c) A nonresident individual or corporate fiduciary may qualify and serve as a joint personal representative with a resident personal representative only by:

- (1) filing with the court that has jurisdiction of the administration of the decedent's estate a bond in an amount:
 - (A) not less than:



- (i) the probable value of the estate's personal property; plus
- (ii) the estimated rents and profits to be derived from the property in the estate during the probate period; and
- (B) not greater than the probable gross value of the estate; and

(2) otherwise meeting the qualifications of subsection (b).

If the court authorizes the joint personal representative to administer the estate without court supervision under IC 29-1-7.5, the court may exercise its discretion under IC 29-1-7.5-2.5(c) to increase, decrease, or waive the bond that the nonresident joint personal representative would otherwise be required to file under this subsection.

(d) A nonresident individual who otherwise qualifies under subsection (b) may qualify to serve as a personal representative in Indiana only by filing with the court that has jurisdiction of the administration of the decedent's estate:

- (1) notice in writing of the individual's acceptance of the appointment as personal representative;
- (2) notice of the appointment of a resident agent to accept service of process, notices, and other documents; and
- (3) a bond in an amount:

(A) not less than:

- (i) the probable value of the estate's personal property; plus
- (ii) the estimated rents and profits to be derived from the property in the estate during the probate period; and

(B) not greater than the probable gross value of the estate.

If the court authorizes the nonresident personal representative to administer the estate without court supervision under IC 29-1-7.5, the court may exercise its discretion under IC 29-1-7.5-2.5(c) to increase, decrease, or waive the bond that the nonresident personal representative would otherwise be required to file under subdivision (3).

(e) If a personal representative becomes a nonresident of this state, the representative remains qualified to serve only if the representative files with the court that has jurisdiction of the administration of the estate a bond in an amount:

(1) not less than:

- (A) the probable value of the estate's personal property; plus
- (B) the estimated rents and profits to be derived from the property in the estate during the probate period; and

(2) not greater than the probable gross value of the estate.

If the court previously authorized the personal representative to administer the estate without court supervision under IC 29-1-7.5, the court may exercise its discretion under IC 29-1-7.5-2.5(c) to increase,



decrease, or waive the bond that the nonresident personal representative would otherwise be required to file under this subsection.

(f) A nonresident individual who satisfies the conditions of subsection (d) or (e) submits personally to the jurisdiction of the court in any proceeding that relates to the estate of the decedent.

(g) A court may order that a convicted felon may serve as a domiciliary personal representative upon consideration of the following:

- (1) The amount of time that has elapsed since the person was convicted of a felony.**
- (2) The nature of the felony conviction.**
- (3) Whether the felony conviction is no longer a felony charge under current law.**
- (4) Whether the felony conviction has been expunged.**
- (5) Whether the person's felony conviction was acknowledged in the testator's will or in a consent signed by the distributees.**

SECTION 9. IC 29-1-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. (a) Except as provided in IC 29-1-7-7, all claims against a decedent's estate, other than expenses of administration and claims of the United States, the state, or a subdivision of the state, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or otherwise, shall be forever barred against the estate, the personal representative, the heirs, devisees, and legatees of the decedent, unless filed with the court in which such estate is being administered within:

- (1) three (3) months after the date of the first published notice to creditors; or
- (2) three (3) months after the court has revoked probate of a will, in accordance with IC 29-1-7-21, if the claimant was named as a beneficiary in that revoked will;

whichever is later.

(b) No claim shall be allowed which was barred by any statute of limitations at the time of decedent's death.

(c) No claim shall be barred by the statute of limitations which was not barred at the time of the decedent's death, if the claim shall be filed within:

- (1) three (3) months after the date of the first published notice to creditors; or
- (2) three (3) months after the court has revoked probate of a will, in accordance with IC 29-1-7-21, if the claimant was named as a beneficiary in that revoked will;



whichever is later.

(d) All claims barrable under subsection (a) shall be barred if not filed within nine (9) months after the death of the decedent.

(e) Nothing in this section shall affect or prevent any action or proceeding to enforce any mortgage, pledge, or other lien upon property of the estate.

(f) Nothing in this section shall affect or prevent the enforcement of a claim for injury to person or damage to property arising out of negligence against the estate of a deceased tortfeasor within the period of the statute of limitations provided for the tort action. A tort claim against the estate of the tortfeasor may be opened or reopened and suit filed against the special representative of the estate within the period of the statute of limitations of the tort. Any recovery against the tortfeasor's estate shall not affect any interest in the assets of the estate unless the suit was filed within the time allowed for filing claims against the estate. The rules of pleading and procedure in such cases shall be the same as apply in ordinary civil actions.

(g) A claim by the unit against a decedent's estate is forever barred unless:

(1) the unit files a claim in the court in which the decedent's estate is being administered; or

(2) the unit opens an estate for the decedent and files a claim against the decedent in the estate;

not later than one hundred twenty (120) days after the date of death of the decedent.

SECTION 10. IC 29-1-17-11, AS AMENDED BY P.L.41-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 11. (a) When two (2) or more distributees are entitled to distribution of an undivided interest in any real or personal property of the estate, distribution shall be made of undivided interests in the property unless the personal representative or one (1) or more of the distributees petition the court for partition not later than the hearing on the petition for final distribution. If a petition is filed, the court, after notice is given to all interested persons as the court directs, shall proceed in accordance with IC 32-17-4-2.5. With respect to personal property, the person who files for partition shall conduct a title search with the bureau of motor vehicles (if the personal property is titled) or a search for liens under the Uniform Commercial Code (if the personal property is not titled). The person shall file a copy of the results of the search with the court.

(b) If:

(1) a distribution of particular assets of a decedent is to be made



to two (2) or more distributees that are entitled to receive fractional shares in the assets; **and**

~~(2) the decedent's personal representative may, under an agreement among the distributees, chooses to distribute the particular assets without distributing to each distributee a pro rata share of each asset; However, the personal representative shall:~~

(1) the personal representative shall distribute to each distributee a pro rata share of the total fair market value of all the particular assets as of the date of distribution. and

~~(2) divide the assets in a manner that results in a fair and equitable division among the distributees of any capital gain or loss on the assets.~~

(c) The personal representative is not required to divide and distribute particular assets under subsection (b) based upon the potential gain or loss that the distributee would realize if the distributed assets were sold.

SECTION 11. IC 29-3-4-1.5, AS ADDED BY P.L.38-2023, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1.5. (a) A person may file a verified petition for the issuance of a confidential health disclosure order against a respondent health care provider that:

(1) has existing health or medical records in the possession or custody of the respondent health care provider that contain medical evidence of capacity or incapacity about an alleged incapacitated person; or

(2) may be able to create a report to summarize medical evidence of capacity or incapacity about an alleged incapacitated person.

(b) A verified petition filed under this section must state the following:

(1) The name, age, and residence address of the alleged incapacitated person.

(2) The name and address of any legal counsel that represents the alleged incapacitated person, which is known or reasonably available to the petitioner.

(3) The name and last known address of each person described in IC 29-3-6-1(a)(4)(A) through IC 29-3-6-1(a)(4)(D).

(4) Facts sufficient to establish that the following conditions are met:

(A) Any person alleges that the alleged incapacitated person requires the appointment of a guardian or limited guardian under this article.

(B) The alleged incapacitated person does not possess medical



evidence of capacity or incapacity sufficient to establish or rebut evidence that may be presented in a hearing for the appointment of a guardian under IC 29-3-5-1.

(C) The alleged incapacitated person cannot provide **or has refused to provide** written authorization under 45 CFR 164.508 for disclosure of medical evidence of capacity or incapacity about the alleged incapacitated person.

(D) No other person is able and willing to provide a written authorization under 45 CFR 164.502(g)(2) for the disclosure of medical evidence of capacity or incapacity about the alleged incapacitated person.

(E) The respondent health care provider possesses medical evidence of capacity or incapacity about the alleged incapacitated person and is not willing to disclose the medical evidence of capacity or incapacity without a written authorization under 45 CFR 164.508 or a court order under 45 CFR 164.512.

(5) The name and address of the respondent health care provider.

(6) A description of:

(A) the existing health or medical records or the type of existing health or medical records in the possession or custody of the respondent health care provider that contain medical evidence of capacity or incapacity about the alleged incapacitated person; or

(B) a narrative report sought from the respondent health care provider that would identify medical evidence of capacity or incapacity about the alleged incapacitated person.

A petition filed under this section is not a confidential case record. However, any protected health information contained within the petition must be excluded from the publicly filed document and must be filed as a confidential document under Rule 5(B) of the Indiana Rules on Access to Court Records.

(c) A verified petition under this section may be combined with any other petition for relief filed under this article, including a petition to establish a limited or full guardianship.

(d) If the court receives a verified petition that complies with the requirements of subsection (b), the court shall issue an order to set a hearing date. In the order setting the hearing date, the court shall do the following:

(1) Appoint an attorney or guardian ad litem to represent the alleged incapacitated person if the verified petition does not identify an attorney under subsection (b)(2).



(2) State that any person with an objection to a confidential health disclosure order being issued in response to a verified petition filed under this section shall file a written objection not later than ten (10) days prior to the hearing date set under subsection (e) or shall appear in person at the hearing to testify to the objection.

(e) In its discretion, the court shall set the hearing required under subsection (d) on a date that is as soon as practicable.

(f) Not later than three (3) business days after the court issues an order under subsection (d), the petitioner shall serve a copy of the verified petition and a copy of the order setting a hearing date, by first class mail, upon the following:

- (1) The respondent health care provider.
- (2) The alleged incapacitated person or the person having physical custody and care of the alleged incapacitated person.
- (3) The alleged incapacitated person's attorney described in subsection (b)(2) or the court appointed attorney or guardian ad litem appointed under subsection (d)(1).
- (4) Each individual identified in subsection (b)(3) of the verified petition.
- (5) Each respondent health care provider identified in subsection (b)(5) of the verified petition.
- (6) Any other person to whom the court directs that notice be served.

Any person who is entitled to receive notice under this subsection may waive the service of notice in writing.

(g) At the hearing, the petitioner has the burden of proving, by a preponderance of the evidence, that the conditions alleged in subsection (b)(4) are met. An individual entitled to receive notice under subsection (f) may present evidence at the hearing.

(h) If the court finds that the petitioner has proven that the conditions in subsection (b)(4) apply and it is in the best interest of the alleged incapacitated person to issue a confidential health disclosure order, it shall grant the verified petition and issue a confidential health disclosure order that requires the respondent health care provider to:

- (1) produce a copy of the alleged incapacitated person's medical records that contain medical evidence concerning the capacity or incapacity of the person; or
- (2) prepare a written narrative report for the court with a professional assessment of the capacity or incapacity of the alleged incapacitated person to make personal, financial, and health care decisions without substantial assistance and the suitability of less restrictive alternatives to a guardianship.



(i) A confidential health disclosure order issued by a court under this section is intended to comply with the standard in 45 CFR 164.512(e) for disclosure of protected health information in judicial proceedings.

(j) The respondent health care provider shall comply with the confidential health disclosure order and transmit the medical evidence of capacity or incapacity of the person described in subsection (h) to the court. Upon receipt of the respondent health care provider's response, the court shall:

(1) serve a copy of the medical records or medical report produced by the respondent health care provider to the alleged incapacitated person and the alleged incapacitated person's attorney or guardian ad litem, not more than five (5) days after receipt of the records; and

(2) determine, in the court's discretion, whether it is in the best interest of the alleged incapacitated person to disclose all or part of the medical records or medical report produced by the respondent health care provider to any other individual identified in the verified petition under subsection (b)(3).

To make a determination under subdivision (2) concerning whether the medical evidence of capacity or incapacity should be disclosed to any other individual, the court shall consider all material facts and circumstances stated in the filed pleadings and in any hearing record; medical evidence that contains a specific diagnosis of functional impairment of the alleged incapacitated person; and the likelihood that a limited guardianship or full guardianship may be warranted for the alleged incapacitated person in the current proceeding or a future proceeding under this article.

(k) Unless otherwise ordered by the court, the petitioner shall bear the costs and expenses incurred by the respondent health care provider to comply with the confidential health disclosure order.

(l) The record of:

(1) any court hearing held under this section;

(2) all exhibits entered during a hearing;

(3) all records or reports produced by a respondent health care provider in response to a confidential health disclosure order; and

(4) all written objections filed or entered as evidence in a proceeding under this section;

must be filed as a nonpublic document under Rule 5 of the Indiana Rules on Access to Court Records.

(m) Once any action filed under this article concerning the alleged incapacitated person has been fully adjudicated, every individual who



received any records in the course of those proceedings shall destroy all documents that contain medical evidence of capacity or incapacity about the individual alleged to be incapacitated.

SECTION 12. IC 30-4-1.5-12, AS ADDED BY P.L.40-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 12. Any interested person who ~~petitions or otherwise seeks to docket~~ **files a proceeding under this article regarding** an electronic trust instrument ~~under IC 30-4-6~~ may file ~~with the clerk of the court~~ a complete converted copy of the electronic trust instrument **with the clerk of the court under IC 30-4-6.**

SECTION 13. IC 30-4-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 15. (a) This section does not apply to a trust:

- (1) that is irrevocable on the date of a divorce or an annulment; or
- (2) created by:
 - (A) the settlor and the settlor's spouse or former spouse under a written agreement with each other that requires the creation of the trust; or
 - (B) a court order.

(b) If, after creating a revocable trust, the ~~settlor is divorced or the marriage of the settlor to the settlor's spouse is annulled, the settlor's former spouse shall for the purposes of the trust be treated as if the spouse had died before the settlor died.~~ **settlor's marriage is dissolved or annulled, all provisions in the revocable trust in favor of the settlor's former spouse are revoked as of the time of the dissolution or annulment of the marriage. The trust provisions are reinstated if the settlor remarries the former spouse.**

SECTION 14. IC 30-4-3-3, AS AMENDED BY P.L.137-2016, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. (a) Except as provided in the terms of the trust and subject to subsection (c), a trustee has the power to perform without court authorization, except as provided in sections 4(b) and 5(a) of this chapter, every act necessary or appropriate for the purposes of the trust including, by way of illustration and not of limitation, the following powers:

- (1) The power to:
 - (A) deal with the trust estate;
 - (B) buy, sell, or exchange and convey or transfer all property (real, personal, or mixed) for cash or on credit and at public or private sale with or without notice; and
 - (C) invest and reinvest the trust estate.
- (2) The power to receive additions to the assets of the trust.



- (3) The power to acquire an undivided interest in a trust asset in which the trustee, in any trust capacity, holds an undivided interest.
- (4) The power to manage real property in every way, including:
- (A) the adjusting of boundaries;
 - (B) erecting, altering, or demolishing buildings;
 - (C) dedicating of streets, alleys, or other public uses;
 - (D) subdividing;
 - (E) developing;
 - (F) obtaining vacation of plats;
 - (G) granting of easements and rights-of-way;
 - (H) partitioning;
 - (I) entering into party wall agreements; and
 - (J) obtaining title insurance for trust property.
- (5) The power to:
- (A) grant options concerning disposition of trust property, including the sale of covered security options; and
 - (B) take options for acquisition of trust property, including the purchase back of previously sold covered security options.
- (6) The power to enter into a lease as lessor or lessee, with or without option to renew.
- (7) The power to enter into arrangements for exploration and removal of minerals or other natural resources and enter into a pooling or unitization agreement.
- (8) The power to continue the operation or management of any business or other enterprise placed in trust.
- (9) The power to:
- (A) borrow money, to be repaid from trust property or otherwise; and
 - (B) encumber, mortgage, pledge, or grant a security interest in trust property in connection with the exercise of any power.
- (10) The power to:
- (A) advance money for the benefit of the trust estate and for all expenses or losses sustained in the administration of the trust; and
 - (B) collect any money advanced, without interest or with interest, at no more than the lowest rate prevailing when advanced.
- (11) The power to prosecute or defend actions, claims, or proceedings for the protection of:
- (A) trust property; and
 - (B) the trustee in the performance of the trustee's duties.



- (12) The power to:
- (A) pay or contest any claim;
 - (B) settle a claim by or against the trust by compromise or arbitration; and
 - (C) abandon or release, totally or partially, any claim belonging to the trust.
- (13) The power to insure the:
- (A) trust estate against damage or loss; and
 - (B) trustee against liability with respect to third persons.
- (14) The power to pay taxes, assessments, and other expenses incurred in the:
- (A) acquisition, retention, and maintenance of the trust property; and
 - (B) administration of the trust.
- (15) The power to:
- (A) vote securities, in person or by a general or special proxy;
 - (B) hold the securities in the name of a nominee if the trustee is a corporate trustee; and
 - (C) effect or approve, and deposit securities in connection with, any change in the form of the corporation, including:
 - (i) dissolution;
 - (ii) liquidation;
 - (iii) reorganization;
 - (iv) acquisition; and
 - (v) merger.
- (16) The power to employ persons, including:
- (A) attorneys;
 - (B) accountants;
 - (C) investment advisors; and
 - (D) agents;
- to advise and assist the trustee in the performance of the trustee's duties.
- (17) The power to effect distribution of property in cash, in kind, or partly in cash and partly in kind, in divided or undivided interests.
- (18) The power to execute and deliver all instruments necessary or appropriate to accomplishing or facilitating the exercise of the trustee's powers.
- (19) With respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or another form of business or enterprise, the power to:
- (A) continue the business or enterprise; and



- (B) take any action that may be taken by shareholders, members, or property owners, including:
- (i) merging;
 - (ii) dissolving; or
 - (iii) changing the form of business organization or contributing additional capital.
- (20) With respect to possible liability for violation of environmental law, the power to:
- (A) inspect or investigate property:
 - (i) the trustee holds or has been asked to hold; or
 - (ii) owned or operated by an organization in which the trustee holds an interest or has been asked to hold an interest;
 to determine the application of environmental law with respect to the property;
 - (B) take action to prevent, abate, or remedy an actual or potential violation of an environmental law affecting property held directly or indirectly by the trustee before or after the assertion of a claim or the initiation of governmental enforcement;
 - (C) decline to accept property into the trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;
 - (D) compromise claims against the trust that may be asserted for an alleged violation of environmental law; and
 - (E) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law.
- (21) The power to exercise elections with respect to federal, state, and local taxes.
- (22) The power to select a mode of payment under any employee benefit plan or retirement plan, annuity, or life insurance payable to the trustee and exercise rights under the plan, annuity, or insurance, including the right to:
- (A) indemnification:
 - (i) for expenses; and
 - (ii) against liabilities; and
 - (B) take appropriate action to collect the proceeds.
- (23) The power to make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee determines fair and reasonable under the circumstances. The trustee has a lien on future distributions for repayment of the loans.



(24) The power to pledge trust property to guarantee loans made by others to the beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances. The trustee has a lien on future distributions for repayment of the loans.

(25) The power to:

- (A) appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction;
- (B) confer on the appointed trustee all the appointing trustee's powers and duties;
- (C) require the appointed trustee to furnish security; and
- (D) remove the appointed trustee.

(26) With regard to a beneficiary who is under a legal disability or whom the trustee reasonably believes is incapacitated, the power to pay an amount distributable to the beneficiary by:

- (A) paying the amount directly to the beneficiary;
- (B) applying the amount for the beneficiary's benefit;
- (C) paying the amount to the beneficiary's guardian;
- (D) paying the amount to the beneficiary's custodian under IC 30-2-8.5 to create a custodianship or custodial trust;
- (E) paying the amount to an adult relative or another person having legal or physical care or custody of the beneficiary to be expended on the beneficiary's behalf, if the trustee does not know of a guardian, custodian, or custodial trustee; or
- (F) managing the amount as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution.

(27) The power to:

- (A) combine at least two (2) trusts into one (1) trust; or
 - (B) divide one (1) trust into at least two (2) trusts;
- after notice to the qualified beneficiaries, if the result does not impair the rights of any beneficiary or adversely affect achievement of the purposes of the trust.

(b) Any act under subsection (a)(4), an option under subsection (a)(5), a lease under subsection (a)(6), an arrangement under subsection (a)(7), and an encumbrance, mortgage, pledge, or security interest under subsection (a)(9) may be for a term either within or extending beyond the term of the trust.

(c) In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for any trust, the trustee thereof shall exercise the judgment and care required by IC 30-4-3.5. Within the limitations of the foregoing standard, the trustee is authorized to



acquire and retain every kind of property, real, personal, or mixed, and every kind of investment, including specifically, but without in any way limiting the generality of the foregoing, bonds, debentures, and other corporate obligations, stocks, preferred or common, and real estate mortgages, which persons of prudence, discretion, and intelligence acquire or retain for their own account, and within the limitations of the foregoing standard, the trustee is authorized to retain property properly acquired, without limitation as to time and without regard to its suitability for original purchase. Within the limitations of the foregoing standard, the trustee is authorized to sell covered security options and to purchase back previously sold covered security options.

(d) If a distribution of particular trust assets is to be made to two (2) or more beneficiaries entitled to receive fractional shares in those assets, the trustee:

(1) may distribute the particular assets without distributing to each beneficiary a pro rata share of each asset; ~~However, the trustee shall:~~

~~(1) (2) shall~~ distribute to each beneficiary a pro rata share of the total fair market value of all of the particular assets as of the date of distribution; and

~~(2) cause the distribution to result in a fair and equitable division among the beneficiaries of capital gain or loss on the assets.~~

~~(3) is not required to allocate and distribute particular assets based upon the potential gain or loss that the beneficiaries would realize if the particular assets were sold.~~

(e) If the trust is terminated or partially terminated, the trustee may send to the beneficiaries a proposal for distribution. If the proposal for distribution informs the beneficiary that the beneficiary:

(1) has a right to object to the proposed distribution; and

(2) must object not later than thirty (30) days after the proposal for distribution was sent;

the right of the beneficiary to object to the proposed distribution terminates if the beneficiary fails to notify the trustee of an objection within the time limit set forth in subdivision (2).

(f) When any real or personal property subject to a lien (as defined by IC 29-1-17-9(a)) is specifically distributable, the distributee shall take the property subject to the lien unless the terms of the trust provide expressly or by necessary implication that the lien be otherwise paid. If:

(1) an event occurs that makes the property distributable; and

(2) the holder of a lien on the property receives payment on a claim based upon the obligation secured by the lien;



the property subject to the lien shall be charged with the reimbursement to the trust of the amount of the payment for the benefit of the beneficiaries entitled to the distribution, unless the terms of the trust provide expressly or by necessary implication that the payment be charged against the residue of the trust estate.

(g) For purposes of subsection (f), a general directive or authority in the trust for payment of debts does not imply an intent that the distribution of property subject to a lien be made free from the lien.

(h) IC 32-39-2-8, IC 32-39-2-9, and IC 32-39-2-10 apply to the right of a trustee acting under a trust to access:

- (1) the content of an electronic communication (as defined in IC 32-39-1-6);
- (2) a catalogue of electronic communications (as defined in IC 32-39-1-5); or
- (3) any other digital asset (as defined in IC 32-39-1-10).

SECTION 15. IC 30-4-3-6, AS AMENDED BY P.L.56-2020, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 6. (a) The trustee has a duty to administer a trust according to the terms of the trust.

(b) Unless the terms of the trust or the provisions of section 1.3 of this chapter provide otherwise, the trustee also has a duty to do the following:

- (1) Administer the trust in a manner consistent with IC 30-4-3.5.
- (2) Take possession of and maintain control over the trust property.
- (3) Preserve the trust property.
- (4) Make the trust property productive for both the income and remainder beneficiary. As used in this subdivision, "productive" includes the production of income or investment for potential appreciation.
- (5) Keep the trust property separate from the trustee's individual property and separate from or clearly identifiable from property subject to another trust.
- (6) Maintain clear and accurate accounts with respect to the trust estate.
- (7) Except as provided in subsection (c), keep the following beneficiaries reasonably informed about the administration of the trust and of the material facts necessary for the beneficiaries to protect their interests:
 - (A) A current income beneficiary.
 - (B) A beneficiary who will become an income beneficiary upon the expiration of the term of the current income



beneficiary, if the trust has become irrevocable by:

- (i) the terms of the trust instrument; or
- (ii) the death of the settlor.

A trustee satisfies the requirements of this subdivision by providing a beneficiary described in clause (A) or (B), upon the beneficiary's written request, access to the trust's accounting and financial records concerning the administration of trust property and the administration of the trust.

(8) Upon:

(A) the trust becoming irrevocable:

- (i) by the terms of the trust instrument; or
- (ii) by the death of the settlor; and

(B) the written request of an income beneficiary or remainderman;

promptly provide a copy of the complete trust instrument to the income beneficiary or remainderman. This subdivision does not prohibit the terms of the trust from requiring the trustee to separately provide each beneficiary only the portions of the trust instrument that describe or pertain to that beneficiary's interest in the trust and the administrative provisions of the trust instrument that pertain to all beneficiaries of the trust.

(9) Take whatever action is reasonable to realize on claims constituting part of the trust property.

(10) Defend actions involving the trust estate.

(11) Supervise any person to whom authority has been delegated.

(12) Determine the trust beneficiaries by acting on information:

- (A) the trustee, by reasonable inquiry, considers reliable; and
- (B) with respect to heirship, relationship, survivorship, or any other issue relative to determining a trust beneficiary.

(c) The terms of a trust may expand, restrict, eliminate, or otherwise vary the right of a beneficiary to be informed of the beneficiary's interest in a trust for a period of time, including a period of time related to:

- (1) the age of the beneficiary;
- (2) the lifetime of a settlor or the spouse of a settlor;
- (3) a term of years or a period of time ending on a specific date;
- or
- (4) a specific event that is certain to occur.

(d) During any period of time that the trust instrument restricts or eliminates the right of a beneficiary to be informed of the beneficiary's interest in a trust, a designated representative for the beneficiary:

- (1) shall represent that beneficiary and bind that beneficiary's



interests for purposes of any ~~judiciary~~ **judicial** proceeding or nonjudicial matter involving the trust unless the court finds, after a hearing upon notice, that a conflict of interest exists between the beneficiary and the designated representative;

(2) has the authority to initiate or defend and participate in any proceeding relating to the trust under this article or under IC 30-2 on behalf of the beneficiary; and

(3) shall not disclose to the beneficiary the information provided by the trustee unless the court orders disclosure or the trustee agrees to the disclosure.

An alleged conflict of interest between a beneficiary and the beneficiary's designated representative may be asserted to the court by the beneficiary whose right to be informed of the beneficiary's interest in a trust is restricted or eliminated in the trust instrument or by any other person authorized to represent and bind that beneficiary's interest under IC 30-4-6-10.5.

(e) If:

(1) a beneficiary is an adult and has not been adjudicated to be an incapacitated person;

(2) the trust instrument restricts or eliminates the right of the beneficiary to be informed of the beneficiary's interest in a trust; and

(3) the beneficiary discovers material information about the beneficiary's interest in the trust from sources other than the trustee;

subsections (c) and (d) do not prohibit the beneficiary from demanding or petitioning for an accounting or statement regarding the trust under IC 30-4-5-12(c), from receiving a copy of all relevant portions of the trust instrument, or from demanding and receiving, under subsection (b)(7), other information about the trust and its administration that is consistent with the content and scope of the information that the beneficiary received from sources other than the trustee. The beneficiary may also initiate and participate in any proceeding against or with the trustee under this chapter.

SECTION 16. IC 30-4-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. After a compromise is executed, an interested person may ~~docket the trust and~~ submit the following documents to the court for the court's approval:

(1) The agreement executed under section 6 of this chapter.

(2) A copy of the trust instrument **filed under IC 30-4-6.**

(3) Any other relevant documents.

SECTION 17. IC 30-5-3-3 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. (a) Except as provided in subsection (b), an attorney in fact may act under a power of attorney, **including executing an instrument on the principal's behalf under IC 30-5-8-8**, without recording the power of attorney with the county recorder.

(b) An attorney in fact shall record the power of attorney authorizing the execution of a document that must be recorded before presenting the document for recording.

(c) A county recorder may not accept a document for recording if the document:

- (1) was executed; and
- (2) is presented;

by an attorney in fact whose power of attorney is unrecorded.

(d) **Except as provided in subsection (e)**, a document creating a power of attorney must comply with recording requirements, including notary and preparation statements, to be recorded under this section.

(e) An original document that created a power of attorney or a copy of the document that created the power of attorney may be recorded under this section if:

- (1) the original document was executed by the principal in accordance with IC 30-5-4-1(a)(4)(B) or IC 30-5-11-4(a)(2); and**
 - (2) a proof (as defined in IC 32-21-2-1.7) that:**
 - (A) is signed by at least one (1) of the attesting witnesses; and**
 - (B) complies with IC 33-42;**
- is attached to the original document or the copy.**

(f) A document that is presented by an attorney in fact for recording must reference the book and page or instrument number where the instrument creating the power of attorney is recorded before the document may be presented by the attorney in fact.

SECTION 18. IC 30-5-8-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 8. (a) This section applies to an instrument executed under this article by an attorney in fact on a principal's behalf.**

(b) As used in this section, "agent" has the same meaning as "attorney in fact" as defined in IC 30-5-2-2.

(c) A principal's power of attorney may authorize an attorney in fact to execute an instrument on the principal's behalf if a statement appears:

- (1) above;**
- (2) beside; or**



- (3) below;
the attorney in fact's signature.
- (d) A statement under subsection (c) must:
- (1) identify the principal; and
 - (2) indicate that the attorney in fact is acting as the principal's agent under the power of attorney.
- (e) Any of the following example signature formats comply with this section and indicate that the attorney in fact is acting as the principal's agent under the power of attorney:
- (1) Attorney in fact's signature
(Principal's name) by (attorney in fact's name), agent
 - (2) Principal's signature signed by the attorney in fact
(Principal's name) by (attorney in fact's name), POA
 - (3) Attorney in fact's signature
(Principal's name) by (attorney in fact's name), AIF
 - (4) Principal's printed name
Attorney in fact's signature
By: (Attorney in fact's name), as attorney in fact
 - (5) Principal's printed name
Attorney in fact's signature
By: (Attorney in fact's name), agent
 - (6) Principal's printed name
Attorney in fact's signature
By: (Attorney in fact's name), POA
 - (7) Principal's printed name
Attorney in fact's signature
By: (Attorney in fact's name), AIF

The examples listed in this subsection are not an exhaustive list.

(f) If an attorney in fact executes a deed or other instrument that must be recorded in the office of a county recorder, the instrument may incorporate by reference part or all of the principal's power of attorney that was previously recorded under IC 30-5-3-3.

SECTION 19. IC 32-17-14-11, AS AMENDED BY HEA 1034-2024, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 11. (a) A transfer on death deed transfers the interest provided to the beneficiary if the transfer on death deed is:

- (1) executed by the owner or owner's legal representative; and
 - (2) recorded with the recorder of deeds in the county in which the real property is situated before the death of the owner.
- (b) A transfer on death deed is void if it is not recorded with the



recorder of deeds in the county in which the real property is situated before the death of the owner.

(c) A transfer on death deed is not required to be supported by consideration or delivered to the grantee beneficiary.

(d) A transfer on death deed may be used to transfer an interest in real property to either a revocable or an irrevocable trust.

(e) If the owner records a transfer on death deed, the effect of the recording the transfer on death deed is determined as follows:

(1) If the owner's interest in the real property is as a tenant by the entirety, the conveyance is inoperable and void unless the other spouse joins in the conveyance.

(2) If the owner's interest in the real property is as a joint tenant with rights of survivorship, the conveyance severs the joint tenancy and the cotenancy becomes a tenancy in common.

(3) If the owner's interest in the real property is as a joint tenant with rights of survivorship and the property is subject to a beneficiary designation, a conveyance of any joint owner's interest has no effect on the original beneficiary designation for the nonsevering joint tenant.

(4) If the owner's interest is as a tenant in common, the owner's interest passes to the beneficiary as a transfer on death transfer.

(5) If the owner's interest is a life estate determined by the owner's life, the conveyance is inoperable and void.

(6) If the owner's interest is any other interest, the interest passes in accordance with this chapter and the terms and conditions of the conveyance establishing the interest. If a conflict exists between the conveyance establishing the interest and this chapter, the terms and conditions of the conveyance establishing the interest prevail.

(f) A beneficiary designation in a transfer on death deed may be worded in substance as "(insert owner's name) conveys and warrants (or quitclaims) to (insert owner's name), TOD to (insert beneficiary's name)". This example is not intended to be exhaustive.

(g) A transfer on death deed using the phrase "pay on death to" or the abbreviation "POD" may not be construed to require the liquidation of the real property being transferred.

(h) This section does not preclude other methods of conveying real property that are permitted by law and have the effect of postponing enjoyment of an interest in real property until after the death of the owner. This section applies only to transfer on death deeds and does not invalidate any deed that is otherwise effective by law to convey title to the interest and estates provided in the deed.



(i) The endorsement of the **county** auditor under IC 36-2-11-14 **and IC 36-2-9-18** is **not** necessary to record a transfer on death deed **under this section**.

(j) For a transfer on death deed executed after December 31, 2024, the transfer on death deed may include the following warning:

"WARNING: After the death of the owner, the owner's insurance policy is required by IC 27-1-13-18 to cover the real property transferred for a period of time as set forth in IC 27-1-13-18(e) and IC 27-1-13-18(f). Once the period of time as set forth in IC 27-1-13-18(e) and IC 27-1-13-18(f) expires, the insurance policy may no longer cover the real property and the beneficiary of a transfer on death deed and the real property may become uninsured."

A transfer on death deed is not invalid due to the failure to include the warning described in this subsection, or due to a defect in the wording of the warning described in this subsection.

SECTION 20. IC 32-17-14-13, AS ADDED BY P.L.143-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 13. (a) ~~A transferor~~ **An owner** of property, with or without consideration, may execute a written instrument directly transferring the property to **one (1) or more individuals** as a ~~transferee~~ **grantee** to hold as owner in beneficiary form. **Any grantee may be an individual different from or in addition to the owner who executes the instrument.**

(b) A ~~transferee~~ **grantee** under an instrument described in subsection (a) is considered the owner of the property for all purposes and has all the rights to the property provided by law to the owner of the property, including the right to revoke or change the beneficiary designation.

(c) A direct transfer of property to a ~~transferee~~ **grantee** to hold as owner in beneficiary form is effective when the written instrument perfecting the transfer becomes effective to make the ~~transferee~~ **grantee** the owner.

(d) **A beneficiary designation in an instrument described in subsection (a) may be worded in substance as "(insert owner's name) conveys and warrants (or quitclaims) to (insert grantee's name(s)), TOD to (insert beneficiary's name)". This example is not intended to be exhaustive.**

(e) **A beneficiary designation in an instrument described in subsection (a) is void if the instrument:**

- (1) conveys real property; and
- (2) is not recorded with the recorder of deeds in the county in



which the real property is situated before the grantee's death.

(f) An instrument described in subsection (a) is effective to convey title to the grantee regardless of whether a beneficiary designation is void under subsection (e).

(g) If an instrument described in subsection (a) conveys real property, the endorsement of the county auditor under IC 36-2-11-14 and IC 36-2-9-18 is necessary to record the instrument.

SECTION 21. IC 32-21-1-14, AS AMENDED BY P.L.185-2021, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 14. A conveyance of land by an attorney in fact ~~(as defined in IC 30-5-2-2)~~ **under IC 30-5-3-3** is not ~~good effective~~ unless the attorney in fact is empowered ~~by~~ **to make the conveyance under** a power of attorney ~~(as defined in IC 30-5-2-7)~~ that:

- (1) is executed or signed by the principal (as defined in IC 30-5-2-8); and
- (2) has an acknowledgment (as defined in IC 33-42-0.5-2) or a proof (as defined in and permitted under IC 32-21-2).

SECTION 22. IC 32-21-2-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 16. (a) A county recorder shall include a cross-reference concerning a previously recorded document if:**

- (1) the person presenting the document for recording has made a request to the county recorder for a cross-reference between the document being recorded and a previously recorded document; and**
- (2) the front page of the document to be recorded contains a cross-reference to a previously recorded document.**

(b) The requirements of subsection (a) do not apply to the following:

- (1) A reference required in an affidavit under IC 29-1-7-23 to a previously recorded deed or other instrument.**
- (2) A reference required in a document under IC 30-5-3-3 to a previously recorded power of attorney.**
- (3) A reference required in an affidavit under IC 32-17-14-26 to a previously recorded transfer on death deed.**
- (4) A reference required in an easement under IC 32-23-2-5 to a recorded plat or a recorded deed of record.**
- (5) A reference required in an affidavit of service of notice under IC 32-28-13-7 to a statement of intention to hold a common law lien.**



(6) A reference required in an affidavit of service of notice under IC 32-28-14-9 to a homeowners association lien.

(7) A reference required in a document under a statute or county ordinance to a previously recorded document.

SECTION 23. IC 36-2-9-18, AS AMENDED BY P.L.26-2022, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 18. (a) Before the auditor makes the endorsement required by IC 36-2-11-14, the auditor may require that a tax identification number identifying the affected real property be placed on an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or a lien on real property. The tax identification number may be established by the auditor with the approval of the state board of accounts. If the tax identification number is affixed to the instrument or if a tax identification number is not required, the auditor shall make the proper endorsement on demand.

(b) On request, a county auditor shall provide assistance in obtaining the proper tax identification number for instruments subject to this section.

(c) The tax administration number established by this section is for use in administering statutes concerning taxation of real property and is not competent evidence of the location or size of the real property affected by the instrument.

(d) ~~After December 31, 2023;~~ A county auditor may not refuse to endorse a deed or instrument **under this section as** required by IC 36-2-11-14 because the deed or instrument is:

(1) an electronic document; or

(2) made under IC 32-17-14.

(e) The legislative body of a county shall adopt an ordinance requiring the auditor to collect a fee in the amount of ten dollars (\$10) for each:

(1) deed; or

(2) legal description of each parcel contained in the deed;

for which the auditor makes a real property endorsement. This fee is in addition to any other fee provided by law. The auditor shall place the revenue received under this subsection in a dedicated fund for use in maintaining property tax records, in traditional or electronic format.

SECTION 24. IC 36-2-11-14, AS AMENDED BY P.L.106-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 14. (a) The recorder may record:

(1) a deed of partition;

(2) a conveyance of land; ~~or~~

(3) an affidavit of transfer to real estate; **or**



(4) a deed or instrument made under IC 32-17-14;
only if it has been endorsed by the auditor of the proper county as "duly entered for taxation subject to final acceptance for transfer", "not taxable", or "duly entered for taxation" as provided by IC 36-2-9-18.

(b) A county auditor may not refuse to endorse a deed or instrument under IC 36-2-9-18 as required by this section because the deed or instrument is made under IC 32-17-14.

~~(b)~~ **(c)** A recorder who violates this section shall forfeit the sum of five dollars (\$5), to be recovered by an action in the name of the county, for the benefit of the common school fund.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

