

HOUSE BILL NO. 39

ALASKA PROBATE CODE

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1 IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL

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HOUSE BILL NO. 39

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act codifying and revising the state law relating to probate; providing a comprehensive probate code; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 13 is amended by adding new chapters to read:

CHAPTER 6. WILLS.

ARTICLE 1. EXECUTION.

Sec. 13.06.010. WHO MAY EXECUTE A WILL. A person of sound mind may make a will if he

- (1) has attained the age of 19 years,
- (2) is or has been lawfully married, or
- (3) is a member of the armed forces of the United States or of its auxiliaries or of the maritime service.

Sec. 13.06.020. EXECUTION OF A WILL. A will, other than a holographic or nuncupative will, is valid only if signed by the testator and at least two witnesses as follows:

- (1) The testator signifies to the attesting witnesses that the instrument is his will and either
 - (A) himself sign, or
 - (B) acknowledge his signature already made, or
 - (C) at his direction and in his presence have someone else sign his name for him, and
 - (D) in all of these cases the act must be done in the presence of two or more attesting witnesses.

1 (2) The attesting witnesses sign

2 (A) in the presence of the testator, and

3 (B) in the presence of each other.

4 Sec. 13.06.030. WHO MAY WITNESS. (a) A person competent to be
5 a witness generally in this state may act as attesting witness to a
6 will.

7 (b) No will is invalid because it was attested by an interested
8 witness but an interested witness, unless the will is also attested by
9 two disinterested witnesses, forfeits so much of the provisions made
10 for him in the will as in the aggregate exceeds in value, as of the
11 date of the testator's death, what he would have received had the
12 testator died intestate.

13 (c) The witness is allowed and may be compelled to appear and
14 give testimony as if no bequest had been made to him.

15 Sec. 13.06.040. HOLOGRAPHIC WILL. No attesting witness to a
16 holographic will is necessary, but the will is valid only if the sig-
17 nature and all its material provisions are in the handwriting of the
18 testator.

19 Sec. 13.06.050. EXTENT OF TESTAMENTARY POWER. (a) A person
20 competent to make a will may devise and bequeath all interests, estates
21 and property, real or personal, tangible or intangible, which he has,
22 subject to the limitations prescribed by law.

23 (b) All interests, estates and property, real or personal,
24 tangible or intangible, acquired by the testator after the making of
25 his will, may pass by will in like manner as if title was vested in him
26 at the time of making the will, unless the contrary appears by the will
27 to have been the intention of the testator.

28 Sec. 13.06.060. LIMITATION ON TESTAMENTARY POWER. If the will
29 of a testator gives, devises, or bequeaths the testator's estate, or

1 any part of it, to a religious purpose, or to persons, municipal cor-
2 porations, or associations in trust for a religious purpose, whether
3 the trust appears on the face of the instrument making the gift, de-
4 vise, or bequest or not, the will as to the gift, devise, or bequest
5 is valid unless it was executed within six months of the death of the
6 testator, and in fear of imminent death.

7 Sec. 13.06.070. NUNCUPATIVE WILL. (a) A nuncupative will may
8 be made only by a person in imminent peril of death, whether from
9 illness or otherwise. It is valid only if the testator died as a re-
10 sult of the impending peril and the will is

11 (1) declared to be his will by the testator before two
12 disinterested witnesses;

13 (2) reduced to writing by or under the direction of one of
14 the witnesses within 30 days after the declaration; and

15 (3) proved within six months after the speaking of the
16 testamentary words.

17 (b) The nuncupative will may dispose of property of an aggregate
18 value not exceeding \$10,000.

19 ARTICLE 2. REVOCATION.

20 Sec. 13.06.090. REVOCATION OF WRITTEN WILL. A written will or a
21 part of a written will may be revoked

22 (1) by a valid written will; or

23 (2) by being burnt, torn, cancelled, obliterated, or des-
24 troyed with the intent and for the purpose of revoking the will by the
25 testator himself or by another person in the testator's presence and
26 by his direction. If the act is done by a person other than the
27 testator, the act is effective only if at the direction of the testator
28 and the facts of the revocation are proved by two witnesses.

29 Sec. 13.06.100. REVOCATION OF NUNCUPATIVE WILL. A nuncupative

1 will or a part of the will may be revoked by any other will.

2 **Sec. 13.06.110. CONDITIONAL REVOCATION.** If a testator revokes a
3 will with a present intention of making a new will immediately and as
4 a substitute, and the new will is not made, or if made, fails of ef-
5 fect for any reason, the revocation of the first will is not effective
6 in the absence of evidence showing the testator would have preferred
7 intestacy to the provisions of the old will.

8 **Sec. 13.06.120. CHANGE IN CIRCUMSTANCES BY DIVORCE.** If, after
9 making a will, the testator is divorced, all provisions in the will in
10 favor of the testator's divorced spouse or appointing the spouse to a
11 fiduciary capacity under the will with respect to the estate or with
12 respect to the estate or person of the testator's children, are re-
13 voked. With this exception, no written will or part of a written will
14 is revoked by any change in the circumstances or condition of the
15 testator.

16 **Sec. 13.06.130. REVIVAL OF REVOKED OR INVALID WILL.** No will, or
17 part of a will, which is revoked or which is invalid, may be revived
18 other than by a re-execution of the will, or by the execution of
19 another will in which the revoked or invalid will or a part of it is
20 incorporated by reference.

21 **ARTICLE 3. TAKING AGAINST THE WILL.**

22 **Sec. 13.06.150. WHEN SURVIVING SPOUSE MAY ELECT TO TAKE AGAINST**
23 **THE WILL.** When a married person dies testate as to any part of his
24 estate, a right of election is given to the surviving spouse solely
25 under the following limitations and conditions:

26 (1) The surviving spouse may elect to receive (A) the share
27 in the estate that would have passed to him had the testator died
28 intestate, up to the amount of \$5,000, and (B) one-half of the amount
29 by which the full intestate share exceeds \$5,000.

1 (2) When a surviving spouse elects to take against the will,
2 he is considered to take by descent, as a modified share, the part of
3 the net estate which comes to him under the provisions of this section.

4 Sec. 13.06.160. GIFT IN FRAUD OF MARITAL RIGHTS. (a) A gift
5 made by a person, whether dying testate or intestate, in fraud of the
6 marital rights of his surviving spouse to share in his estate, may be
7 treated by the surviving spouse as a testamentary disposition and may
8 be recovered from the donee and persons taking from him without ade-
9 quate consideration by the personal representative, and applied to the
10 payment of the spouse's share, as in the case of his election to take
11 against the will.

12 (b) Gifts made by a married person two years or more before the
13 time of his death are valid. Gifts made by a married person within
14 two years of the time of his death are valid unless the gifts are made
15 with the intention of depriving the spouse of property which the spouse
16 would otherwise receive under this title.

17 Sec. 13.06.170. NOTICE OF RIGHT TO ELECT. Immediately after the
18 will of a married person is admitted to probate, the clerk of the court
19 shall give notice to the testator's surviving spouse, informing him of
20 the date before which a written election must be filed by or on behalf
21 of the surviving spouse in order to take against the will.

22 Sec. 13.06.180. TIME LIMITATION FOR FILING ELECTION. The elec-
23 tion by a surviving spouse to take the share provided may be made at
24 any time within 18 days after the expiration of the time limit for the
25 filing of claims. If, at the expiration of the period for making the
26 election, litigation is pending to determine any matter of law or fact
27 which would affect the amount of the share to be received by the
28 surviving spouse, the right of the surviving spouse to make an elec-
29 tion is not barred until the expiration of one month after the final

1 determination of the litigation.

2 **Sec. 13.06.190. RIGHT OF ELECTION PERSONAL TO SURVIVING SPOUSE.**
3 The right of election of the surviving spouse is personal to him. It
4 is not transferable and cannot be exercised subsequent to his death;
5 but if the surviving spouse is incompetent, the court may order the
6 guardian of his estate to elect for him.

7 **Sec. 13.06.200. ELECTION NOT SUBJECT TO CHANGE.** An election by
8 or on behalf of a surviving spouse once made is binding and is not sub-
9 ject to change except for the causes which would justify an equitable
10 decree for the rescision of a deed.

11 **Sec. 13.06.210. WAIVER OF RIGHT TO ELECT.** The right of election
12 of a surviving spouse may be waived before or after marriage by a
13 written contract, agreement, or waiver signed by the party waiving the
14 right of election, after full disclosure of the nature and extent of
15 the right if the thing or the promise given to the waiving party is a
16 fair consideration under all the circumstances. This written contract,
17 agreement, or waiver may be filed in the same manner as provided for
18 the filing of an election.

19 **Sec. 13.06.220. PRETERMITTED CHILDREN.** (a) When a testator
20 fails to provide in his will for any of his children born or adopted
21 after the making of his last will, the child, whether born before or
22 after the testator's death, receives a share in the net estate of the
23 testator equal in value to that which he would have received if the
24 testator had died intestate, unless it appears from the will that the
25 omission was intentional.

26 (b) If at the time of making his will the testator believes any
27 of his children are dead, and fails to provide for the child in his
28 will, the child receives a share in the net estate of the testator
29 equal in value to that which he would have received if the testator

1 had died intestate, unless it appears from the will or from other
2 evidence that the testator would not have devised anything to the
3 child had he known that the child was alive.

4 (c) In this section "net estate" means the estate remaining
5 after the amount devised to the surviving spouse has been deducted.

6 **ARTICLE 4. MISCELLANEOUS PROVISIONS.**

7 **Sec. 13.06.240. FAILURE OF TESTAMENTARY PROVISIONS BY LAPSE OR**
8 **OTHERWISE. (a)** If a devise of property not included in a residuary
9 clause of the will is void, revoked, or lapses, it becomes part of the
10 residue, and passes to the residuary devisee, unless a contrary intent
11 is indicated by the terms of the will.

12 (b) When an estate is devised to a relative of the testator, and
13 the devisee dies before the testator leaving lineal descendants, the
14 devise does not lapse by reason of the death, but the estate devised or
15 bequeathed vests in the lineal descendants of the devisee in the same
16 manner as if he had survived the testator and died intestate.

17 (c) When a devise is to a class and a member of the class dies
18 before the testator and there is no provision in the will for that
19 contingency, the members of the class who survive the testator take
20 the share which the deceased member would have taken had he survived
21 the testator. But, if the deceased member of the class is a relative
22 within the third degree of kindred, computed by the civil law, or an
23 adopted child, the descendants of the deceased member take per stirpes
24 the share which the deceased member would have taken had he survived
25 the testator.

26 **Sec. 13.06.250. RENUNCIATION BY HEIR OR DEVISEE.** An heir or
27 devisee may renounce the succession to the property of the decedent,
28 but the renunciation is subject to the rights of all creditors of the
29 heir or devisee. In case of an effective renunciation by the heir,

1 the property descends as if he had died before the decedent.

2 **Sec. 13.06.260. FOREIGN EXECUTION OR REVOCATION.** A will exe-
3 cuted or revoked outside this state in a manner prescribed by this
4 title or a written will executed or revoked outside this state in a
5 manner prescribed by the law of the place of its execution or revoca-
6 tion or by the law of the testator's domicile at the time of his death,
7 has the same force and effect in this state as if executed or revoked
8 in this state in compliance with the provisions of this title.

9 **Sec. 13.06.270. DEVISE TO TRUSTEE OF INTER-VIVOS TRUST.** (a) A
10 devise may be made to the trustee of a written trust established by
11 the testator or any other person before or concurrently with the exe-
12 cution of the will or to a trust to be established in writing at a
13 future date. A future trust instrument or amendment to it shall be
14 signed by the settlor.

15 (b) Unless the will provides otherwise, the property devised or
16 bequeathed is not considered held under a testamentary trust of the
17 testator but becomes a part of the principal of the trust to which it
18 is given to be administered and disposed of in accordance with the
19 provisions of the instrument establishing the trust and any amendment
20 to it.

21 (c) An entire revocation of the trust before the testator's death
22 invalidates the devise or bequest unless the will directs otherwise.

23 **Sec. 13.06.280. DEPOSIT OF WILL WITH COURT DURING TESTATOR'S**
24 **LIFETIME.** (a) A will may be deposited by the person making it, or by
25 some person for him, with a clerk of the superior court. Before
26 accepting a will for deposit, the clerk may require proof satisfactory
27 to him concerning the testator's identity and residence. The adminis-
28 trative director of courts shall establish regulations governing the
29 deposit of the will, including prescription of a reasonable fee for

1 deposit.

2 (b) During the lifetime of the testator a will so deposited.
3 shall be delivered only to the testator or to another person authorized
4 by him by his written order.

5 (c) Upon presentation of convincing proof of the death of the
6 testator, the clerk shall notify the person or persons named on the
7 endorsement of the wrapper of the will that the will is on deposit at
8 his office. Upon request, he shall deliver the will to the named per-
9 son or persons. If no qualified person requests the delivery of the
10 will within 14 days after the giving of notice, or if the will does not
11 specify on the wrapper the person to whom it shall be delivered, the
12 clerk shall open the wrapper and inspect the will. If an executor is
13 named in the will, the clerk shall notify the executor that the will
14 is on deposit, and upon receipt of request, the clerk shall deliver the
15 will to the person named as executor. If no executor is named in the
16 will, or if the person so named is deceased, or fails to take the will
17 within 14 days after notice is given, the clerk shall give notice to
18 the devisees named in the will that the will is on deposit, and upon
19 request, the clerk shall deliver the will to any or all the devisees.

20 (d) These provisions for the depositing of a will during the
21 lifetime of a testator are solely for the purpose of providing a safe
22 and convenient repository for a will, and no will which has been de-
23 posited shall be treated for purposes of probate any differently from
24 a will that has not been deposited.

25 **CHAPTER 11. DESCENT AND DISTRIBUTION.**

26 **Sec. 13.11.010. GENERAL RULES OF DESCENT.** The net estate of a
27 person who has died intestate descends and is distributed as follows:

28 (1) The surviving spouse receives the following share:

29 (A) one-half of the net estate if the intestate is

1 survived by issue; or

2 (B) the first \$5,000 and one-half of the remainder of
3 the net estate, if there is no surviving issue, but the intestate
4 is survived by one or more of his parents, or of his brothers,
5 sisters or their issue; or

6 (C) all of the net estate, if there is no surviving
7 issue or parent or issue of a parent.

8 (2) The share of the net estate not distributable to the
9 surviving spouse, or the entire net estate if there is no surviving
10 spouse, descends and is distributed as follows:

11 (A) To the issue of the intestate; if they are all in
12 the same degree of kinship to the intestate, they take equally,
13 or if of unequal degree, then those of more remote degrees take
14 by representation.

15 (B) If there is no surviving issue of the intestate,
16 then to the surviving parents, brothers and sisters and the issue
17 of deceased brothers and sisters of the intestate. Each living
18 parent of the intestate is treated as of the same degree as a
19 brother or sister and is entitled to the same share as a brother
20 or sister. Issue of deceased brothers and sisters take by repre-
21 sentation.

22 (C) If there is no surviving issue, or parent or
23 brother or sister of the intestate, then to the issue of brothers
24 and sisters. If these distributees are all in the same degree of
25 kinship to the intestate, they take equally, or if of unequal
26 degree, then those of more remote degrees take by representation.

27 (D) If there is no surviving issue, or parent of the
28 intestate, or issue of a parent, then to the surviving grand-
29 parents of the intestate equally.

1 (E) If there is no surviving issue, or parent, or is-
2 sue of a parent, or grandparent of the intestate, then to the
3 issue of deceased grandparents. If these distributees are all in
4 the same degree of kinship to the intestate, they take equally,
5 or if of unequal degree, then those of more remote degree take by
6 representation.

7 (F) If there is no surviving issue, or parent, or
8 issue of a parent, or grandparent, or issue of a grandparent,
9 then to the next of kin in the nearest degree of kinship to the
10 intestate per capita without representation.

11 (G) If there is no person mentioned in (A) - (F) of
12 this subsection, then to the State of Alaska.

13 (3) "Representation" means the method of determining dis-
14 tribution when the takers are not in equal degrees of kinship with
15 respect to the intestate. Takers by representation are determined as
16 follows:

17 (A) The estate is divided into equal shares, one for
18 each living person in the nearest degree of kinship and one for
19 each person in the nearest degree who died before the intestate,
20 but who left issue surviving.

21 (B) Each share of a deceased person in the nearest
22 degree is in turn divided in the same manner among his surviving
23 children and the issue of his children who have died leaving issue
24 who survive the intestate.

25 (C) This division shall continue until each portion
26 falls to a living person. All distributees except those in the
27 nearest degree are said to take by representation.

28 (4) The degrees of kindred are computed according to rules
29 of the civil law; that is, by counting upward from the intestate to

1 the nearest common ancestor and then downward to the relative, the
2 degree of kinship being the sum of these two counts.

3 Sec. 13.11.020. MATTERS AFFECTING AND NOT AFFECTING THE RIGHT TO
4 INHERIT. (a) Descendants and other relatives of the intestate, con-
5 ceived before his death but born thereafter, inherit as if they had
6 been born in the lifetime of the intestate and survived him. With this
7 exception, the descent and distribution of intestate estates is deter-
8 mined by the relationships existing at the time of the death of the
9 intestate.

10 (b) Kindred of the half blood inherit the same share which they
11 would have inherited if they had been of the whole blood.

12 (c) For the purpose of inheritance to, through, and from an
13 adopted child, the child shall be treated as if he were the natural
14 child of his adopting parents, and ceases to be treated as the child of
15 his natural parents for purposes of intestate succession.

16 (d) For the purpose of inheritance to, through, and from an
17 illegitimate child, the child is treated the same as if he were the
18 legitimate child of his natural parents, and inherits from his natural
19 parents and from their kindred, lineal and collateral, in the same
20 manner as if he had been born in lawful wedlock.

21 (e) A person who wilfully and unlawfully takes or procures to be
22 taken the life of a person is considered to have predeceased the
23 decedent as to property which would have passed from the estate of the
24 decedent to the slayer under the statutes of descent and distribution.

25 (f) The fact that a person is an alien does not affect the pas-
26 sage of property to or through him by the statutes of descent and
27 distribution.

28 (g) A person who is related to the Intestate through two lines
29 of relationship, though under either one alone he might claim as next

1 of kin, is nevertheless entitled to only one share which shall be the
2 share based on the relationship which would entitle him to the larger
3 share.

4 Sec. 13.11.030. PARTIAL INTESTACY. If part but not all of the
5 estate of a decedent is validly disposed of by will, the part not dis-
6 posed of by will is distributed as provided for intestate estates.

7 Sec. 13.11.040. ADVANCEMENTS. (a) If a person dies intestate
8 as to all or part of his estate, property which he gave in his life-
9 time as an advancement to any person who, if the intestate had died at
10 the time of making the advancement, would be entitled to inherit a
11 part of his estate, is counted toward the advancee's intestate share.
12 To the extent that it does not exceed the intestate share the advance-
13 ment is considered as part of the intestate estate in the division and
14 distribution of the estate. The person to whom the advancement was
15 made is not required to refund any part of it, although it exceeds his
16 share in the entire estate. Every gratuitous inter vivos transfer is
17 considered to be an absolute gift and not an advancement unless shown
18 to be an advancement.

19 (b) The advancement is considered as of its value at the time the
20 advancee came into possession or enjoyment or at the time of the death
21 of the intestate, whichever first occurs.

22 (c) If the advancee dies before the intestate, leaving a lineal
23 heir who takes from the intestate, the advancement is taken into ac-
24 count in the same manner as if it had been made directly to the heir.
25 If the heir is entitled to a lesser share in the estate than the
26 advancee would have been entitled had he survived the intestate, then
27 the only proportion of the advancement attributed to the heir shall be
28 the same as the amount he would have inherited, had there been no ad-
29 vancement, bears to the amount which the advancee would have inherited,

1 had there been no advancement.

2 **Sac. 13.11.050. DOWER ABOLISHED.** The estate of dower is
3 abolished. Nothing contained herein shall be interpreted to divest
4 any person of any present accrued rights in land.

5 **Sac. 13.11.060. DEVOLUTION OF PROPERTY UPON SIMULTANEOUS DEATH.**

6 **(a)** When the title of property or the devolution of it depends upon
7 priority of death and there is no sufficient evidence that persons have
8 died otherwise than simultaneously, the property of each person is
9 disposed of as if he or she had survived, except as otherwise provided
10 in this section.

11 **(b)** Where two or more beneficiaries are designated to take suc-
12 cessively by reason of survivorship under another person's disposition
13 of property and there is no sufficient evidence that these benefi-
14 ciaries have died otherwise than simultaneously, the property thus dis-
15 posed of is divided into as many equal portions as there are successive
16 beneficiaries and these portions shall be distributed respectively to
17 those who would have taken in the event that each designated beneficiary
18 had survived.

19 **(c)** Where there is no sufficient evidence that two joint tenants
20 or tenants by the entirety have died otherwise than simultaneously, the
21 property so held is distributed one-half as if one had survived and one-
22 half as if the other had survived. If there are more than two joint
23 tenants and all of them have so died, the property distributed shall be
24 in the proportion that one bears to the whole number of joint tenants.

25 **(d)** Where the insured and the beneficiary in a policy of life or
26 accident insurance have died and there is no sufficient evidence that
27 they have died otherwise than simultaneously, the proceeds of the policy
28 are distributed as if the insured had survived the beneficiary.

29 **(e)** This section does not apply in any case of wills, living

1 trusts, deeds, or contracts of insurance wherein provision has been
2 made for distribution of property different from the provisions of
3 this section.

4 (f) This section shall be so construed and interpreted as to ef-
5 fectuate its general purpose to make uniform the law in those states
6 which have enacted it.

7 (g) This section may be cited as the Uniform Simultaneous Death
8 Law.

9 CHAPTER 16. GENERAL ADMINISTRATION.

10 ARTICLE 1. PROBATE AND GRANT OF ADMINISTRATION.

11 Sec. 13.16.005. CHARACTER OF PROCEEDING. The administration of
12 the estate of a decedent, from the filing of the petition for probate
13 or for administration until the decree of final distribution and the
14 discharge of the last personal representative, is a single proceeding
15 for purposes of jurisdiction. The entire proceeding is in rem. No re-
16 quirement of notice is jurisdictional unless expressly so provided.

17 Sec. 13.16.010. DUTY OF THE CUSTODIAN OF A WILL. Within a
18 reasonable time after the death of a testator the person having custody
19 of his will shall deliver it to the clerk of the court having juris-
20 diction of the estate. The court may order the custodian to produce
21 the will.

22 Sec. 13.16.015. WHO MAY PETITION. An interested person may
23 petition the court

- 24 (1) to admit the will to probate, whether it is written or
25 oral, in his possession or not, lost, destroyed, or not in the state;
26 (2) to appoint an executor if one is designated in the will;
27 (3) to appoint an administrator, if no executor is speci-
28 fied, or if the person specified is not qualified or refuses to serve,
29 or if there is no will.

1 **Sec. 13.16.020. QUALIFICATIONS OF PERSONS WHO MAY SERVE AS PER-**
2 **SONAL REPRESENTATIVES. A person may serve as personal representative**
3 **except**

4 (1) one who is under 19 years of age,

5 (2) a judicial officer,

6 (3) a nonresident, except that

7 (A) a person named or specified as executor, who is not
8 a resident, may qualify by becoming a resident, replacing an ad-
9 ministrator with the will annexed if one has been appointed, or
10 becoming a joint executor if another executor has qualified;

11 (B) a personal representative who is a resident and be-
12 comes a nonresident, or one who is not a resident and does not be-
13 come a resident may qualify by filing a bond to be approved by the
14 court, and an irrevocable power of attorney constituting the clerk
15 of the court agent to accept service of process or notice in any
16 proceeding relating to administration of the estate;

17 (4) a person whom the court finds unsuitable.

18 **Sec. 13.16.025. ORDER OF PERSONS ENTITLED. If there is no will**
19 **or if no executor is specified in the will, or if the person specified**
20 **refuses to serve, the court shall grant domiciliary letters of general**
21 **administration to one or more of the following persons, if qualified,**
22 **in the following order:**

23 (1) to the surviving spouse or next of kin or both, or to a
24 person or persons nominated by them or any of them;

25 (2) if there is neither surviving spouse nor next of kin, or
26 if none of the designated persons files a petition for letters within
27 30 days after the death of the decedent, then to any other qualified
28 person or corporation or national banking association (if one or more
29 of the principal creditors of the decedent petition to serve as

1 administrators and the court finds them suitable, they may be selected
2 in preference to others made eligible by this paragraph);

3 (3) a sole legatee may be appointed by the court at his re-
4 quest to replace a disinterested person formerly appointed by the court;

5 (4) the court may on its own motion or at the instance of an
6 interested person remove a person who becomes disqualified.

7 Sec. 13.16.030. DEMAND FOR NOTICE OF PROBATE OR APPOINTMENT. An
8 interested person may at any time file a demand for notice before hear-
9 ing on a petition to admit a will to probate or to appoint a personal
0 representative other than a special administrator. After the filing of
1 this demand, the court may not hear the petition without giving notice.

12 Sec. 13.16.035. HEARING ON PETITION. The court may at any time
13 hear a petition for the admission of a will to probate or the appoint-
14 ment of a personal representative with or without notice.

15 Sec. 13.16.040. HEARING WITHOUT NOTICE. (a) The petition may be
16 heard without prior notice unless a demand for notice is or has been
17 filed, or the petition is opposed. After hearing, the court may in its
18 discretion issue letters testamentary or letters of administration, or
19 may order a hearing with notice.

20 (b) Immediately upon the issuance of letters, the clerk shall
21 publish a notice of the appointment of the personal representative, (1)
22 identifying him, (2) advising creditors of the decedent that failure to
23 file their claims within the specified statutory time will result in the
24 claims being forever barred, and (3) stating the time within which the
25 appointment of the personal representative or the probate of the will
26 may be contested. A copy of the notice of appointment shall be served
27 personally or by registered mail on each heir and devisee whose name
28 and address are known.

Sec. 13.16.045. CONTEST OF PROBATE OR APPOINTMENT AFTER HEARING

1 WITHOUT NOTICE. (a) An interested person may oppose the appointment
2 or probate after hearing without notice by filing a statement of the
3 grounds of his objection in the court.

4 (b) If a statement of objection is filed with the court within
5 the appropriate time, the court shall provide for a hearing, notice of
6 which is to be sent to each heir or devisee whose address is known.
7 If the contest is based upon another will, notice will be given in ad-
8 dition to each devisee in the other will whose address is known and to
9 other persons as the court may direct.

10 (c) If the contest is on any ground other than a subsequent will,
11 the statement may be filed only within four months after the notice of
12 appointment of a personal representative or before the order of final
13 distribution, whichever is shorter.

14 Sec. 13.16.050. HEARING WITH NOTICE. (a) Petition shall be
15 heard only after notice if a demand for notice is filed, or the probate
16 or appointment is opposed, or the court refused to grant letters in the
17 summary hearing.

18 (b) If a hearing with notice is required, the court shall (1) fix
19 a time and place for hearing, and (2) provide for the giving of notice
20 before the hearing.

21 Sec. 13.16.055. NOTICE REQUIREMENTS. (a) Notice before the
22 hearing shall be directed to all interested persons and the alleged
23 decedent.

24 (b) Notice includes (1) the pertinent facts, (2) the time and
25 place of hearing, (3) advise to creditors to present their claims with-
26 in the statutory time or be forever barred, (4) a statement that such
27 is the case, if the will is being contested, (5) information as to the
28 provisions for contest.

29 (c) Notice shall be made (1) by publication, (2) by service upon

1 each heir and devisee whose name and address are known, either per-
2 sonally or by registered mail, (3) by registered mail to the last known
3 residence of the decedent if there is any doubt that the alleged de-
4 cedent is dead or if an interested person so requests, (4) to each
5 devisee in the other will, and to other persons as the court directs if
6 another will is sought to be presented.

7 Sec. 13.16.060. SUBSEQUENT WILLS. (a) If another will of the
8 decedent is discovered, it may be presented for probate at any time be-
9 fore final distribution of the estate so long as it is within the time
10 specified in sec. 80 of this chapter.

11 (b) At any time before the decree for final distribution, and as
12 a part of the proceeding already initiated for probate or for adminis-
13 tration, the court may hear a petition for the probate of a will of the
14 decedent not theretofore presented for probate. It may hear it at the
15 same time as any other will, and determine which if any will is to be
16 admitted, or it may revoke a prior grant of letters and admit the sub-
17 sequent will to probate.

18 Sec. 13.16.065. REQUEST FOR NOTICE OF HEARINGS. At any time
19 after the issuance of letters, a person interested in the estate may
20 serve the personal representative and file with the clerk of the court
21 in which the proceedings are pending, together with an admission or
22 proof of service, a request, stating that he desires notice by ordinary
23 mail of the time and place of all hearings on the settlement of account
24 on final distribution and on any other matters for which notice is re-
25 quired by law, by rule of court, or by an order in the particular case.
26 Unless the court otherwise directs, the clerk shall, from the time of
27 filing, give the notice specified in the request.

28 Sec. 13.16.070. SEARCH FOR DECEDENT. If the court determines
29 that there is a doubt of the fact of death of the alleged decedent, it

1 may order the personal representative to search for the alleged dece-
2 dent, by any method the court directs, including one or more of the
3 following:

4 (1) inserting in any appropriate publications of a request
5 for information concerning the alleged decedent;

6 (2) notifying officers of justice and public welfare agencies
7 in appropriate places of the disappearance of the alleged decedent;

8 (3) using any investigative agency.

9 **Sec. 13.16.075. PROOF REQUIRED FOR PROBATE AND FOR APPOINTMENT.**

10 (a) On a petition for the probate of a will, if the court finds that
11 the testator is dead and that the will was executed in all respects
12 according to law when the testator was of sound mind, and unless the
13 court finds that (1) the testator was acting under undue influence,
14 fraud, or restraint; (2) the will was revoked; or (3) for any other
15 reason, the will should not be admitted, then the court shall order the
16 will admitted to probate as the last will of the testator.

17 (b) On a petition for the appointment of an executor or adminis-
18 trator, the court shall determine whether the deceased died testate or
19 intestate and shall grant letters accordingly, or, on proper grounds,
20 deny the petition.

21 **Sec. 13.16.080. TIME LIMIT FOR PROBATE AND ADMINISTRATION.** No
22 written will may be admitted to probate and no administration may be
23 granted unless application is made to the court within five years from
24 the death of the decedent.

25 **Sec. 13.16.085. FINALTY OF ORDER.** The court order admitting the
26 will to probate, or appointing a personal representative is final if
27 not contested or appealed from, subject to the following exceptions:

28 (1) It may be changed or revoked before the decree of final
29 distribution to admit to probate a subsequent will not previously

1 presented to the court.

2 (2) It may be vacated or modified for cause.

3 (3) The finding of the fact of death is conclusive as to
4 the alleged decedent only if notice of the hearing on the petition for
5 probate or for the appointment of a personal representative is sent by
6 registered mail to the decedent at his last known residence, and the
7 court finds that a search, when ordered by the court, was made. Even
8 when the notice has been sent and the search, if ordered, made, the
9 alleged decedent, if alive, may nevertheless at any time recover the
10 estate from the personal representative if it is in his hands, or the
11 estate and its proceeds from the distributees, if either is in their
12 hands.

13 Sec. 13.16.090. **PASSAGE OF TITLE TO DECEDENT'S PROPERTY.** When a
14 person dies, title to his property, except exempt property and home-
15 stead interests, passes to the persons to whom it is devised, or if
16 there is no will, or if the will does not dispose of all of the dece-
17 dent's property, to the persons who succeed to his estate as his heirs.
18 However, the property is subject to the possession of the personal
19 representative and to the election of the surviving spouse. The pro-
20 perty also is chargeable with the expenses of administering the estate
21 and the payment of other claims and allowances to the family, except as
22 otherwise provided in this title.

23 Sec. 13.16.095. **EFFECT OF WILL NOT ADMITTED TO PROBATE.** Except
24 as provided in the administration of small estates, a will not admitted
25 to probate is not proof of title to, or of the right to possession of,
26 any property disposed of by the will.

27 **ARTICLE 2. ADMINISTRATORS AND EXECUTORS.**

28 Sec. 13.16.105. **ISSUANCE AND REVOCATION OF LETTERS.** The court
29 shall issue letters to the appointed personal representative when he

1 has given the required bond. When letters are revoked, the personal
2 representative who was issued the letters shall return them to the court
3 for cancellation, and the court shall reissue appropriate letters.

4 **Sec. 13.16.110. REMOVAL OF THE PERSONAL REPRESENTATIVE.** The
5 court may remove the personal representative if he (1) becomes for any
6 reason unsuitable or incapable of discharging his trust, (2) mismanages
7 the estate, (3) fails to perform any duty imposed by law or order of
8 the court, (4) fails to maintain the required bond, or (5) ceases to be
9 a resident of the state without appointing an agent to accept service.
10 The court, on its own motion, may, or on petition of an interested per-
11 son shall, order the representative to appear and show cause why he
12 should not be removed. Official acts of a personal representative to
13 whom letters were lawfully issued performed before his removal are not
14 rendered invalid by his removal.

15 **Sec. 13.16.115. SUCCESSOR PERSONAL REPRESENTATIVES.** Upon the
16 death, removal, or the acceptance by the court of the resignation of a
17 personal representative, the court may appoint a successor. It shall
18 appoint one if there is no other personal representative and the admin-
19 istration is not complete. A successor personal representative, includ-
20 ing an administrator with the will annexed, has all the rights and
21 powers of his predecessor (subject to the requirements of joint admin-
22 istration) except that an administrator with the will annexed shall not
23 exercise powers given in the will which by its terms were personal to
24 the executor.

25 **Sec. 13.16.120. POWERS OF SURVIVING PERSONAL REPRESENTATIVES.** If
26 the number of joint personal representatives is reduced by the death or
27 termination by court order of the appointment of one or more of them,
28 the survivor or survivors may exercise the powers formerly exercisable
29 by all, except in the case of a power given by will, the terms of which

1 provide otherwise.

2 Sec. 13.16.125. JOINT AND SEVERAL POWERS OF PERSONAL REPRESENTA-
3 TIVES. (a) When there are two or more personal representatives, all
4 of them must join in the exercise of the power to

5 (1) sue on behalf of the estate;

6 (2) employ any person other than those necessary to main-
7 tain the property or business of the deceased pending administration;

8 (3) sell or terminate the business of the decedent;

9 (4) vote shares of a corporation;

10 (5) do any other thing which by the terms of the will must
11 be done jointly.

12 (b) All other powers may be exercised by any one of them, unless
13 the will otherwise provides.

14 Sec. 13.16.130. COMPENSATION OF PERSONAL REPRESENTATIVES. (a)
15 If a testator by will makes provision for the compensation of his exec-
16 utor or administrator, that shall be his full compensation, unless
17 before qualifying as personal representative, he files in the court a
18 renunciation of the compensation provided for by will. However, if the
19 estate is insufficient to satisfy the claims against it, the court may
20 reduce the compensation. If the will contains no provision for compen-
21 sation, or if a claim or right under such a provision is renounced, the
22 court shall allow the following amounts:

23 (1) for the first \$1,000 or less, at the rate of 7%;

24 (2) for all above that sum and not exceeding \$2,000, at the
25 rate of 5%;

26 (3) for all above \$2,000 and not exceeding \$4,000, at the
27 rate of 4%;

28 (4) for all above \$4,000, at the rate of 2%.

29 (b) When there are more than one personal representatives,

1 concurrent or successive or both, the court may apportion among them
2 the compensation to which a single representative would be entitled,
3 basing the apportionment upon the actual service rendered. The court
4 shall allow reasonable attorney fees to attorneys retained for the
5 estate and to the personal representative if he renders legal service.
6 Fees allowed to the personal representative are in addition to his
7 other compensation. Compensation is allowed at the final settlement,
8 but at any time during administration, a personal representative, or
9 attorney, or both, may apply to the court for an allowance upon the
10 compensation to become due them. The court may reduce or eliminate the
11 compensation of a personal representative or attorney if it finds that
12 in view of the services actually rendered it is excessive, or if he has
13 not discharged his duties properly. It may provide for additional
14 compensation to a representative who has rendered necessary service
15 not required of him as personal representative and may increase the
16 compensation where fairness requires it.

17 Sec. 13.16.135. ALLOWANCE FOR CERTAIN LEGAL PROCEEDINGS. When an
18 executor or administrator with the will annexed defends the will or
19 prosecutes in good faith any proceeding, successful or not, to have it
20 admitted to probate, he is allowed from the estate his expenses, in-
21 cluding reasonable attorney fees, of the defense or prosecution.

22 Sec. 13.16.140. SPECIAL ADMINISTRATORS. A special administrator
23 may be appointed in the best interests of the estate before or after
24 the appointment and without removal of an executor or a general ad-
25 ministrator, without notice or upon notice which the court directs.
26 The appointment may be for a specified time, to perform duties respect-
27 ing specific property, or to perform particular acts, as stated in the
28 order of appointment. The special administrator shall make reports as
29 the court directs, and shall account to the court upon the termination

1 of his authority. Except insofar as certain provisions of this title
2 specifically exclude special administrators, and except as ordered by
3 the court, the law relating to personal representatives applies to
4 special administrators. The order appointing a special administrator
5 is not appealable.

6 **ARTICLE 3. BONDS.**

7 **Sec. 13.16.150. BOND OF PERSONAL REPRESENTATIVE.** (a) Letters
8 may be issued to a personal representative only after he files a bond of
9 an amount determined by the court to be sufficient to protect interested
10 parties. The bond, to be procured at the expense of the estate, is
11 conditioned upon the faithful discharge by the personal representative
12 of his lawful duties. In the absence of special circumstances, the
13 court shall fix the amount of the bond at the sum of

14 (1) the value of any part of the estate which appears to the
15 court to be easily convertible by the personal representative during the
16 period of administration, plus

17 (2) the value of the easily convertible annual income of the
18 estate.

19 (b) The court may at any time increase or decrease the amount of
20 the bond in the best interests of the estate. In the absence of special
21 circumstances, the court shall change the required amount to correspond
22 to not less than the sum of (a)(1) and (2) of this section.

23 **Sec. 13.16.155. PROVISION IN WILL REMOVING BOND REQUIREMENT.** When
24 the will provides there is no bond requirement, none is required, unless
25 the court determines it to be for the best interests of the estate to
26 reimpose it.

27 **Sec. 13.16.160. REMOVAL OF BOND REQUIREMENT UPON DEPOSIT OF PER-**
28 **SONAL ASSETS OF THE ESTATE.** Personal assets of the estate may be de-
29 posited with a domestic banking or trust company upon terms approved by

1 the court. The court may reduce the amount of the bond required in
2 proportion to the value of the assets deposited, or may accept the de-
3 posit in lieu of the bond.

4 **Sec. 13.16.165. AGREEMENT BETWEEN PERSONAL REPRESENTATIVE AND**
5 **SURETY AS TO DEPOSIT OF ASSETS.** The personal representative may, if the
6 surety wishes, and the deposit is otherwise proper, deposit any asset of
7 the estate in a lawfully constituted bank, safe deposit company, trust
8 company, or other depository approved by the court, if an agreement is
9 made with the depository that assets may be withdrawn only with the
10 written consent of the surety or by order of the court. Notice to the
11 surety, when withdrawal is by court order, is as the court directs.

12 **Sec. 13.16.170. REDUCTION OF BOND IN THE CASE OF CORPORATE FIDUCI-**
13 **ARIES.** If the personal representative is a trust company existing or
14 doing business under the laws of Alaska, the deposit of cash or other
15 collateral with the Department of Administration required by law may be
16 accepted by the court in lieu of a bond. If the personal representative
17 is a bank holding a valid certificate of authority, the requirement of
18 the bond may be waived by the court.

19 **Sec. 13.16.175. OBLIGES OF BOND, JOINT AND SEVERAL LIABILITY.**
20 The bond of the personal representative shall be drawn to the State of
21 Alaska to the use of all persons interested in the estate. The sureties
22 are jointly and severally liable with the personal representative and
23 with each other, except that when the penal sum of the bond exceeds
24 \$5,000, three or more sureties may become severally liable for portions
25 of the sum, so long as the total is equal to the required sum.

26 **Sec. 13.16.180. BONDS OF JOINT PERSONAL REPRESENTATIVES.** When
27 two or more persons are appointed personal representatives of the same
28 decedent and are required by the provisions of this title to give a
29 bond, the court may require either a separate bond from each or one

1 bond from all of them. No personal representative is a surety for
2 another personal representative unless the terms of the bond so provide.

3 Sec. 13.16.185. RELEASE OF SURETIES BEFORE ESTATE IS FULLY AD-
4 MINISTERED. (a) For good cause the court may, before the estate is
5 fully administered, release the sureties of the personal representative,
6 and require him to furnish a new bond.

7 (b) The original sureties remain liable after their release for
8 all breaches of the obligation of the bond occurring up to the time of
9 filing and approval by the court of the new bond. The new bond binds
10 the sureties thereon for all acts and omissions of the personal repre-
11 sentative from the time the original sureties cease to be liable for
12 further breach on the original bond, or from a prior time if the court
13 so directs.

14 Sec. 13.16.190. BOND NOT VOID UPON FIRST RECOVERY. The bond of
15 the personal representative is not void upon the first recovery, but may
16 be proceeded against until the penalty is exhausted.

17 Sec. 13.16.195. DENIAL OF LIABILITY BY SURETY. If the court has
18 already determined the liability of the personal representative, the
19 surety may not thereafter deny this liability in an action or hearing
20 to determine its liability; but the surety may intervene in a hearing
21 to determine the liability of the personal representative.

22 Sec. 13.16.200. LIMITATION OF ACTION ON BOND. No action upon the
23 bond of a personal representative may be brought more than two years
24 after his discharge.

25 ARTICLE 4. INVENTORY.

26 Sec. 13.16.210. REQUIREMENT OF INVENTORY. (a) Within one month
27 after his appointment, unless a longer time is granted by the court, a
28 personal representative shall make and return an inventory and appraise-
29 ment, in one instrument, of all the property of the decedent which

1 comes into his possession or to his knowledge, including a statement of
2 all encumbrances, liens, and other charges on any item. Unless ordered
3 otherwise by the court, this property shall be classified as follows:

4 (1) real property, with plat or survey description, and
5 designation of homestead property, if any;

6 (2) furniture, household goods, and wearing apparel;

7 (3) corporation stocks, the description to include certifi-
8 cate numbers;

9 (4) mortgages, bonds, notes, and other written evidences of
10 debt, the description to include the name of the debtor, recording data,
11 and other necessary identification;

12 (5) bank accounts, insurance policies, and money;

13 (6) all other personal property, accurately identified, in-
14 cluding the decedent's proportionate share in any partnership.

15 (b) No inventory of the partnership property is required.

16 Sec. 13.16.215. REQUIREMENT OF APPRAISEMENT. At the time admin-
17 istration is granted, the court shall appoint two disinterested and
18 competent persons to be appraisers, to whom the personal representative
19 shall give a copy of the inventory. The appraisers shall determine and
20 state in figures opposite each item in the inventory its fair value, as
21 of the date of the decedent's death (after deducting any encumbrances,
22 liens, and charges thereon), and return the inventory and appraisalment,
23 certified by them under oath, to the personal representative, who shall
24 file it with the court. The expenses and compensation of the appraisers
25 are determined by the court and paid by the personal representative as
26 expenses of administration.

27 Sec. 13.16.220. DISPENSING WITH APPRAISEMENT. If the inventory
28 shows that the estate consists solely of personal assets of definitely
29 liquidated values, or of property of negligible value, the court may

1 accept an appraisal by the personal representative in lieu of appraisal
2 by appraisers. In such a case the court need not appoint appraisers,
3 or may revoke their appointment if already made.

4 Sec. 13.16.225. SUPPLEMENTARY FILING. If property not in the
5 original inventory comes to the knowledge or into the possession of the
6 personal representative after the filing of the original inventory, he
7 shall make an inventory of it, and cause it to be appraised (unless it
8 is of liquidated value, or of negligible value, in which case the court
9 may, under sec. 220 of this chapter, accept the personal representative's
10 appraisal). The return of the supplementary inventory and appraisal
11 shall be made within one month of the discovery of the property, either
12 separately or as part of an accounting.

13 Sec. 13.16.230. DEBT OF EXECUTOR. The naming of a person in a
14 will is not of itself a discharge or bequest of a right of action which
15 the testator had against him, but the right, if it survives, is an as-
16 set of the estate. If the personal representative is or becomes insol-
17 vent, debts owed by him to the decedent are not assets in his hands in
18 determining the liability on the bond.

19 Sec. 13.16.235. INVENTORY AND APPRAISAL AS EVIDENCE. Inventories
20 and appraisals, when used in evidence, are not conclusive, and their
21 effect may be varied by other proper evidence.

22 ARTICLE 5. ALLOWANCES AND HOMESTEAD.

23 Sec. 13.16.245. HOMESTEAD. At any time after the return of the
24 inventory the court, of its own motion or upon application, shall set
25 apart the homestead to the decedent's spouse, or in case of his death,
26 to the minor children. The court may set apart the homestead to any
27 adult children who have been declared incompetent by order of court.
28 The homestead may be set aside without filing of inventory if no in-
29 ventory is required by the court or if no administration is had under

1 this title. A homestead set apart under this section is not subject to
2 administration and is exempt from all claims against the estate except-
3 ing any lien thereon at the time of the decedent's death.

4 Sec. 13.16.250. NATURE AND DURATION OF HOMESTEAD. The estate of
5 homestead set apart by the court is a fee simple estate for the benefit
6 of the spouse and minor children and adult children declared incompetent
7 by order of court, and may be held and enjoyed by them if one of them
8 or a purchaser occupies the premises, until the last living minor child
9 is 21, or until the marriage or death of the widow, or until the last
10 living adult incompetent child has been judicially declared competent,
11 whichever is longer. But all the right, title, and interest of the
12 deceased in the premises in which the estate exists except the estate
13 of homestead set apart under sec. 245 of this chapter shall be subject
14 to the laws relating to devise, descent, and sale for the payment of
15 debts and legacies.

16 Sec. 13.16.255. EXEMPT PROPERTY. The surviving spouse or minor
17 children of a decedent, or adult children who have been judicially de-
18 clared incompetent, are entitled absolutely to the personal property of
19 the estate as may be exempt from execution or forced sale under the laws
20 of this state not to exceed a total appraised value of \$2,000, any
21 portion or all of which may be taken in money. The property shall be-
22 long to the surviving spouse, if any, otherwise to the minor children
23 and incompetent adult children in equal shares. The selection shall be
24 made by the surviving spouse if any; otherwise by the guardian of the
25 estate of each child for the child. At any time after the return of
26 the inventory the court shall set apart the exempt property to the per-
27 sons entitled to it. Exempt property may be set aside without filing of
28 inventory if no inventory is ordered by the court, or if no administra-
29 tion is had under this title. The property set aside is not subject to

1 administration and is exempt from all claims against the estate except
2 any liens upon the property at the time of the decedent's death.

3 Sec. 13.16.260. FAMILY ALLOWANCE. In addition to the right to
4 homestead and exempt property, the widow, widower, minor children, and
5 adult children who have been declared incompetent by order of court are
6 entitled to a reasonable allowance out of the estate as in the court's
7 discretion is necessary for their maintenance during the progress of
8 the settlement of the estate, or a period of six months, whichever is
9 greater. However, the allowances shall not continue for more than one
10 year in the case of an insolvent estate. The allowance is paid in
11 preference to all other charges except funeral charges, expenses of
12 last illness, and administration, and may, in the court's discretion,
13 take effect from the death of the decedent.

14 Sec. 13.16.265. AMOUNT OF ALLOWANCE. The fact that a party en-
15 titled to an allowance has previously had a homestead or exempt property
16 set aside to him shall be considered by the court in fixing the amount
17 of the allowance. The allowance may be made payable in one payment or
18 in periodic installments. It is payable to the surviving spouse, if
19 any, for his use and the use of the minor children or incompetent adult
20 children. Otherwise it is payable to the guardians or other persons
21 having the care and custody of any minor children or adult incompetent
22 children.

23 ARTICLE 6. MANAGEMENT.

24 Sec. 13.16.275. GENERAL POWERS AND DUTIES. A personal repre-
25 sentative shall take possession of all the real and personal property of
26 the decedent except the homestead and exempt property of the surviving
27 spouse and minor children. He shall pay the taxes on and collect the
28 rents and earnings of this property until the estate is settled or until
29 it is delivered by court order to the distributees. He shall keep in

1 repair, and protect from loss or deterioration, and may protect by in-
2 surance the property under his control. He may maintain an action for
3 the possession of real property or to determine title to it.

4 Sec. 13.16.280. ASSETS SUBJECT TO CREDITORS' CLAIMS. The pro-
5 perty liable for the payment of debts of a decedent includes property
6 transferred by him with intent to defraud one or more creditors, and
7 the personal representative shall recover this property insofar as nec-
8 essary to pay the debts of the decedent. Recovered property becomes
9 part of the general assets for the payment of all creditors. No pro-
10 perty so transferred may be taken from a bona fide purchaser.

11 Sec. 13.16.285. COMPROMISE. When it appears to be in the best
12 interests of the estate, the personal representative may on court order
13 effect a reasonable compromise with a debtor or other obligor, or ex-
14 tend, renew, or in any manner modify the terms of an obligation owing
15 to the estate. A personal representative holding a mortgage, pledge,
16 or other lien upon property of another person may, instead of fore-
17 closing, accept a conveyance or transfer of the encumbered property
18 from its owner in satisfaction of the indebtedness secured if it ap-
19 pears to be in the best interests of the estate and if the court so
20 orders. Without the prior authorization or subsequent approval of the
21 court, no compromise binds the estate.

22 Sec. 13.16.290. ABANDONMENT OF PROPERTY. When the property is
23 valueless, or is so encumbered or in such condition that it is of no
24 benefit to the estate, the court may, on its own motion or at the re-
25 quest of an interested person, order the personal representative to
26 abandon it.

27 Sec. 13.16.295. PROPERTY EMBEZZLED OR CONVERTED. A person embez-
28 zling or converting to his own use any of the personal property of a
29 decedent before the appointment of a personal representative is liable

1 to the estate for the value of the property so embezzled or converted.
2 No person shall be charged as executor de son tort.

3 Sec. 13.16.300. DISCLOSURE OF THE DETERMINATION OF TITLE TO
4 PROPERTY. Upon the filing of a petition by an interested person alleg-
5 ing that a person has or is suspected to have concealed, embezzled,
6 converted to his own use, or disposed of property belonging to the
7 estate of a decedent, or has possession or knowledge of the property or
8 documents relating to the property, the court upon notice which it may
9 direct, may order the persons named in the petition to appear before it
10 to answer the allegations of the petition, and may finally adjudicate
11 the rights of the parties before the court with respect to the property.
12 Insofar as parties claiming an interest adverse to the estate are con-
13 cerned, this procedure for disclosure or to determine title is an inde-
14 pendent proceeding and not within sec. 5 of this chapter.

15 Sec. 13.16.305. CONTINUATION OF BUSINESS. The personal repre-
16 sentative may apply to the court to carry on the decedent's business.
17 If the court is satisfied that this will benefit the estate, it may
18 grant him permission to do so. If the estate is solvent, however, per-
19 tinent provisions of a valid will govern. The order may be with or
20 without notice, but if all interested persons are not given notice be-
21 fore the order, notice must be given them within five days after the
22 order, and an interested person not previously notified may then chal-
23 lenge all or part of the order. The order may provide for appropriate
24 conditions, restrictions, regulations and requirements, such as, but not
25 limited to, the following:

26 (1) that the business be conducted solely by the personal
27 representative, or as a corporation to be formed by the personal repre-
28 sentative;

29 (2) that the liability of the estate or any part of it, or of

1 the personal representative, be limited as to obligations incurred in
2 the continuation of the business;

3 (3) that liabilities incurred in the continuance of the
4 business be chargeable only to a part of the estate set aside for use
5 in the business rather than to the estate as a whole;

6 (4) as to the period of time for which the business may be
7 conducted, and such other conditions, restrictions, regulations and re-
8 quirements as the court may order.

9 Sec. 13.16.310. CONTRACT TO CONVEY OR LEASE LAND. (a) When a
10 person legally bound to make a conveyance or lease dies before making
11 it, the court, with or without notice, may direct the personal repre-
12 sentative to make it according to the agreement. A petition for speci-
13 fic performance may be made by a person claiming to be entitled to the
14 conveyance or lease, by the personal representative, or by any other
15 interested person. The personal representative may, by order of the
16 court only, deliver a deed or lease to the person entitled, upon the
17 performance of the contract.

18 (b) When warranties are required by the contract for a convey-
19 ance, the deed given by the personal representative shall contain the
20 promised warranties, which shall be as binding upon the estate as if
21 made by the decedent but shall not bind the personal representative
22 personally. A certified copy of the order to convey shall be recorded
23 with the deed in the office of the recorder. A conveyance made under
24 this section is as effective to pass title as if made by the testator.

25 (c) If a personal representative has been given power by will to
26 make a conveyance or lease, he may do so without following the pro-
27 cedure described in (a) and (b) of this section and without order of
28 the court.

29 Sec. 13.16.315. INVESTMENT OF ESTATE FUNDS. Subject to the terms

1 of the will and to the primary duty of the personal representaive to
2 preserve the estate for prompt distribution, the personal representa-
3 tive shall invest the funds of the estate. Investments must be of the
4 kind proper for trustees to make under Alaska law.

5 Sec. 13.16.320. BANK DEPOSITS. Whenever appropriate the personal
6 representative may deposit, as a fiduciary, the funds of the estate in
7 a bank in this state as a general deposit, either in a checking account
8 or in a savings account.

9 ARTICLE 7. CLAIMS.

10 Sec. 13.16.330. PRESENTATION AND PAYMENT OF CLAIMS. (a) Claims
11 against the estate of the decedent, supported by affidavit, may be
12 presented to the personal representative as soon as he has received
13 letters. No claim may be allowed unless it describes

- 14 (1) the nature of the claim,
15 (2) the amount of the claim,
16 (3) when the claim became or is to become due,
17 (4) any setoffs known to the claimant,
18 (5) a contingency, if any,
19 (6) when the claim is founded upon a writing, and the writ-
20 ing is not offered, the reasons for failure to produce the writing,
21 (7) security held for the claim, if any.

22 (b) Unless the personal representative has reason to believe that
23 the estate is or may be insolvent, he may allow and pay all or any part
24 of the claim as soon as he is satisfied that it is proper. He may re-
25 ject a claim that he believes to be improper by writing on the claim the
26 work "rejected," the date, and his signature.

27 (c) If the personal representative has reason to believe that the
28 estate is or may become insolvent, or that there are insufficient funds
29 on hand, or for any other reason, he may refrain from paying any class

1 of claims until the period for filing claims has elapsed, and if the
2 estate is insolvent, as much longer as necessary. The court may direct
3 him to pay any claim or claims before that time, and require bond or
4 security from the creditor to refund any part of the payment that may
5 be necessary to make payment in accordance with the provisions of this
6 title.

7 Sec. 13.16.335. CLAIMS REJECTED BY THE PERSONAL REPRESENTATIVE.

8 (a) In the case of a claim which the personal representative rejects
9 in whole or in part, the claimant may present the claim with the rejec-
10 tion noted on it to the court and petition the court for a hearing on
11 it. A hearing will be set and notice given as the court directs.

12 (b) The rejection of a claim in whole or in part by the personal
13 representative is final unless the claimant presents the claim to the
14 court and petitions for a hearing within one month of the rejection of
15 the claim. The allowance or rejection of the claim by the court is a
16 judgment.

17 Sec. 13.16.340. CLAIMS FOR AMOUNTS NOT YET DUE. The personal
18 representative shall allow a claim for an amount which will become due
19 at some future time at its present value. Payment may be made as in the
20 case of an absolute claim which has been allowed. Alternatively, the
21 distributee may give a bond to be approved by the court for the payment
22 of the creditor's claim in accordance with its terms. The giving of
23 this bond satisfies the claim and enables the estate to be closed.

24 Sec. 13.16.345. SECURED CLAIMS. (a) A mortgage, pledge, or
25 other lien which has been recorded may be described by date and refer-
26 ence to the volume, page, and place of recording. A secured claim shall
27 be allowed in the amount remaining unpaid at the time of its allowance.
28 The full amount of the claim shall be paid if the creditor surrenders
29 his security; otherwise payment shall be made as follows:

1 (1) if the creditor exhausts his security before receiving
2 payment, he is entitled to the full amount of the claim allowed less
3 the amount realized upon exhausting the security, or

4 (2) if the creditor has not exhausted his security, upon
5 the full amount of the claim allowed less the value of the security,
6 which is determined either by conversion of the security into money
7 according to the terms of the agreement under which the security
8 was delivered to the creditor, or by agreement, arbitration, compro-
9 mise, or litigation between the creditor and the personal representa-
10 tive, as the court may direct.

11 (b) Where encumbered assets are sought to be retained in kind,
12 the personal representative may pay the encumbrance or a part of it,
13 or may renew or extend the obligation. No payment so made increases
14 the share of the distributees entitled to the encumbered assets.

15 Sec. 13.16.350. CONTINGENT CLAIMS. Contingent claims, although
16 not allowable as absolute debts, may be filed with the personal repre-
17 sentative and proved. The order of allowance of a contingent claim
18 must state the nature of the contingency. If the claim becomes abso-
19 lute before distribution it shall be paid as are absolute claims of
20 the same class, or if not

21 (1) the creditor and the personal representative may
22 determine by agreement, arbitration, or compromise, the probable
23 present value of the claim; it may be allowed and paid as is an abso-
24 lute claim, or

25 (2) the court may order the personal representative to
26 distribute the estate but to retain in his hands enough money to pay
27 the claim if and when it does become absolute. The estate shall not be
28 kept open for this purpose more than two years after distribution of
29 the remainder of the estate. If the claim has not become absolute

1 within that time, distribution of the funds so retained shall be made
2 to the distributees after the payment of any costs and expenses accru-
3 ing during this period. These distributees will be liable to the
4 creditor to the extent of the portion of the estate received by them
5 if the contingent claim thereafter becomes absolute, and the court may
6 require bond of them for the satisfaction of the contingent claim.

7 **Sec. 13.16.355. PAYMENT OF CONTINGENT CLAIMS BY DISTRIBUTEES.**

8 If a claim becomes absolute after distribution, which has been made as
9 provided in sec. 350(2) of this chapter, the creditor may recover
10 against those distributees whose shares were increased by reason of
11 nonpayment of the claim before final distribution. No action to re-
12 cover may be brought more than six months after the claim becomes
13 absolute. The distributees are jointly and severally liable, but no
14 distributee is liable in excess of the amount of the estate or fund so
15 distributed to him. If more than one distributee is liable to the
16 creditor, the creditor shall make all distributees who can be reached
17 by process parties to the action. The court shall determine the rela-
18 tive liability of each of the defendants as between themselves, but if
19 any is unable to pay his proportion, or is beyond the reach of process,
20 the others to the extent of their respective liabilities shall never-
21 theless be liable to the creditor for the whole amount of his debt. A
22 distributee paying more than his fair proportion to the creditor has a
23 right to be indemnified by the distributees or distributees who failed
24 to pay their share.

25 **Sec. 13.16.360. CLASSIFICATION OF CLAIMS AND ALLOWANCES. (a)**

26 All claims and allowances, when allowed, shall be classified as fol-
27 lows, and if the applicable assets of the estate are insufficient to
28 pay all claims and allowances in full, shall be paid by the personal
29 representative in the following order:

1 (1) funeral charges and expenses of the last illness;
2 (2) taxes of whatever nature due the United States for
3 which lien claim has been filed for record in accordance with AS 43.-
4 10.090;

5 (3) taxes of whatever nature due the State of Alaska for
6 which it holds a prior, paramount lien;

7 (4) all other taxes of whatever nature to whomsoever due
8 and all debts which at decedent's death were a lien upon his property
9 or a right or interest thereon according to the respective priority of
10 the several liens of the taxes and debts;

11 (5) debts preferred by the bankruptcy laws of the United
12 States and debts due employees of decedent for wages earned within the
13 90 days immediately preceding the death of the decedent;

14 (6) all other claims against the estate.

15 (b) The preference given by (a)(4) of this section to debts ex-
16 tends only to the proceeds of the property upon which the lien exists
17 and as to these proceeds the debt is to be preferred to any of the
18 classes mentioned in this section other than the taxes upon the pro-
19 perty.

20 **Sec. 13.16.365. CLAIMS OF PERSONAL REPRESENTATIVES.** If the per-
21 sonal representative is a creditor of the decedent, he shall file his
22 claim in the court for approval before payment. The court may in its
23 discretion appoint a suitable person, whether interested in the estate
24 or not, to represent the estate on the hearing of the claim.

25 **Sec. 13.16.370. COMPROMISE OF CLAIMS.** When a claim against the
26 estate has been filed or suit on a claim is pending, the personal rep-
27 resentative may, if it appears to be in the best interests of the
28 estate, compromise the claim, whether it is due or not due, absolute or
29 contingent, liquidated or unliquidated. Without prior authorization or

subsequent approval of the court, no compromise shall bind the estate.

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Sec. 13.16.375. LIMITATIONS ON FILING OF CLAIMS. (a) Claims, with the exception of those provided for in sec. 380 of this chapter, expenses of administration, claims of the United States and all claims against a decedent's estate shall be forever barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless filed with the personal representative within four months after the date of the first published notice to creditors.

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

(c) No claim is barred by the statute of limitations which was not barred at the time of the decedent's death, if the claim is filed within four months after the first published notice to creditors.

(d) All claims which would be barred by (a) of this section are, in any event, barred if administration is not begun within five years after the death of the decedent.

(e) Nothing in this section affects an action or proceeding to enforce a mortgage, pledge or other lien upon property of the estate.

Sec. 13.16.380. COMMENCEMENT OF SEPARATE ACTION OR REVIVOR EQUIVALENT TO FILING CLAIM. The provisions of sec. 375 of this chapter do not preclude the commencement or continuance of separate actions against the personal representative as such for the debts and other liabilities of the decedent, if commenced or revived within the periods stated in sec. 375 of this chapter. An action pending against a person at the time of his death, which survives against the personal representative, is considered to be a claim filed against the estate from the time the action is revived. An action commenced against a personal representative as such after the death of the decedent is considered to be a claim duly filed against the estate from the time the action is

1 commenced. Nothing in this section impairs the individual liability
2 of the personal representative for his own acts and contracts in the
3 administration of the estate.

4 ARTICLE 8. SALES.

5 Sec. 13.16.390. NO PRIORITY BETWEEN REAL AND PERSONAL PROPERTY.
6 In determining what property of the estate shall be sold, mortgaged,
7 leased or exchanged there is no priority as between real and personal
8 property, except as provided by will, by court order or by the pro-
9 visions of sec. 565 of this chapter.

10 Sec. 13.16.395. WHEN POWER GIVEN IN WILL. When power to sell,
11 mortgage, lease or exchange property of the estate has been given to a
12 personal representative by will, the personal representative may pro-
13 ceed under that power, or under the provisions of this title, as he
14 elects.

15 Sec. 13.16.400. PURPOSES OF TRANSFER BY COURT ORDER. Real or
16 personal property belonging to an estate may be sold, mortgaged,
17 leased, or exchanged under court order when necessary to

- 18 (1) pay claims allowed against the estate;
19 (2) pay an allowance made to the surviving spouse and minor
20 children of the decedent;
21 (3) pay any legacy;
22 (4) pay expenses of administration;
23 (5) pay taxes assessed upon the transfer of the estate or
24 due from the decedent or his estate;
25 (6) distribute the estate or any part of it;
26 (7) do any other thing in the best interests of the estate.

27 Sec. 13.16.405. ORDER TO SELL, MORTGAGE, OR LEASE TO BE REFUSED
28 IF BOND GIVEN. No court order described in sec. 400 of this chapter
29 shall be made if an interested person files in the court a bond

1 suitable to the court conditioned to pay all obligations of the es-
2 tate to the extent that the other property of the estate is insuf-
3 ficient, within a time to be set by the court. The personal repre-
4 sentative may sue on the bond on behalf of an interested person who is
5 prejudiced by the breach of an obligation of the bond.

6 Sec. 13.16.410. TERMS OF SALE. In all sales of real or personal
7 property, the court may authorize the personal representative to give
8 credit for a period not extending beyond one year from his qualifica-
9 tion and for an amount not exceeding 50 per cent of the sale price, the
10 payment of the debt to be secured by notes or bonds with approved sur-
11 eties or by a purchase money mortgage. An order authorizing credit
12 shall specify the time of payment, the rate of interest on payments
13 and the way in which the payments shall be secured. If the estate is
14 solvent, credit may be extended by the personal representative for
15 longer than one year with the written consent of the distributees.

16 Sec. 13.16.415. WHEN PERSONAL REPRESENTATIVE MAY PURCHASE. A
17 personal representative may purchase, take a mortgage on, lease or
18 take by exchange, real or personal property belonging to the estate,
19 but such a transaction shall always be reported to the court and be
20 subject to confirmation.

21 Sec. 13.16.420. PURCHASE BY LIEN HOLDER. If estate property
22 subject to a mortgage pledge, or other lien is sold, the holder of the
23 lien may buy, applying the amount of his lien against the purchase
24 price, if the claim has been allowed by giving the personal representa-
25 tive a receipt for the amount due him. If the claim has not been al-
26 lowed, the court may examine, at the hearing for confirmation of the
27 sale, the validity and enforceability of and the amount due on the
28 claim. If the proceeds of the sale do not defray expenses and dis-
29 charge the lien, the purchaser must pay an additional amount sufficient

1 to do so, unless the creditor can show that the property was never in-
2 tended to be equal in value to the amount of the debt. Nothing per-
3 mitted by this section shall be considered an allowance of a claim
4 based upon any such lien.

5 Sec. 13.16.425. SALE, MORTGAGE OR LEASE OF PERSONAL PROPERTY. A
6 personal representative may file a petition to sell, mortgage or lease
7 any personal property belonging to the estate, setting out the reasons
8 for the application and describing the property involved. The peti-
9 tion may be heard with or without notice as the court may direct. At
10 the hearing of the petition the court may order the sale, mortgage or
11 lease of the property described or any part of it, at the price and
12 upon the terms and conditions required by the court. No report or con-
13 firmation of the transaction is necessary except as required when the
14 personal representative is personally interested in the transaction or
15 by the court; but no sale, mortgage or lease, except as provided in
16 sec. 430 of this chapter, is valid unless prior authorization or sub-
17 sequent approval of the court is secured.

18 Sec. 13.16.430. SALES OF PERISHABLE OR DEPRECIABLE PROPERTY.
19 Perishable property and other personal property which will depreciate
20 in value if not disposed of promptly, or which will incur loss or
21 expense by being kept, and so much other personal property as may be
22 necessary to provide allowance to the surviving spouse and children
23 pending the receipt of other sufficient funds, may be sold without
24 notice, and title will pass without confirmation; but the personal rep-
25 resentative will be responsible for the actual value of the property
26 unless, after he makes a report of the sale, the court approves the
27 sale.

28 Sec. 13.16.435. SALE, MORTGAGE OR LEASE OF REAL AND PERSONAL PRO-
29 PERTY AS A UNIT. In the best interests of the estate, real and

1 personal property of the estate may be sold, mortgaged or leased as a
2 unit, but the provisions of this title for the sale, mortgage or lease
3 of real property apply so far as practical.

4 Sec. 13.16.440. PETITION TO SELL, MORTGAGE OR LEASE REAL PRO-
5 PERTY. A personal representative may petition to sell, mortgage or
6 lease any real property belonging to the estate, setting out the
7 reasons for the application and describing the property involved. He
8 may apply for authority to take different actions with respect to dif-
9 ferent parts of the property, or for authority either to sell, to
10 mortgage, or to lease. The court shall hear the petition after notice,
11 except that as to any real property which was last appraised at not
12 more than \$1,000 the court may, in its discretion, hear the petition
13 without notice. The court then may order the sale, mortgage or lease
14 of the property described or any part of it. When a claim secured by
15 a mortgage on real property is payable at or before the time of dis-
16 tribution, the court with the consent of the mortgagee may nevertheless
17 order the sale of the real property subject to the mortgage. The consent
18 of the mortgagee releases the estate even if a deficiency later
19 appears.

20 Sec. 13.16.445. QUIETING ADVERSE CLAIMS. Upon petition to sell
21 or mortgage real property the court may investigate and determine all
22 questions of conflicting and controverted title, remove clouds from
23 any title or interest involved, and invest purchasers or mortgagees
24 with a good and indefeasible title to the property sold or mortgaged.
25 When the petition to sell or mortgage seeks such relief, notice shall
26 be given as in civil actions of like nature and the court is authorized
27 to issue appropriate process and notices in order to obtain jurisdic-
28 tion to proceed against adverse parties.

29 Sec. 13.16.450. ORDER FOR SALE, MORTGAGE OR LEASE OF PROPERTY.

1 The order for sale, mortgage or lease of the property may

2 (1) describe the property;

3 (2) designate a sequence of disposition of several parcels;

4 (3) direct whether the sale is private or public;

5 (4) where a sale is public, fix a time and place of sale;

6 (5) prohibit sale at less than the appraised rental value,
7 unless after an unsuccessful attempt to sell or rent at or above that
8 value the court approves a lower price;

9 (6) set out the terms of a sale, or in the case of a mort-
10 gage, the maximum amount of principal, the maximum rate of interest,
11 the earliest and latest dates of maturity;

12 (7) show the purpose for which the proceeds are to be used;

13 (8) remain in force until terminated by the court, except
14 that after one year from the date of the order, no sale or lease may
15 be made unless the sale or rental value of the property has been reap-
16 praised by court order within three months preceding the sale or lease.

17 Sec. 13.16.455. APPRAISAL OF REAL PROPERTY. Before a personal
18 representative sells or leases any real property he shall have it ap-
19 praised by two disinterested persons appointed by the court unless the
20 court directs that he be permitted to use the appraisal filed with the
21 inventory. The appraisers shall appraise the real property or its
22 rental value, as the case may be, and deliver the appraisal to the per-
23 sonal representative.

24 Sec. 13.16. 460. SALES AT PUBLIC AUCTION. The personal repre-
25 sentative shall give notice of all public auction sales of real pro-
26 perty describing the property to be sold, and stating the time, terms
27 and place of sale. He shall publish the notice once a week for three
28 consecutive weeks in at least one newspaper of the locality in which
29 the real property is situated. If no newspaper is circulated in the

1 locality, or if the appraised value of the real property is \$500 or
2 less, the personal representative may in lieu of publication, post a
3 copy of the notice in three public places in the locality in which the
4 real property is situated at least two weeks before the sale is made.
5 If the notice is published, the date set for the sale shall not be
6 earlier than one day or later than seven days after the date of the
7 third publication of notice. The personal representative may adjourn
8 the sale from time to time in the best interests of the estate for not
9 longer than three months in all. Every adjournment shall be announced
10 publicly at the time and place fixed for the sale.

11 Sec. 13.16.465. REPORT AND CONFIRMATION. (a) Within 10 days of
12 a transaction in land described in sec. 440 of this chapter, the per-
13 sonal representative shall submit a report of the transaction to the
14 court, with

15 (1) the certificate of appraisement in case special appraise-
16 ment is required;

17 (2) proof of publication or posting in case the sale is made
18 at public auction;

19 (3) a statement that he did not directly or indirectly
20 acquire any beneficial interest in the real property, or the lease
21 of it, except as stated in his report.

22 (b) An interested person may file objections to confirmation in
23 writing, stating reasons. If, after examining the report, the court
24 is satisfied that the sale, mortgage or lease has been made upon terms
25 advantageous to the estate and in conformity with law, the court shall
26 confirm the transaction and order the personal representative to make
27 and deliver proper instruments to the person entitled. No report shall
28 be confirmed within five days after filing unless all interested per-
29 sons consent in writing or unless the court determines delay would not

1 be in the best interests of the estate. If the court is not satis-
2 fied by the transaction, it may reject the sale, mortgage, or lease
3 and require that deficiencies be remedied, or take other appropriate
4 action.

5 Sec. 13.16.470. EXECUTION OF CONVEYANCE OR OTHER INSTRUMENT BY
6 PERSONAL REPRESENTATIVE. Upon the confirmation of a sale, mortgage or
7 lease the personal representative shall execute the proper instrument
8 according to the order of confirmation. Any instrument made by the
9 personal representative must refer to the order of sale, mortgage, or
10 lease by date and the court by which the order was made. It transfers
11 to the grantee, mortgagee or lessee all the right, title, and interest
12 of the decedent to the extent appropriate to the nature of the trans-
13 action, discharged from liability for all debts and obligations inci-
14 dent to the administration of the estate, except encumbrances assumed.
15 A certified copy of the order may be recorded with the deed or other
16 instrument.

17 Sec. 13.16.475. BROKERS' FEES AND TITLE DOCUMENTS. The court
18 may authorize the personal representative to pay, out of the proceeds
19 realised from the sale, mortgage, lease, or exchange of property or
20 out of the estate, reasonable auctioneers' and brokers' fees, neces-
21 sary expenses for abstracting, title insurance, survey and revenue
22 stamps, and other necessary costs and expenses incurred in connection
23 with the sale.

24 Sec. 13.16.480. PLATTING. When real property is to be disposed
25 of, the court, on the application of an interested person, may authorize
26 the personal representative, either alone or together with other owners,
27 to plat land belonging to the estate according to law.

28 Sec. 13.16.485. EXCHANGE OF PROPERTY. The court may authorize the
29 exchange of any estate property for any other property upon the terms

1 and conditions it may prescribe, which may include the payment or
2 receipt of part cash by the personal representative. If personal pro-
3 perty of the estate is to be exchanged, the procedure for the sale of
4 the property shall be followed as far as practical; if real property
5 of the estate is to be exchanged, the procedure for the sale of the
6 property shall be followed as far as practical.

7 **ARTICLE 9. ACCOUNTING.**

8 **Sec. 13.16.495. LIABILITY OF PERSONAL REPRESENTATIVE. (a) A**
9 **personal representative is liable and accountable for all the estate**
10 **of the decedent which comes into his possession at any time, or should**
11 **by law have been collected by him, including income. He may not be**
12 **held for debts due to the decedent or other assets of the estate which**
13 **remain uncollected without his fault. He is not entitled to profit nor**
14 **chargeable with loss resulting from increase or decrease in the value**
15 **of estate property, except that he is liable for loss resulting from**
16 **improper management.**

17 **(b) A personal representative is accountable for property not a**
18 **part of the estate which comes into his hands at any time, and is**
19 **liable to the persons entitled to it, if**

20 **(1) the property was received under a duty imposed on him**
21 **by law in the capacity of personal representative, or**

22 **(2) he has commingled this property with the assets of the**
23 **estate.**

24 **(c) Every personal representative is liable and accountable for**
25 **losses**

26 **(1) from neglect or unreasonable delay in collecting assets**
27 **of the estate or in selling, mortgaging or leasing the property of the**
28 **estate;**

29 **(2) from neglect in paying over money or delivering property**

1 of the estate in his hands;

2 (3) from failure to account for or to close the estate
3 within the time provided by this title;

4 (4) to the estate resulting from his embezzlement or com-
5 mingling of the assets of the estate with other property;

6 (5) to the estate through his self-dealing;

7 (6) to the estate resulting from wrongful acts or omissions
8 of his co-representatives which he could have prevented by the exer-
9 cise of ordinary care;

10 (7) from any other negligent or wilful act or nonfeasance
11 in his administration.

12 Sec. 13.16.500. DUTY TO CLOSE ESTATE. A personal representative
13 shall close the estate as promptly as possible. The estate must be
14 closed within nine months from the filing of the petition for the ap-
15 pointment of a personal representative, unless for cause the time is
16 extended by the court.

17 Sec. 13.16.505. WHEN PERSONAL REPRESENTATIVE MUST ACCOUNT. A
18 personal representative or (unless they maintain separate accounts)
19 joint representatives of the same estate jointly must file in the court
20 a verified account of the administration

21 (1) upon filing a petition for final settlement;

22 (2) upon the revocation of his or their letters;

23 (3) upon his or their application to resign and before the
24 resignation is accepted by the court;

25 (4) annually during the period of administration unless the
26 court otherwise directs;

27 (5) at any other time when directed by the court either of
28 its own motion or on the application of an interested person.

29 Sec. 13.16.510. WHAT ACCOUNTS TO CONTAIN. Accounts are given to

1 the court by a personal representative for a definite period and con-
2 sist of three schedules, of which the first shows the amount of the
3 property according to the inventory, (or, if there has been a prior
4 accounting, the amount of the balance of the next prior account) all
5 income and other property received, and gains from the sale of any
6 property or otherwise; the second shows payments, charges, losses, and
7 distributions; the third shows the property on hand constituting the
8 balance of the account, if any, by reference to the inventory or other-
9 wise. When an account is filed, the personal representative shall also
10 file receipts for disbursement of assets made during the period covered
11 by the account. The court may provide for an inspection of the balance
12 of assets on hand.

13 **Sec. 13.16.515. ACCOUNT TO INCLUDE PETITION FOR SETTLEMENT AND**
14 **DISTRIBUTION.** At the time of filing of an account the personal repre-
15 sentative shall petition the court to settle and allow his account;
16 and if the estate is in a proper condition to be closed, he shall also
17 petition the court for an order authorizing him to distribute the
18 estate. He shall specify in the latter petition the persons to whom
19 distribution is to be made and the proportions or parts of the estate
20 to which each is entitled.

21 **Sec. 13.16.520. HEARING ON SETTLEMENT OF ACCOUNT.** Petitions for
22 settlement of account and for distribution shall be heard after notice
23 to all interested persons.

24 **Sec. 13.16.525. OBJECTIONS TO ACCOUNT.** At any time before the
25 hearing on an account of a personal representative, an interested per-
26 son may file a statement of specific objections to any item or omission
27 in the account. The statement must include a proposed modification.

28 **Sec. 13.16.530. CONCLUSIVENESS OF ORDER SETTLING ACCOUNT.** The
29 approval by the court of the account of a personal representative

1 relieves him and his sureties from liability arising from the admin-
2 istration of his trust during the accounting period, including the in-
3 vestment of the assets of the estate. The court may disapprove the
4 account in whole or in part and surcharge the personal representative
5 in the amount of any loss caused by a breach of duty.

6 Sec. 13.16.535. STATEMENT OF RECEIPTS AND DISBURSEMENTS AFTER
7 FINAL ACCOUNT AND BEFORE FINAL DISTRIBUTION. Receipts and disburse-
8 ments of the personal representative after the filing of his final
9 account, and an estimate of the expenses of closing the estate must be
10 reported to and approved by the court before final distribution. The
11 court may elect to treat a statement of these receipts and disburse-
12 ments as a supplementary account and order notice to be given as in
13 other cases of the settlement of accounts.

14 Sec. 13.16.540. ACCOUNT OF DECEASED OR INCOMPETENT PERSONAL REP-
15 RESENTATIVE. If a personal representative dies or becomes incompetent,
16 his account may be presented by his personal representative or the
17 guardian of his estate. It is presented to and settled by the court in
18 which the estate entrusted to the deceased or incompetent personal
19 representative is being administered. Upon petition of the successor
20 of the deceased or incompetent personal representative, the court
21 shall compel the personal representative to render an account of the
22 administration of the estate of the decedent. The court shall settle
23 the account as in other cases.

24 **ARTICLE 10. DISTRIBUTION AND DISCHARGE.**

25 Sec. 13.16.550. DELIVERY OF SPECIFIC PROPERTY TO DISTRIBUTEE BE-
26 FORE FINAL DECREE. Upon application of the personal representative or
27 of a distributee, with or without notice as the court may direct, the
28 court may order the personal representative to deliver to any distribu-
29 tee who consents to it, possession of specific property to which he is

1 entitled by will or intestacy, provided that other distributees and
2 claimants are not prejudiced thereby. At any time before the decree of
3 final distribution the court may order him to return the property to
4 the personal representative, if it is for the best interests of the
5 estate. The court may require the distributee to give security for the
6 return of the property.

7 Sec. 13.16.555. DISTRIBUTION OF PART OF ESTATE. After the expir-
8 ation of the time limit for the filing of claims and before final set-
9 tlement of the accounts of the personal representative, a partial
10 distribution may be decreed, with notice to interested persons, as the
11 court may direct. This distribution is as conclusive as a decree of
12 final distribution with respect to the estate distributed except to any
13 extent that other distributees and claimants are deprived of their fair
14 share of the entire estate. Before decreeing a partial distribution,
15 the court may require that security be given for the return of the
16 property distributed or any part of it if necessary to complete the
17 fair portions of distributees and claimants.

18 Sec. 13.16.560. DECREE OF FINAL DISTRIBUTION. (a) After (1)
19 the expiration of the time limit for the filing of claims, (2) all
20 claims against the estate, including state and federal inheritance and
21 estate taxes, have been finally determined and paid (except contingent
22 and unmatured claims which cannot then be paid), and (3) one month has
23 elapsed since the rejection of any claim by the personal representative
24 without petition by the claimant for a hearing, the personal represent-
25 ative shall, if the estate is otherwise in a condition to be closed,
26 render his final account and at the same time petition the court to
27 decree the final distribution of the estate. Notice of the hearing of
28 the petition shall be given to all interested persons.

29 (b) The decree of final distribution is not to be made if all

1 federal and state inheritance and estate taxes are not paid. It in-
2 cludes:

3 (1) a designation of the distributees;
4 (2) proportions, parts, or amounts to which each distributee
5 is entitled by the will and this title;

6 (3) a description of every tract of real property dis-
7 tributed;

8 (4) a statement that claims are paid except those it des-
9 cribes, and a description of any fund set aside for payment of unsatis-
10 fied claims;

11 (5) a description of claims as yet contingent and unpaid,
12 and a statement of whether the distributees take subject to them;

13 (6) if there is a fund to pay contingent claims, a provision
14 for the distribution of any part of it not needed to pay these claims;

15 (7) a confirmation or modification of a decree of partial
16 distribution, if any.

17 (c) The decree of final distribution is a conclusive determina-
18 tion of the successors in interest to the decedent and of the extent
19 and character of their interests, subject only to rights to appeal and
20 to reopen the decree which the rules of the court may provide. It is
21 the final adjudication of the transfer of the right, title and interest
22 of the decedent to the distributees designated in it; but no transfer
23 before or after the decedent's death by an heir or devisee shall affect
24 the decree, nor shall the decree affect any rights acquired by grantees
25 from the heirs or devisees.

26 (d) Whenever the decree of final distribution includes real pro-
27 perty, the personal representative shall record a certified copy of the
28 decree in the recording district in which the land is situated. The
29 cost of recording the decree shall be charged to the estate.

1 **Sec. 13.16.565. ORDER IN WHICH ASSETS APPROPRIATED.** (a) Except
2 as provided in (c) of this section, shares of the distributees abate,
3 for the payment of claims, legacies, the family allowance, the shares
4 of pretermitted heirs or the share of the surviving spouse who elects
5 to take against the will, without preference or priority as between
6 real and personal property, in the following order:

- 7 (1) property not disposed of by the will;
8 (2) property devised to the residuary devisee;
9 (3) property disposed of by the will but not specifically
10 devised and not devised to the residuary devisee;
11 (4) property specifically devised.

12 (b) A general devise charged on any specific property or fund
13 shall, for purposes of abatement, be considered property specifically
14 devised to the extent of the value of the thing on which it is charged.
15 Upon the failure or insufficiency of the thing on which it is charged,
16 it shall be considered property not specifically devised to the extent
17 of the failure or insufficiency.

18 (c) If the provisions of the will, the testamentary plan, or the
19 express or implied purpose of the devise would be defeated by the order
20 of abatement stated in (a) and (b) of this section the shares of dis-
21 tributees shall abate in any other manner the court finds necessary to
22 give effect to the intention of the testator.

23 **Sec. 13.16.570. CONTRIBUTION.** When property specifically devised
24 or charged with a legacy is sold or taken by the personal representa-
25 tive for the payment of claims, general legacies, the family allowance
26 the shares of pretermitted heirs or the share of a surviving spouse
27 who elects to take against the will, then other legatees and devisees
28 of that class shall contribute according to their respective interests
29 to the legatee or devisee whose legacy or devise has been sold or

1 taken, so as to accomplish an abatement in accordance with sec. 565 of
2 this chapter. The court shall, at the time of the hearing on the
3 petition for final distribution, determine what the amounts of the re-
4 spective contributions are to be and whether the contributions are to
5 be made before distribution or are to constitute a lien on specific
6 property which is distributed.

7 **Sec. 13.16.575. DETERMINATION OF ADVANCEMENTS.** At the time of
8 the hearing on the petition for final distribution the court may hear
9 and determine questions of advancements made or alleged to have been
10 made by an intestate to any heir. The court shall note in the decree
11 of final distribution the amount of every advancement.

12 **Sec. 13.16.580. INTEREST ON GENERAL LEGACIES.** General legacies
13 bear interest at the legal rate for a period beginning nine months from
14 the filing of the petition for the appointment of a personal representa-
15 tive and running until the payment of the legacies, unless a contrary
16 intent is indicated by the will.

17 **Sec. 13.16.585. EXONERATION OF ENCUMBERED PROPERTY.** When pro-
18 perty subject to a mortgage is specifically devised, the devisee shall
19 take it subject to the mortgage unless the will provides expressly or by
20 necessary implication that the mortgage be otherwise paid. The term
21 "mortgage" as used in this section does not include a pledge of personal
22 property.

23 **Sec. 13.16.590. PAYMENT TO DISTRIBUTEES IN KIND.** (a) When the
24 estate is otherwise ready to be distributed, it shall be distributed in
25 kind, unless the terms of the will otherwise provide or unless a parti-
26 tion sale is ordered. Except as provided in (b) of this section, any
27 general legatee may elect to take the value of his legacy in kind, and
28 any distributee who by the terms of the will is to receive land or any
29 other thing to be purchased by the personal representative, may, if he

1 notifies the personal representative before the thing is purchased,
2 elect to take the purchase price or property of the estate which the
3 personal representative would otherwise sell to obtain the purchase
4 price.

5 (b) If the terms of the will direct the purchase of an annuity,
6 the person to whom the income thereof is directed to be paid may not
7 elect to take instead the capital sum directed to be used to buy the
8 annuity except to the extent that the will expressly provides that an
9 assignable annuity be purchased. Nothing in this section affects the
10 rights of election by a surviving spouse against a testamentary pro-
11 vision as provided in this title.

12 Sec. 13.16.595. PARTITION FOR PURPOSE OF DISTRIBUTION. When two
13 or more distributees are entitled to distribution of undivided interests
14 in property of the estate, the court shall distribute undivided inter-
15 ests unless the personal representative or a distributee petitions, not
16 later than the hearing on the petition for final distribution, for a
17 partition. The court may then, after notice to all interested persons,
18 partition as provided by law. The court may direct the sale of any
19 property by the personal representative, and make other orders neces-
20 sary to effect an equitable distribution of the property. Two or more
21 distributees may agree to accept undivided interests. Each party must
22 pay his own attorney fees, but expenses of partition are to be fairly
23 apportioned among the parties. The amount charged to each party is a
24 lien on the property allotted to him.

25 Sec. 13.16.600. DISCHARGE OF PERSONAL REPRESENTATIVE. Upon the
26 filing of receipts or other evidence satisfactory to the court that
27 distribution has been made as ordered in the final decree, the court
28 shall enter an order of discharge. The discharge so obtained operates
29 as a release from the duties of personal representative and as a bar to

1 any suit against the personal representative and his sureties not com-
2 menced within two years from the date of the discharge.

3 Sec. 13.16.605. REOPENING ADMINISTRATION. If, after an estate
4 has been settled and the personal representative discharged, other
5 property of the estate is discovered, or if it appears that the person-
6 al representative has left any necessary thing undone or for any other
7 proper cause, the court, upon the petition of an interested person may,
8 without notice or upon notice which it may direct, order that the
9 estate be reopened. It may reappoint the discharged personal repre-
10 sentative, or appoint another personal representative to administer
11 property or perform such acts as may be necessary. Unless the court
12 otherwise orders, the provisions of this title as to an original admin-
13 istration shall apply to the proceedings in the reopened administration
14 so far as possible; but no claim which is already barred may be as-
15 serted in the reopened administration.

16 CHAPTER 21. ADMINISTRATION OF SMALL ESTATES.

17 ARTICLE 1. ESTATES LESS THAN \$3,000.

18 Sec. 13.21.010. COLLECTION OF PERSONAL PROPERTY BY DISTRIBUTEES.
19 The distributees of an estate are entitled to the personal property of
20 the estate without awaiting the appointment of a personal representa-
21 tive or the probate of a will when

22 (1) no petition for the appointment of a personal repre-
23 sentative is pending or has been granted,

24 (2) 30 days have elapsed since the death of the decedent,

25 (3) the value of the entire assets of the estate does not
26 exceed \$3,000, and

27 (4) there is furnished to any person owing money, or having
28 custody of any property or evidence of interest in property, an affi-
29 davit showing the existence of the foregoing conditions and the right

1 of the distributees to receive the money or property or to have the
2 evidences transferred.

3 **Sec. 13.21.020. DETERMINATION OF TITLE TO REAL PROPERTY. (a)**
4 **The distributees of an estate are entitled to the real property of the**
5 **estate and may make record evidence of title without the appointment of**
6 **a personal representative if**

7 (1) no petition for the appointment of a personal represent-
8 ative is pending or has been granted,

9 (2) 30 days have elapsed since the death of the decedent,

10 (3) the value of the entire assets of the estate does not
11 exceed \$3,000,

12 (4) there is furnished to any person having custody of any
13 real property, or acting as registrar or transfer agent of any evidence
14 of interest, property or right, an affidavit showing the existence of
15 the foregoing conditions and the right of the distributees to receive
16 the property or to have the evidence transferred,

17 (5) there is recorded in the office of the recorder of each
18 recording district where the real property is situated, an affidavit,
19 executed by any person having knowledge of the facts, showing the
20 existence of the foregoing conditions, describing the real property,
21 naming the persons entitled to it, and showing their right to succeed
22 to the property, and stating that there are no unsecured claims against
23 the decedent or his estate including the expenses of the funeral and
24 last illness,

25 (6) a notice is published in a newspaper of general circula-
26 tion in each judicial district in which the property is located not
27 less than once a week for three successive weeks: the notice shall
28 describe the real property, state that an affidavit has been recorded
29 on behalf of the persons who claim to be entitled to succeed to the

1 real property showing the names of the distributees and their right to
2 succeed to the property, and notify all persons having claims against
3 the decedent or his estate to file a petition for the appointment of a
4 personal representative within three months after the first publication
5 of the notice or be barred from asserting any right or claim against
6 the real property described,

7 (7) there is recorded in the office of the recorder in each
8 recording district in which the property is situated, proof of publi-
9 cation of the notice,

10 (8) no petition for the appointment of a personal represent-
11 ative is filed within three months after the first publication of the
12 notice.

13 (b) The occurrence of the conditions in (a) of this section has
14 the same effect in establishing the right of distributees to succeed
15 to the real property as if complete administration had occurred; but
16 nothing in this section affects the rights of secured creditors with
17 respect to any real property.

18 **Sec. 13.21.030. EFFECT OF AFFIDAVIT.** The person making payment,
19 delivery, transfer or issuance under the affidavit described in secs.
20 10 and 20 of this chapter is released to the same extent as if the
21 person had made payment, delivery, transfer, or issuance to a personal
22 representative of the decedent. The person is not required to see to
23 the application of the payment, delivery, transfer, or issuance, or to
24 inquire into the truth of any statement in the affidavit. The dis-
25 tributees to whom payment, delivery, transfer, or issuance is made are
26 answerable to any person having a prior right and are accountable to
27 any personal representative subsequently appointed.

28 **Sec. 13.21.040. SUIT BY DISTRIBUTEES.** If the person to whom
29 the affidavit described in secs. 10 and 20 of this chapter is

1 delivered refuses to pay, deliver, transfer, or issue the property, it
2 may be recovered or compelled in an action brought for that purpose by
3 or on behalf of the distributees entitled to it, upon proof of the
4 facts required to be stated in the affidavit.

5 **ARTICLE 2. ESTATES LESS THAN \$10,000.**

6 **Sec. 13.21.060. PETITION FOR ORDER OF NO ADMINISTRATION.** If the
7 value of the entire assets of an estate does not exceed \$10,000 and
8 would be exhausted by setting aside the homestead estate, exempt pro-
9 perty, and family allowance, and the funeral expenses and expenses of
10 last illness have been paid, there may be filed by or on behalf of the
11 surviving spouse or minor children a petition to have the court set
12 aside the homestead estate, exempt property, and family allowance, and
13 to make an order that no administration is necessary.

14 **Sec. 13.21.070. HEARING AND ORDER.** Upon the filing of a petition
15 for no administration the court may hear the petition without notice,
16 or at the time and upon notice which the court may require. If the
17 court finds that the facts contained in the petition are true, the
18 court shall make a family allowance and, if the entire assets of the
19 estate are thereby exhausted, shall order that no administration be had
20 in the estate and shall assign to the surviving spouse, or if there is
21 no surviving spouse, then to the minor children, the whole of the
22 estate, subject to the liens and encumbrances on it.

23 **Sec. 13.21.080. EFFECT OF ORDER.** The order that no administra-
24 tion be had on the estate shall, until revoked, constitute sufficient
25 legal authority to all persons owing money, having custody of property
26 or any evidence of interest in property belonging to the estate, and to
27 persons purchasing or otherwise dealing with the estate, for payment or
28 transfer to the persons described in the order as entitled to receive
29 the estate without administration.

1 **Sec. 13.21.090. PROCEEDING TO REVOKE ORDER.** At any time within
2 one year after the making of an order of no administration, a person
3 interested in the estate may file a petition to revoke the order alleg-
4 ing that other property has been discovered, or that property belonging
5 to the estate was not included in the petition for no administration,
6 or that the property described in the petition was improperly valued,
7 and that if the property were added, included, or properly valued, the
8 total value of the property would exceed that necessary to justify the
9 court in ordering no administration. Upon proof of any of these
10 grounds, the court shall revoke the order of no administration. In
11 case of a contest as to the value of the property, the court may have
12 the property appraised.

13 **ARTICLE 3. ESTATES LESS THAN \$15,000.**

14 **Sec. 13.21.110. SUMMARY ADMINISTRATION OF SMALL ESTATES.** (a) If
15 it appears at the time of the appointment of a personal representative
16 or at any time after the appointment, that the value of an estate not
17 including homestead and exempt property does not exceed \$15,000, the
18 court may authorize a summary administration of the estate in one or
19 more of the following respects:

20 (1) by ordering that notice be given to creditors to pre-
21 sent their claims within two months after the first publication of the
22 notice or be barred as if full administration had occurred;

23 (2) by dispensing with notice by publication in any or all
24 subsequent portions of the proceeding and ordering that notice be given
25 by posting or mailing in lieu of publication;

26 (3) by conferring upon the personal representative full
27 power to sell, lease for periods not exceeding one year, mortgage,
28 assign, transfer or convey any property of the estate upon terms and
29 conditions and for considerations he may determine, without any other

1 order or confirmation of the court; or

2 (4) by ordering final distribution of the estate at any
3 time after the expiration of the two months' period after the first
4 publication of notice to creditors.

5 (b) In any such case, creditors not presenting their claims with-
6 in the time stated in the notice to creditors are barred as if full ad-
7 ministration had occurred. No error in the statement of the value of
8 the estate or the subsequent discovery of additional assets affects the
9 validity of an order directing the summary administration of the estate
10 or an order or proceeding in connection with the administration of the
11 estate. A person dealing with a personal representative upon whom
12 powers have been conferred by this section may rely fully upon the
13 powers conferred upon him, but the personal representative, in exercis-
14 ing the powers, is accountable to the estate and shall make a final
15 report and account of his administration to be settled by the court as
16 in other cases.

17 CHAPTER 26. ANCILLARY ESTATES.

18 ARTICLE 1. POWERS OF FOREIGN REPRESENTATIVES.

19 Sec. 13.26.010. POWERS OF COLLECTION. When there is no adminis-
20 tration, or application for administration pending in this state, a
21 foreign representative may collect and receive any personal estate of
22 the decedent or ward in this state, and may remove it to the jurisdic-
23 tion in which his letters are issued upon delivery to the person or
24 corporation indebted or holding the personal estate of the decedent or
25 ward

26 (1) an affidavit by the foreign representative stating that
27 to his knowledge no letters of administration are then outstanding on
28 the estate in this state, and that no petition for letters of adminis-
29 tration is pending on the estate in this state, and

1 (2) an authenticated copy of letters issued to him by the
2 domiciliary jurisdiction.

3 Sec. 13.26.020. EFFECT OF COLLECTION. A person who makes payment
4 or delivers personal property to a foreign representative upon receipt
5 of the affidavit and copy of domiciliary letters and without actual
6 notice of local administration or application for local administration,
7 shall be released to the same extent as if the payment or delivery had
8 been made to a legally qualified resident representative.

9 Sec. 13.26.030. POWERS TO BRING ACTIONS. When there is no ad-
10 ministration or application for administration pending in this state,
11 a foreign representative may bring actions and proceedings in this
12 state in any situations in which a resident representative may bring
13 actions and proceedings, subject to the conditions imposed by sec. 40
14 of this chapter and upon nonresident suitors generally.

15 Sec. 13.26.040. PROOF OF AUTHORITY IN COURT PROCEEDINGS. Upon
16 commencing an action or proceeding in a court of this state, the for-
17 eign representative shall file with the court authenticated copies of
18 his appointment and of his official bond, if he has given a bond. If
19 the court believes that the security furnished by him in the domicili-
20 ary administration is insufficient to cover the proceeds of the action
21 or proceeding, it may order the action or proceeding stayed until suf-
22 ficient security is furnished in the domiciliary jurisdiction.

23 Sec. 13.26.050. PROCEEDINGS TO BAR CREDITORS' CLAIMS. Upon ap-
24 plication by a foreign representative, the court shall cause notice of
25 the appointment of the foreign representative to be published. The
26 claims of all creditors of the decedent or ward, unless filed with the
27 court within six months after notice is first published, are barred as
28 a lien upon all property of the decedent or of the ward in this state,
29 to the extent that all claims are barred by local administration. If

1 before the expiration of this period any claims have been filed and
2 remain unpaid after notice of the claim has been given to the foreign
3 representative, ancillary administration may be had.

4 **ARTICLE 2. PROBATE OF FOREIGN WILLS.**

5 **Sec. 13.26.070. PROBATE ON PROOF OF DOMICILIARY PROBATE.** The
6 written will of a testator who died domiciled outside this state shall
7 be admitted to probate upon proof that it stands probated or establish-
8 ed in the jurisdiction where the testator died domiciled and is not
9 being contested there. A will probated under this section is suf-
10 ficient to operate on any property within the terms of the will, sub-
11 ject to limitations upon its operation imposed by the law of the juris-
12 diction where the testator died domiciled. Rights to take against the
13 will are not affected by this section.

14 **Sec. 13.26.080. LOCAL CONTEST LIMITED.** The will may be con-
15 tested only upon the ground that the conditions of sec. 70 of this
16 chapter have not been met or that the will has been finally rejected
17 from probate in this state.

18 **Sec. 13.26.090. SETTING ASIDE LOCAL PROBATE.** Probate shall be
19 set aside upon sufficient proof that probate or establishment of the
20 will has been set aside in the jurisdiction where the testator died
21 domiciled.

22 **Sec. 13.26.100. PROTECTION OF PROBATE UNDER SEC. 70.** If after
23 probate sufficient proof that probate or establishment of the will has
24 been set aside in the domiciliary jurisdiction or that proceedings have
25 been taken to contest the will in the domiciliary jurisdiction is filed
26 in the court of this state where probate was granted, and, in the case
27 of real property, also recorded in the office of the recorder in the
28 district where the real property is located, the protection of local
29 probate ceases until sufficient proof that the domiciliary proceeding:

1 have been terminated in favor of the will or were never actually taken
2 is filed, and, in the case of real property, also recorded as above
3 provided.

4 **Sec. 13.26.110. EFFECT OF REJECTION OF WILL AT DOMICILE.** Final
5 rejection of the will from probate or establishment in the jurisdiction
6 where the testator died domiciled is conclusive in this state except
7 when the will has been rejected solely for a cause which is not a
8 ground for rejection of a will of a testator who died domiciled in this
9 state, in which case the will may be admitted to probate under sec.
10 120 of this chapter.

11 **Sec. 13.26.120. ORIGINAL PROBATE.** Original probate of the will
12 of a testator who died domiciled outside this state, which is valid
13 under the laws of this state, may be granted if the will (1) does not
14 stand rejected from probate or establishment in the domiciliary juris-
15 diction, or (2) stands rejected from probate or establishment in the
16 domiciliary jurisdiction solely for a cause which is not ground for re-
17 jection of a will of a testator who died domiciled in this state. The
18 court may delay passing on the application for probate under this sec-
19 tion pending the result of probate or establishment or contest at the
20 domicile or of the application for probate under sec. 70 of this
21 chapter.

22 **Sec. 13.26.130. PROOF OF WILL AFTER PROBATE IN NONDOMICILIARY**
23 **JURISDICTION.** If a testator dies domiciled outside this state, an
24 authenticated copy of his will and of the probate or establishment
25 thereof in a jurisdiction other than the one in which he died domiciled
26 shall be prima facie proof of the contents and legal sufficiency of the
27 will in proceedings for admission of the will to probate in this state
28 if no objection is made. This section does not authorize the probate
29 of a will which would not be admissible to probate under sec. 110 of

1 this chapter, or in case objection is made to the will, relieve the
2 proponent from offering proof of the contents and legal sufficiency
3 of the will.

4 **ARTICLE 3. ANCILLARY ADMINISTRATION.**

5 **Sec. 13.26.150. APPLICATION FOR ANCILLARY LETTERS AND NOTICE.**

6 (a) Qualifications of and preference for foreign representatives are
7 as follows:

8 (1) A foreign representative, upon the filing of an authenti-
9 cated copy of the domiciliary letters with the superior court, may be
10 granted ancillary letters in this state notwithstanding that the rep-
11 resentative is a nonresident of this state or is a foreign corporation.

12 (2) If the foreign representative is a foreign corporation,
13 it need not qualify under any other law of this state to authorize it
14 to act as representative in this state for the particular estate if it
15 complies with secs. 170 and 180 of this chapter.

16 (3) If application is made for the issuance of ancillary
17 letters to the foreign representative, the court shall give preference
18 in appointment to the foreign representative unless the court finds
19 that it will not be in the best interests of the estate, or the dece-
20 dent otherwise directed.

21 (b) When application is made for issuance of ancillary letters,
22 an interested person may intervene and pray for the appointment of any
23 person who is eligible under the law of this state.

24 (c) When application is made for issuance of ancillary letters
25 to a person other than the foreign representative, the applicant shall
26 give notice of the application to the foreign representative.

27 **Sec. 13.26.160. DENIAL OF ANCILLARY LETTERS.** The court may deny
28 the application for ancillary letters if it appears that the estate may
29 be settled conveniently without ancillary administration.

1 **Sec. 13.26.170. BOND.** No nonresident shall be granted ancillary
2 letters unless he gives an administration bond.

3 **Sec. 13.26.180. AGENT TO ACCEPT SERVICE OF PROCESS.** No nonresi-
4 dent shall be granted ancillary letters and no person shall be granted
5 leave to remove assets until he files in the court an irrevocable power
6 of attorney constituting the clerk of the court as his agent to accept
7 service of process or of notice in any action or proceeding relating
8 to the administration of the estate. The clerk shall forward to the
9 representative any process or notice received.

10 **Sec. 13.26.190. SUBSTITUTION OF FOREIGN FOR LOCAL REPRESENTATIVE.**

11 (a) If another person has been appointed representative in this state,
12 the foreign representative, not later than 14 days after receipt by him
13 of notice, unless this period is extended by the court for cause which
14 it considers adequate, may apply for revocation of the appointment and
15 for grant of ancillary letters to himself. Notice of the hearing shall
16 be given to the local representative. If the court finds that it is
17 for the best interests of the estate, it may grant the application and
18 direct the local representative to deliver all the assets, documents,
19 and papers pertaining to the estate in his possession to the new ad-
20 ministrator, and make a full report of his administration to the
21 combined representative as soon as the letters are issued and he is
22 qualified. The local representative shall also account to the court.
23 The hearing on the account may be immediately or upon notice which the
24 court directs. Upon compliance with the court's directions, the local
25 representative shall be discharged.

26 **Sec. 13.26.200. REMOVAL OF ASSETS TO DOMICILIARY JURISDICTION.**

27 (a) Before the final disposition of the ancillary estate and upon
28 giving notice, the foreign representative or the combined representa-
29 tive may apply for leave to remove all or any part of the assets from

1 this state to the domiciliary jurisdiction for purposes of adminis-
2 tration and distribution.

3 (b) Before granting the application, the court shall require the
4 filing of a power of attorney and a bond by the foreign representative
5 commensurate with the protection of the estate and all interested per-
6 sons.

7 (c) Upon compliance with this section, the court may grant the
8 application upon conditions it sees fit. The granting of the applica-
9 tion shall not terminate any proceedings for the administration of
10 property in this state unless the court finds that the proceedings are
11 unnecessary. If the court so finds, it may order the administration
12 in this state closed, subject to reopening within one year for cause.

13 Sec. 13.26.210. EFFECT OF ADJUDICATIONS FOR OR AGAINST REPRESENT-
14 ATIVES. A prior adjudication rendered in any jurisdiction for or a-
15 gainst a representative of the estate is conclusive as to the local or
16 combined representative as if he were a party to the adjudication un-
17 less it resulted from fraud or collusion of the party representative to
18 the prejudice of the estate. This section does not apply to adjudica-
19 tions in another jurisdiction admitting or refusing to admit a will to
20 probate.

21 Sec. 13.26.220. PAYMENT OF CLAIMS. No claim against the estate
22 may be paid in the ancillary administration in this state unless it has
23 been proceeded upon in this state in the manner and within the time re-
24 quired for claims in domiciliary administrations.

25 Sec. 13.26.230. LIABILITY OF LOCAL ASSETS. All local assets are
26 subject to the payment of all claims, allowances, and charges, whether
27 they are established or incurred in this state or elsewhere. For this
28 purpose local assets may be sold and the proceeds forwarded to the
29 representative in the jurisdiction where the claim was established or

1 the charge incurred.

2 **Sec. 13.26.240. PAYMENT OF CLAIMS IN CASE OF INSOLVENCY.** (a) If
3 the estate either in this state or as a whole is insolvent, it shall
4 be disposed of in this state so that, as far as possible, each creditor
5 whose claim has been allowed, either in this state or elsewhere, shall
6 receive an equal proportion of his claim subject to preferences and
7 priorities and to any security which a creditor has as to particular
8 assets. If a preference, priority, or security is allowed in another
9 jurisdiction but not in this state, the creditor so benefited shall
10 receive dividends on local assets only upon the balance of his claim
11 after deducting the amount of any allowed benefit.

12 (b) Creditors who have security claims upon local property not
13 exempt from the claims of general creditors, and who have not released
14 or surrendered it, shall have the value of the security determined by
15 means which the court may direct, and the value so determined shall be
16 credited upon the claim, and the dividends from local assets shall be
17 computed and paid only on the unpaid balance.

18 (c) When a creditor has security upon local property which is
19 exempt from process for the satisfaction of unsecured debts and is
20 claimed as exempt by the insolvent estate, the value of the security
21 shall not be credited upon the claim in computing dividends from local
22 assets. Amounts realized by the creditor from the security after
23 distribution proceedings are begun shall be disregarded in computing
24 dividends, unless the dividend as computed exceeds the sum actually
25 owing upon the claim, in which event only the amount owing shall be
26 paid.

27 (d) In case of insolvency and if local assets permit, each
28 claim allowed in this state shall be paid its proportion, and any
29 balance of assets shall be disposed of in accordance with sec. 250 of

1 this chapter.

2 **Sec. 13.26.250. TRANSFER OF RESIDUE TO DOMICILIARY REPRESENTA-**
3 **TIVE.** After payment of all claims allowed in this state and of all
4 taxes and charges levied or incurred in this state, the court may
5 order any movable assets remaining on hand to be transferred to the
6 representative in the domiciliary jurisdiction. The court may decline
7 to make the order until the representative furnishes security or ad-
8 ditional security in the domiciliary jurisdiction, for the proper ad-
9 ministration and distribution of the assets to be transferred.

10 **ARTICLE 4. MISCELLANEOUS PROVISIONS.**

11 **Sec. 13.26.270. DEFINITIONS.** In this chapter

12 (1) "foreign representative" means an executor, administra-
13 tor, guardian, or other fiduciary of the estate of a decedent or a
14 ward who has been appointed by the court of another jurisdiction in
15 which the decedent was domiciled at the time of his death, or in which
16 the ward is domiciled, and who has not been appointed by a court of
17 this state;

18 (2) "combined representative" means a foreign representative
19 who has also been appointed by a court of this state.

20 **Sec. 13.26.280. GENERAL LAW TO APPLY.** Except where special pro-
21 vision is made otherwise, the law in this state relating generally to
22 administration and probate apply to ancillary administration and pro-
23 bate.

24 **CHAPTER 31. ADMINISTRATION OF PARTNERSHIP INTERESTS.**

25 **Sec. 13.31.010. INVENTORY AND APPRAISEMENT.** The executor or ad-
26 ministrator of the estate of a deceased person who was a member of a
27 partnership at his death shall include in the inventory of the de-
28 ceased person's estate the whole of the partnership property and the
29 appraisers shall estimate the value of the whole of the property and

1 also the value of the deceased person's individual interest in the
2 partnership property taking into account all the debts and liabilities
3 of the partnership.

4 Sec. 13.31.020. CUSTODY AND CONTROL. After the inventory is
5 taken, the partnership property shall be in the custody and control of
6 the surviving partner, who shall wind up the partnership and transfer
7 the interest of the deceased in the partnership remaining after the
8 payment or satisfaction of the debts and liabilities of the partner-
9 ship to the executor or general administrator or pay its value to him.

10 Sec. 13.31.030. LIMITED PARTNERSHIP. Upon application concurred
11 in by the surviving partner or partners, and the personal representa-
12 tive of the deceased partner, the court may authorize the continuance
13 of the enterprise in the form of a limited partnership as defined in
14 AS 32.10.280 without termination of the original partnership if

15 (1) it appears to the court that present circumstances would
16 make immediate liquidation of partnership assets financially unfeasible
17 to the detriment of the decedent's interest in the partnership; and

18 (2) the surviving partners post bond equal to the present
19 value of the decedent's interest in the partnership.

20 Sec. 13.31.040. NATURE OF LIMITED PARTNERSHIP. Before the
21 limited partnership may be authorized, the surviving partner or part-
22 ners shall agree that they shall be general partners as defined in the
23 Alaska Uniform Limited Partnership Act (AS 32.10) and that the repre-
24 sentative of the deceased shall be a limited partner as defined in
25 that Act. However, the limited partner may bring about dissolution
26 proceedings upon being directed to do so by the court.

27 Sec. 13.31.050. TERMINATION OF LIMITED PARTNERSHIP. The adminis-
28 trator of the estate who is also a limited partner of the partnership
29 shall report to the court regarding the state of the partnership's

1 affairs as directed by the court. The court shall at any time during
2 the administration, order the administrator to bring about dissolution
3 proceedings and winding up, when it appears to the court that the situ-
4 ation which caused the court to authorize the limited partnership has
5 been alleviated.

6 Sec. 13.31.060. PARTNERSHIP CONTINUATION AGREEMENTS. The pro-
7 visions of this chapter do not apply if the decedent has provided for
8 disposition of the partnership interest in his will, and the disposi-
9 tion is effective.

10 CHAPTER 36. GUARDIANSHIP.

11 ARTICLE 1. APPOINTMENT OF GUARDIAN.

12 Sec. 13.36.010. PETITION FOR APPOINTMENT OF GUARDIAN. An inter-
13 ested person may commence an action for the appointment of himself or
14 some other qualified person as guardian of the estate or person of an
15 incompetent, or of the estate of a missing person. The Department of
16 Health and Welfare is considered an interested party for purposes of
17 participation in any hearing involving a guardianship of the person.

18 Sec. 13.36.020. NOTICE OF HEARING. (a) Before appointing a
19 guardian other than a temporary guardian, notice of hearing shall be
20 given to the following unless they have signed the petition for ap-
21 pointment of the guardian or have waived notice of the hearing:

- 22 (1) the incompetent, if over 14 years of age;
23 (2) the parents, if the incompetent is a minor;
24 (3) the spouse of the incompetent or missing person, if any;
25 (4) the person who has been appointed guardian, or the per-
26 son having the care and custody of the incompetent or missing person,
27 if any;
28 (5) at least one of the closest adult relatives of the in-
29 competent or missing person, by blood or marriage;

1 (6) if directed by the court,

2 (A) any department, bureau or agency of the United
3 States or of this state or political subdivision of this state,
4 which makes or awards compensation, pension, insurance or other
5 allowance for the benefit of the ward's estate;

6 (B) any department, bureau or agency of this state or
7 any political subdivision or charitable organization of this
8 state, which may be charged with the supervision, control, or
9 custody of the incompetent;

10 (C) an interested person.

11 (b) It shall not be necessary that the person for whom guardian-
12 ship is sought to be represented by a guardian ad litem in the pro-
13 ceedings.

14 Sec. 13.36.030. QUALIFICATIONS OF GUARDIAN. (a) A person is
15 qualified to serve as guardian of a person or of an estate if he has
16 the qualifications of a personal representative, unless specifically
17 exempt by this section. However, no person may be appointed guardian
18 of the person unless he is qualified to have the care and custody, and
19 in case of a minor ward to provide for the training and education of
20 the ward, and, except as provided in this section, unless he is a
21 natural person.

22 (b) A parent shall not be denied appointment as guardian of the
23 person of his child by reason of the parent being under the age of 19.

24 (c) A department or agency of this state or a political subdi-
25 vision, or charitable organization of this state, which may be charged
26 with the supervision, control or custody of the incompetent, may be
27 appointed guardian of the person or of the estate or both.

28 Sec. 13.36.040. PREFERENCE IN GRANTING LETTERS. Blood relatives
29 of an unmarried minor, up to and including the third degree of kindred,

1 if otherwise qualified, are preferred over all others for appointment
2 as guardian of the person. If more than one is qualified, relatives
3 in closest degree of kindred are preferred. Subject to this rule, the
4 court shall appoint as guardian of the person or estate of an incompe-
5 tent or of the estate of a missing person, the one most suitable who
6 is willing to serve, having due regard to

7 (1) any request for the appointment contained in a will or
8 other written instrument executed by the parent for the appointment as
9 guardian of his minor child;

10 (2) any request made by a minor for the appointment as his
11 guardian provided the minor is of sufficient age to form an intelligent
12 preference;

13 (3) any request for the appointment made by the spouse of
14 an incompetent;

15 (4) any relationship by blood or marriage to the person for
16 whom guardianship is sought.

17 Sec. 13.36.050. ORDER APPOINTING GUARDIAN. If upon the hearing
18 the court is satisfied that a guardian is required to protect the in-
19 terests of an incompetent or missing person, the court shall appoint
20 one or two guardians of the person or of the estate or both; but not
21 more than one guardian of the person shall be appointed unless they are
22 husband and wife. In every instance, the court shall appoint the same
23 person as guardian of the person and estate of the ward, unless in the
24 opinion of the court the interests of the ward will be promoted by ap-
25 pointment of different persons as guardians of the person and of the
26 estate.

27 Sec. 13.36.060. TEMPORARY GUARDIAN. If the court finds that the
28 welfare of an incompetent or missing person requires the immediate ap-
29 pointment of a guardian of the person or estate of an incompetent, or

1 of the estate of a missing person, it may, with or without notice, ap-
2 point a temporary guardian for the incompetent or missing person for a
3 specified period not to exceed 60 days, subject to earlier termination
4 by the court. The appointment may be to perform duties respecting
5 specific property or to perform particular acts as stated in the order
6 of appointment. The temporary guardian shall make reports which the
7 court directs, and shall account to the court upon termination of his
8 authority. In other respects the provisions of this title concerning
9 guardians shall apply to temporary guardians and an appeal may be taken
10 from the order of appointment of a temporary guardian.

11 Sec. 13.36.070. GUARDIAN AD LITEM. The court shall have author-
12 ity, in cases where it is necessary to protect the interests of a
13 missing or incompetent person, to appoint a guardian ad litem for the
14 person, who is authorized, subject to the approval of the judge of
15 probate, to engage counsel and do whatever is necessary to defend and
16 protect the interests of the person.

17 Sec. 13.36.080. BOND OF GUARDIAN. The order appointing a guard-
18 ian shall specify the amount of bond to be given. If the guardianship
19 is of the person only, the amount of the bond shall not exceed \$1,000,
20 or the court may dispense with the bond altogether. At every account-
21 ing the court may inquire into the sufficiency of the bond and of the
22 sureties, and if either or both are found insufficient, the guardian
23 shall be ordered to file a new bond. If, by the terms of a will the
24 testator expresses the wish that no bond is required of the person
25 whom he requests to be appointed guardian, that person may be relieved
26 of giving a guardian's bond so far as it applies to property given by
27 the will to the incompetent. However, if the court subsequently con-
28 siders it to be in the best interest of the estate, it may require a
29 bond. AS 13.16.150 - 13.16.200 pertaining to the bonds of personal

1 representatives are applicable to the bonds of guardians.

2 Sec. 13.36.090. WHEN LETTERS TO BE ISSUED. When a duly appointed
3 guardian has given bond as may be required by the court, letters shall
4 be issued to him.

5 Sec. 13.36.100. REQUEST FOR SPECIAL NOTICE OF HEARINGS. At any
6 time after the issuance of letters of guardianship, (1) any department,
7 bureau or agency of the United States or of this state or political
8 subdivision of this state which makes or awards compensation, pension,
9 insurance or other allowance for the benefit of the ward's estate, or
10 (2) any department, agency or subdivision of this state or charitable
11 organization of this state, which may be charged with the supervision,
12 control or custody of the incompetent, or (3) an interested person
13 may serve upon the guardian or upon his attorney, and file with the
14 clerk of the court where the proceedings are pending, a written request
15 stating that he desires notice of all hearings on petitions for the
16 settlement of accounts, for the sale, mortgage, lease or exchange of
17 any property of the estate, for allowances of any nature payable from
18 the ward's estate, for the investment of funds of the estate, or for
19 the removal, suspension, or discharge of the guardian or final termina-
20 tion of the guardianship. The applicant for the notice shall include
21 in his written request his post office address or that of his attorney.
22 Unless the court otherwise directs, upon filing the request, the per-
23 son is entitled to notice of all hearings or of any of them as he
24 designates in his request.

25 ARTICLE 2. DUTIES OF GUARDIAN.

26 Sec. 13.36.120. GENERAL DUTIES OF GUARDIAN. (a) It is the duty
27 of the guardian of the person to care for and maintain the ward and, if
28 he is a minor, to see that he is properly trained and educated and
29 that he has the opportunity to learn a trade, occupation or profession.

1 When a guardian has advanced, for the adequate care and maintenance of
2 the ward, an amount not disproportionate to the value of the ward's
3 estate or of his condition of life, the guardian shall be allowed
4 credit for the advancement in his settlements. The guardian of the
5 person may be required to report the condition of his ward to the
6 court, at regular intervals or otherwise, as the court may direct.

7 (b) It is the duty of the guardian of the estate to care for and
8 manage the estate, to invest it prudently, to apply it as provided in
9 this title, to account for it faithfully, to perform all duties re-
10 quired of him by law, and, at the termination of the guardianship, to
11 deliver the assets of the ward to the persons entitled to them.

12 Sec. 13.36.130. POWERS OF GUARDIAN OF THE PERSON. The guardian
13 of the person shall be entitled to the custody of the ward, subject to
14 any provision the court may make regarding temporary custody consist-
15 ent with the ward's welfare.

16 Sec. 13.36.140. TITLE AND POSSESSION OF ESTATE. The guardian of
17 the estate shall take possession of all of the ward's real and personal
18 property, and of its rents, income, issues and profits, whether
19 accruing before or after his appointment, and of the proceeds arising
20 from its sale, mortgage, lease or exchange. The title to all the
21 estate, and to the increment and proceeds from it, shall be in the
22 ward and not in the guardian.

23 Sec. 13.36.150. INVENTORY AND APPRAISEMENT. When a guardian of
24 the estate has been appointed, an inventory and appraisal of the
25 ward's estate shall be made in the same manner and subject to the
26 same requirements as are provided in this title for the inventory and
27 appraisal of a decedent's estate.

28 Sec. 13.36.160. APPLICATION OF INCOME AND PRINCIPAL FOR BENEFIT
29 OF WARD. (a) Subject to (b) of this section, the income of the

1 ward's estate shall be first applied to his adequate care, maintenance
2 and education. If the income is not sufficient to adequately care for,
3 maintain, and educate the ward, the guardian may expend any portion of
4 the principal necessary from time to time for these purposes. Expendi-
5 tures are considered as valid if the court would have approved them at
6 the time they were made. The guardian may obtain a court order for
7 specific expenditures for the ward, before making them, though a court
8 order is not necessary to make the expenditures valid.

9 (b) On order of the court, any surplus of the income may be ap-
10 plied to the care, maintenance and education of any dependents of the
11 ward.

12 (c) If the ward is a minor, and his parents or those standing in
13 loco parentis are able to care for, maintain and educate him, neither
14 the income nor the principal of the ward's estate shall be expended
15 for any purpose except as ordered by the court.

16 Sec. 13.36.170. ORDER FOR PERIODIC ALLOWANCE. The guardian of
17 the estate, or the person, department, bureau, agency or organization
18 having the care and custody of a ward may apply to the court for an
19 order directing the guardian of the estate to pay to the person, de-
20 partment, bureau, agency or organization, having the care and custody
21 of the ward, a periodic amount as the court may direct, to be expended
22 in the care, maintenance and education of the ward and of his depend-
23 ents. If the guardian of the estate has custody of the ward, the order
24 shall direct that he apply a periodic sum toward these purposes. In
25 its discretion, the court may order payment of amounts directly to the
26 ward for his maintenance or incidental expenses. The amounts author-
27 ized under this section may be decreased or increased from time to
28 time by direction of the court. If payments are made under the order
29 of the court, the guardian of the estate is not bound to see to the

1 application of the funds.

2 **Sec. 13.36.180. INVESTMENTS.** (a) The guardian of the estate
3 shall invest the property of the ward, not required for the mainten-
4 ance and care of the ward and his dependents, within a reasonable time.
5 The guardian shall be held to a standard of judgment and care which
6 men of prudence, discretion, and intelligence exercise in the manage-
7 ment of their own affairs, not in regard to speculation but in regard
8 to the permanent disposition of their funds, considering the probable
9 income as well as the probable safety of their capital.

10 (b) Investment in shares of an investment company or investment
11 trust shall be specifically permitted, if the investment is consistent
12 with (a) of this section.

13 **Sec. 13.36.190. PURCHASE OF HOME.** If necessary for the support
14 of the ward or the ward's dependents, the guardian may purchase a home
15 for the ward, or for the ward's dependent family. A guardian who oc-
16 cupies the ward's property is chargeable with a reasonable rental fee,
17 though he is living with and caring for the ward.

18 **Sec. 13.36.200. CONTINUATION OF BUSINESS.** In all cases where the
19 court considers it advantageous to continue the business of a ward, the
20 business may be continued by the guardian of the estate on order of the
21 court and according to the rules in AS 13.16.305 and ch. 31 of this
22 title for the continuation of the business of a decedent by a personal
23 representative.

24 **Sec. 13.36.210. SALES, MORTGAGES, LEASES AND EXCHANGES.** (a) The
25 real or personal property of the ward, or any part of it, may be sold,
26 mortgaged, leased or exchanged by the guardian of the estate for the
27 purpose of paying the ward's debts, providing for his care, maintenance
28 and education and the care, maintenance and education of his depend-
29 ents, investing the proceeds or in any other case where it is for

1 the best interests of the ward. In all these transactions, the guard-
2 ian shall be hold to a standard of judgment and care which men of
3 prudence, discretion, and intelligence exercise in the management of
4 their own affairs.

5 (b) In other respects, AS 13.16.410 - 13.16.420 and AS 13.16.480,
6 relative to decedent's estates apply to sales, mortgagee, leases, and
7 exchanges of property of the ward.

8 Sec. 13.36.220. SALE OF WARD'S PROPERTY NOT ADEMPION. If the
9 guardian transfers any real or personal property specifically devised
10 by a ward who was competent at the time he made the will but was in-
11 competent at the time of the sale or transfer and never regained compe-
12 tency, and the devised property is not contained in the estate at the
13 time of the ward's death, the devisee may at his option treat the devise
14 as general, having value equal to the value of the property at the time
15 of the ward's death, or may treat the devise as specific, tracing the
16 proceeds of the transfer.

17 Sec. 13.36.230. CLAIMS. (a) A guardian of the estate is under
18 a duty to pay from the estate all just claims against the estate of his
19 ward, whether they constitute liabilities of the ward which arose be-
20 fore the guardianship or liabilities properly incurred by the guardian
21 for the benefit of the ward or his estate and whether arising in con-
22 tract or in tort or otherwise. The duty of the guardian to pay from
23 the estate shall not preclude his personal liability for his own con-
24 tracts and acts made and performed on behalf of the eatate as it exists
25 according to the common law. If it appears that the estate is likely
26 to be exhausted before all existing elaims are paid, preference shall
27 be given to prior claims for the care, maintenance and education of the
28 ward and of his dependents and existing claims for expenses of guardian-
29 ship over other claims.

1 (b) A person having a claim against the estate of a ward, or
2 against the guardian of his estate as such, may file it with the court
3 for determination at any time before it is barred by the statute of
4 limitations, and, upon proof, procure an order for its allowance and
5 payment from the estate. An action against the guardian of the estate
6 as such shall be considered a claim duly filed.

7 (c) AS 13.16.330 and 13.16.365, as to claims against decedents'
8 estates, shall be applicable to claims against estates under guardian-
9 ship, but other provisions regarding claims against decedents' estates
10 shall not apply to estates under guardianship.

11 Sec. 13.36.240. COMPROMISE. Whenever it is proposed to compro-
12 mise or settle a claim by or against the ward, whether arising as a
13 result of personal injury or otherwise, and whether arising before or
14 after appointment of a guardian, the court on petition of the guardian
15 of the estate, if satisfied that the compromise or settlement will be
16 for the best interests of the ward, may enter an order authorising the
17 settlement or compromise to be made.

18 Sec. 13.36.250. ACCOUNTING. (a) Unless otherwise directed by
19 the court, every guardian of the estate shall file with the court
20 annually within 30 days after the anniversary date of his appointment,
21 and also within 30 days after termination of his appointment, a written
22 verified account of his administration. Notice of hearing of every
23 accounting shall be given to the same persons and in the same manner
24 as is required by sec. 20 of this chapter. The account shall show
25 with respect to each item for which credit is claimed whether or not
26 the amount has been paid, and in either event the court may allow any
27 item or disallow it in whole or in part except to the extent that it
28 has been approved in advance.

29 (b) When notice has been given as provided in (a) of this

1 section, the settlement by the court of any account, subject to the
2 right of appeal, is binding upon all persons except the ward, or, if
3 he dies after settlement, his personal representative. The ward, or,
4 if he dies after the settlement, his personal representative, may
5 question any item of the settlement within two years after the date of
6 the discharge of the guardian but not afterward.

7 (c) AS 13.16.495, 13.16.505 - 13.16.525, 13.16.535, and 13.16.540,
8 as to accounting in decedents' estates apply to guardianship estates.

9 Sec. 13.36.260. COMPENSATION OF GUARDIAN AND ATTORNEY. A guardian
10 shall be allowed compensation for his services as guardian which the
11 court considers just and reasonable. Additional compensation may be
12 allowed for his necessary services as attorney and for other necessary
13 services not required of a guardian. He may also be allowed compensa-
14 tion for necessary expenses in the administration of his trust, includ-
15 ing reasonable attorney fees if the employment was necessary. In all
16 cases, compensation of the guardian and his expenses including attorney
17 fees shall be fixed by the court and may be allowed at an annual or
18 final accounting; but any time during the administration of the estate,
19 the guardian or his attorney may apply to the court for an allowance up-
20 on the compensation or necessary expenses of the guardian and for at-
21 torney fees for services already performed. If the court finds that
22 the guardian has substantially failed to discharge his duties, it may
23 deny him any compensation whatsoever or may reduce the compensation
24 which would otherwise be allowed.

25 ARTICLE 3. REMOVAL AND TERMINATION OF GUARDIANSHIP.

26 Sec. 13.36.280. WHEN GUARDIAN REMOVED. When a minor ward is of
27 sufficient age to form an intelligent preference, the guardian of his
28 person may be removed on petition of the ward to have another person
29 appointed guardian if it is for the best interests of the ward that

1 another person be appointed. A guardian may also be removed on the
2 same grounds and in the same manner as is provided for the removal of
3 a personal representative.

4 Sec. 13.36.290. APPOINTMENT OF SUCCESSOR GUARDIAN. When a guard-
5 ian dies, is removed by order of the court, or resigns and the resigna-
6 tion is accepted by the court, the court may appoint another guardian
7 in his place in the same manner and subject to the same requirements as
8 are provided for an original appointment of a guardian.

9 Sec. 13.36.300. TERMINATION OF GUARDIANSHIP. (a) A guardianship
10 is terminated

11 (1) if the guardianship was solely because of the ward's
12 minority, by the ward attaining his majority;

13 (2) by an adjudication of competency of the ward;

14 (3) by the death of the ward;

15 (4) if the guardianship of the person was solely because of
16 the wards minority, by the marriage of the ward.

17 (b) A guardianship may be terminated by court order after notice
18 which the court may require if the guardianship is no longer necessary
19 for any reason.

20 (c) When a guardianship terminates otherwise than by the death of
21 the ward, the powers of the guardian cease, except that a guardian of
22 the estate may make disbursement for claims that are or may be allowed
23 by the court, for liabilities already properly incurred for the estate
24 or ward, and for expenses of administration. When a guardianship
25 terminates by death of the ward, the guardian of the estate may proceed
26 under sec. 320 of this chapter, but the rights of all creditors against
27 The ward's estate shall be determined by the law of decedents' estates.

28 Sec. 13.36.310. DISCHARGE OF GUARDIAN. When a guardian of the
29 estate files with the court proper receipts or other evidence

1 satisfactory to the court, showing that he has delivered to the persons
2 entitled thereto all the property for which he is accountable as guard-
3 ian, the court shall enter an order of discharge. The discharge so
4 obtained shall operate as a release from the duties of his office which
5 have not previously terminated, and shall operate as a bar to any suit
6 against the guardian and his sureties unless the suit is commenced
7 within two years from the date of the discharge.

8 Sec. 13.36.320. ADMINISTRATION OF DECEASED WARD'S ESTATE. Upon
9 the death of a ward intestate the guardian of his estate has power
10 under the letters issued to him and subject to the direction of the
11 court to administer the estate as the estate of the deceased ward with-
12 out further letters unless within 30 days after the death of the ward a
13 petition is filed for letters of administration or for letters testa-
14 mentary and the petition is granted. Notice to creditors and other
15 persons interested in the estate shall be published and may be combined
16 with the notice of the guardian's final account. All claims which are
17 not filed within 60 days after first publication shall be barred
18 against the estate. Upon the hearing, the account may be allowed and
19 the balance distributed to the persons entitled to it, after payment of
20 allowed claims. Liability on the guardian's bond shall continue and
21 shall apply to the complete administration of the estate of the de-
22 ceased ward. If letters of administration or letters testamentary are
23 granted, upon petition filed within 30 days after the death of the ward,
24 the administrator or executor shall supersede the guardian in the admin-
25 istration of the estate and ch. 16 of this title applies to all pro-
26 ceedings in the administration, including the publication of notice to
27 creditors and other interested persons and the barring of creditors'
28 claims.

29 ARTICLE 4. DISPENSING WITH GUARDIANSHIP OF ESTATE.

1 another person be appointed. A guardian may also be removed on the
2 same grounds and in the same manner as is provided for the removal of
3 a personal representative.

4 Sec. 13.36.290. APPOINTMENT OF SUCCESSOR GUARDIAN. When a guard-
5 ian dies, is removed by order of the court, or resigns and the resigna-
6 tion is accepted by the court, the court may appoint another guardian
7 in his place in the same manner and subject to the same requirements as
8 are provided for an original appointment of a guardian.

9 Sec. 13.36.300. TERMINATION OF GUARDIANSHIP. (a) A guardianship
10 is terminated

11 (1) if the guardianship was solely because of the ward's
12 minority, by the ward attaining his majority;

13 (2) by an adjudication of competency of the ward;

14 (3) by the death of the ward;

15 (4) if the guardianship of the person was solely because of
16 the wards minority, by the marriage of the ward.

17 (b) A guardianship may be terminated by court order after notice
18 which the court may require if the guardianship is no longer necessary
19 for any reason.

20 (c) When a guardianship terminates otherwise than by the death of
21 the ward, the powers of the guardian cease, except that a guardian of
22 the estate may make disbursement for claims that are or may be allowed
23 by the court, for liabilities already properly incurred for the estate
24 or ward, and for expenses of administration. When a guardianship
25 terminates by death of the ward, the guardian of the estate may proceed
26 under sec. 320 of this chapter, but the rights of all creditors against
27 The ward's estate shall be determined by the law of decedents' estates.

28 Sec. 13.36.310. DISCHARGE OF GUARDIAN. When a guardian of the
29 estate files with the court proper receipts or other evidence

1 **Sec. 13.36.340. CONDITIONS FOR DISPENSING WITH GUARDIANSHIP OF**
2 **ESTATE. (a) When the whole estate of a minor does not exceed the value**
3 **of \$1,000, the court may, before or after the appointment of a guardian**
4 **or the giving of bond, authorize**

5 (1) the deposit of the estate in a depository authorized to
6 receive fiduciary funds, payable to the guardian of the estate when ap-
7 pointed or to the minor upon his attaining the age of majority;

8 (2) if the assets do not consist of money, delivery of the
9 assets to a suitable person designated by the court, deliverable to the
10 guardian of the estate when appointed or to the minor upon his attaining
11 the age of majority; or

12 (3) the payment or delivery of the estate to the parent of
13 the minor, or to the person having the care or custody of the minor, or
14 to the minor himself.

15 (b) When the whole estate of a person over the age of 21 who has
16 been adjudicated incompetent does not exceed the value of \$1,000, the
17 court may, without the appointment of a guardian or the giving of bond,
18 authorize the deposit of the estate in a depository authorized to receive
19 fiduciary funds in the name of a suitable person designated by the court,
20 or if the assets do not consist of money, authorize delivery to a suit-
21 able person designated by the court.

22 (c) If the estate of an incompetent consists of money in an
23 amount greater than \$1,000 and it is for the best interest of the in-
24 competent that no guardian of the estate is appointed or that an exist-
25 ing guardianship be terminated and the estate deposited in a depository
26 authorized to receive fiduciary funds, the court may, on reasonable
27 notice to all persons who would be entitled to receive notice of a hear-
28 ing on a petition to appoint a guardian, so order.

29 (d) The person receiving money under (a) - (c) of this section

1 shall hold and dispose of it in the manner the court directs.

2 **ARTICLE 5. GENERAL PROVISIONS.**

3 **Sec. 13.36.360. RELATION OF SECTIONS.** Secs. 10 - 410 of this
4 chapter extend to the persons specifically provided for under the terms
5 of secs. 430 - 600 of this chapter. The provisions of secs. 10 - 410
6 of this chapter are cumulative to the provisions of secs. 430 - 600 of
7 this chapter; but a conflict arising between secs. 430 - 600 of this
8 chapter and the other sections of this chapter shall be resolved by
9 giving effect to the law as stated in secs. 430 - 600 of this chapter.

10 **Sec. 13.36.370. APPLICATION OF OTHER CHAPTERS.** Ch. 16 of this
11 title, unless therein restricted to decedents' estates, applies to
12 guardianships. Where sections in ch. 16 of this title are specifically
13 incorporated by reference by another section of this chapter, they shall
14 be applied as if "decedent" read "ward," "personal representative" read
15 "guardian," as the case may be, as far as applicable to guardianships
16 and not inconsistent with this chapter.

17 **Sec. 13.36.380. JURISDICTION AND NONSTATUTORY GUARDIANSHIPS**
18 **ABOLISHED.** The superior court has exclusive original jurisdiction over
19 all matters of guardianship, other than guardianships ad litem. All
20 forms of guardianship not expressly provided for in this title are
21 abolished.

22 **Sec. 13.36.390. WHO MAY BE UNDER GUARDIANSHIP.** A guardian of the
23 estate may be appointed for any incompetent or missing person. A
24 guardian of the person may be appointed for any incompetent except a
25 married minor who is incompetent solely by reason of his minority.

26 **Sec. 13.36.400. DETERMINATIONS NECESSARY TO APPOINTMENT. (a)**
27 **No guardian of an incompetent, other than a minor, may be appointed**
28 **until the person has been adjudicated to be incompetent upon sufficient**
29 **competent evidence in a proceeding instituted for that purpose as**

1 provided by law.

2 (b) No guardian of the estate of a missing person may be appointed
3 until the court has first determined that the person has disappeared,
4 and cannot upon reasonable inquiry be found.

5 Sec. 13.36.410. DEFINITIONS. In secs. 10 - 410 of this chapter,
6 unless otherwise apparent from the context

7 (1) "guardian" means a person appointed by a court to have
8 the care and custody of an incompetent person or of the estate of an
9 incompetent person or of both;

10 (2) "incompetent" means a person who is

11 (A) under the age of 19, or

12 (B) incapable by reason of insanity, mental illness,
13 imbecility, idiocy, senility, habitual drunkenness, excessive use
14 of drugs, or other incapacity, of either managing his property or
15 caring for himself or both;

16 (3) "missing person" means a person who owns property in the
17 state and cannot be located upon reasonable inquiry;

18 (4) "ward" means an incompetent or missing person for whom a
19 guardian has been appointed.

20 ARTICLE 6. VETERANS GUARDIANSHIP.

21 Sec. 13.36.430. ADMINISTRATOR AS PARTY IN INTEREST. The adminis-
22 trator shall be a party in interest in any proceeding for the appoint-
23 ment or removal of a guardian or for the removal of the disability of
24 minority or mental incapacity of a ward, and in any suit or other pro-
25 ceeding affecting in any manner the administration by the guardian of
26 the estate of any present or former ward whose estate includes assets
27 derived in whole or in part from benefits heretofore or hereafter paid
28 by the Veterans Administration. Not less than 15 days before the hear-
29 ing in the matter, notice in writing of the time and place shall be

1 given by mail (unless waived in writing) to the office of the Veterans
2 Administration having jurisdiction over the area in which the suit or
3 proceeding is pending.

4 Sec. 13.36.440. APPLICATION. Whenever, under a law of the United
5 States or regulation of the Veterans Administration, it is necessary,
6 before payment of benefits, that a guardian be appointed, the appoint-
7 ment may be made in the manner provided in secs. 440 - 600 of this
8 chapter.

9 Sec. 13.36.450. LIMITATION ON NUMBER OF WARDS. No person other
10 than a bank or trust company shall be guardian of more than five wards
11 at one time, unless all the wards are members of one family. Upon pre-
12 sentation of a petition by an attorney of the Veterans Administration
13 or other interested person, alleging that a guardian is acting in a
14 fiduciary capacity for more than five wards and requesting his discharge
15 for that reason, the court, upon proof substantiating the petition,
16 shall require a final accounting immediately from the guardian and shall
17 discharge him from guardianships in excess of five and immediately ap-
18 point a successor.

19 Sec. 13.36.460. APPOINTMENT OF GUARDIAN. (a) A petition for the
20 appointment of a guardian may be filed by a relative or friend of the
21 ward or by any person who is authorized by law to file such a petition.
22 If there is no person so authorized or if the person authorized refuses
23 or fails to file the petition within 30 days after mailing of notice by
24 the Veterans Administration to the last known address of the person, in-
25 dicating the necessity for the petition, a petition for appointment may
26 be filed by any resident of this state.

27 (b) The petition for appointment shall set out the name, age,
28 place of residence of the ward, the name and place of residence of the
29 nearest relative, if known, and the fact that the ward is entitled to

1 receive benefits payable by or through the Veterans Administration and
2 shall set out the amount of money then due and the amount of probable
3 future payments.

4 (c) The petition shall also set out the name and address of the
5 person or institution, if any, having actual custody of the ward and the
6 name, age, relationship, occupation and address of the proposed guardian
7 and if the nominee is a natural person, the number of wards for whom the
8 nominee is presently acting as guardian. Notwithstanding any law as to
9 priority of persons entitled to appointment, or the nomination in the
10 petition, the court may appoint some other individual or a bank or trust
11 company as guardian, if the court determines it is for the best interest
12 of the ward.

13 (d) In the case of a mentally incompetent ward the petition shall
14 show that the ward has been rated incompetent by the Veterans Adminis-
15 tration on examination in accordance with the laws and regulations
16 governing the Veterans Administration.

17 **Sec. 13.36.470. EVIDENCE OF NECESSITY FOR GUARDIAN OF INFANT.**

18 Where a petition is filed for the appointment of a guardian for a minor,
19 a certificate of the administrator or his authorized representative,
20 setting out the age of the minor as shown by the records of the Veterans
21 Administration and the fact that the appointment of a guardian is a con-
22 dition precedent to the payment of money due the minor by the Veterans
23 Administration shall be prima facie evidence of the necessity for the
24 appointment.

25 **Sec. 13.36.480. EVIDENCE OF NECESSITY FOR GUARDIAN FOR INCOMPETENT**

26 Where a petition is filed for the appointment of a guardian for a men-
27 tally incompetent ward, a certificate of the administrator or his
28 authorized representative, that the person has been rated incompetent by
29 the Veterans Administration on examination in accordance with the laws

1 and regulations governing the Veterans Administration and that the ap-
2 pointment of the guardian is a condition precedent to the payment of
3 money due the ward by the Veterans Administration, shall be prima facie
4 evidence of the necessity for the appointment.

5 Sec. 13.36.490. NOTICE. Upon the filing of a petition for the
6 appointment of a guardian under this chapter, notice shall be given
7 to the ward, to other persons, and in the manner provided by the gener-
8 al law of this state, and also to the Veterans Administration as pro-
9 vided under this chapter.

10 Sec. 13.36.500. BOND. (a) Upon the appointment of a guardian,
11 he shall execute and file a bond to be approved by the court in an
12 amount not less than the estimated value of the personal estate and an-
13 ticipated income of the ward during the ensuing year. The bond shall be
14 in the form and conditioned as required of guardians appointed under the
15 general guardianship laws of this state. The court may from time to
16 time require the guardian to file an additional bond.

17 (b) Where a bond is tendered by a guardian with personal sureties,
18 there shall be at least two sureties and they shall file with the court
19 a certificate under oath which describes the property owned, both real
20 and personal, and shall state that each is worth the sum named in the
21 bond as the penalty over and above all his debts and liabilities and
22 the aggregate of other bonds on which he is principal or surety and ex-
23 clusive of property exempt from execution. The court may require ad-
24 ditional security or may require a corporate surety bond, the premium
25 to be paid from the ward's estate.

26 Sec. 13.36.510. PETITIONS AND ACCOUNTS, NOTICES AND HEARINGS. (a)
27 Every guardian, who has received or shall receive on account of his ward
28 money or other thing of value from the Veterans Administration shall
29 file with the court annually, on the anniversary date of the appointment,

1 in addition to other accounts which may be required by the court, a
2 full, true, and accurate account under oath of all money or other thing
3 of value received by him, all earnings, interest or profits derived
4 from them and all property acquired with them and of all disbursements,
5 and showing the balance in his hands at the date of the account and how
6 invested.

7 (b) The guardian, at the time of filing the account, shall ex-
8 hibit all securities or investments held by him to an officer of the
9 bank or other depository wherein the securities or investments are held
10 for safekeeping or to an authorized representative of the corporation
11 which is surety on his bond, or to the judge or clerk of a court of
12 record in this state, or upon request of the guardian or other inter-
13 ested party, to any other reputable person designated by the court, who
14 shall certify in writing that he has examined the securities or invest-
15 ments and identified them with those described in the account, and
16 shall note any omissions or discrepancies. If the depository is the
17 guardian, the certifying officer shall not be the officer verifying
18 the account. The guardian may exhibit the securities or investments to
19 the judge of the court, who shall endorse on the account and copy a
20 certificate that the securities or investments shown in it as held by
21 the guardian were each in fact exhibited to him and that those exhibited
22 to him were the same as those shown in the account, and noting any omis-
23 sion or discrepancy. That certificate and the certificate of an of-
24 ficial of the bank in which are deposited any funds for which the
25 guardian is accountable, showing the amount on deposit, shall be pre-
26 pared and signed in duplicate and one of each shall be filed by the
27 guardian with his account.

28 (c) At the time of filing in the court an account, a certified
29 copy and a signed duplicate of each certificate filed with the court

1 shall be sent by the guardian to the office of the Veterans Administra-
2 tion having jurisdiction over the area in which the court is located.
3 A signed duplicate or a certified copy of a petition, motion or other
4 pleading, pertaining to an account, or to any matter other than an
5 account, and which is filed in the guardianship proceedings or in a pro-
6 ceeding for the purpose of removing the disability of minority or mental
7 incapacity, shall be furnished by the person filing it to the proper
8 office of the Veterans Administration. Unless hearing is waived in
9 writing by the attorney of the Veterans Administration, and by all other
10 persons entitled to notice, the court shall fix a time and place for the
11 hearing on the account, petition, motion or other pleading not less
12 than 15 days nor more than 30 days from the date it is filed, unless a
13 different available date is stipulated in writing. Unless waived in
14 writing, written notice of the time and place of hearing shall be given
15 to the Veterans Administration office concerned and the guardian and
16 any others entitled to notice not less than 15 days before the date
17 fixed for the hearing. The notice may be given by mail in which event
18 it shall be deposited in the mails not less than 15 days before the
19 date set. The court, or clerk of the court, shall mail to the Veterans
20 Administration office a copy of each order entered in a guardianship
21 proceeding wherein the administrator is an interested party.

22 (d) If the guardian is accountable for property derived from
23 sources other than the Veterans Administration, he shall be accountable
24 as is or may be required under the applicable law of this state pertain-
25 ing to the property of minors or persons of unsound mind who are not
26 beneficiaries of the Veterans Administration, and as to that property
27 shall be entitled to the compensation provided by law. The account for
28 the other property may be combined with the account filed in accordance
29 with this section.

1 **Sec. 13.36.520. PENALTY FOR FAILURE TO ACCOUNT.** If a guardian
2 fails to file with the court an account as required in this chapter,
3 or by an order of the court, when an account is due or within 30 days
4 after citation issues as provided by law, or fails to furnish the
5 Veterans Administration a true copy of an account, petition or plead-
6 ing as required in this chapter, the failure may, in the discretion of
7 the court, be ground for his removal.

8 **Sec. 13.36.530. COMPENSATION.** Compensation payable to guardians
9 shall be based upon services rendered and shall not exceed five per
10 cent of the amount of money received during the period covered by the
11 account. In the event of extraordinary services by a guardian, the
12 court, upon petition and hearing, may authorize reasonable additional
13 compensation. A copy of the petition and notice of hearing shall be
14 given to the proper office of the Veterans Administration in the manner
15 provided for a hearing on a guardian's account or other pleading. No
16 commission or compensation shall be allowed on the money or other assets
17 received from a prior guardian nor upon the amount received from liqui-
18 dation of loans or other investments.

19 **Sec. 13.36.540. INVESTMENTS.** Every guardian shall invest the sur-
20 plus funds of his ward's estate in securities or property authorized
21 under the laws of this state but only upon prior order of the court;
22 except that the funds may be invested, without prior court authorization,
23 in direct unconditional interest-bearing obligations of this state or of
24 the United States and in obligations the interest and principal of which
25 are unconditionally guaranteed by the United States. A signed duplicate
26 or certified copy of the petition for authority to invest shall be fur-
27 nished the proper office of the Veterans Administration, and notice of
28 hearing shall be given that office as provided in the case of hearing on
29 a guardian's account.

1 **Sec. 13.36.550. MAINTENANCE AND SUPPORT.** A guardian shall not
2 apply any portion of the income or estate for the support or maintenance
3 of a person other than the ward, the spouse and the minor children of
4 the ward, except upon petition to and prior order of the court after a
5 hearing. A signed duplicate or certified copy of the petition shall be
6 furnished the proper office of the Veterans Administration and notice
7 of hearing shall be given that office as provided in the case of hearing
8 on a guardian's account or other pleading.

9 **Sec. 13.36.560. PURCHASE OF HOME FOR WARD.** (a) The court may
10 authorize the purchase of the entire fee simple title to real estate in
11 this state in which the guardian has no interest, but only as a home for
12 the ward, or to protect his interest, or (if he is not a minor) as a
13 home for his dependent family. A purchase of real estate shall not be
14 made except upon the entry of an order of the court after hearing upon
15 verified petition. A copy of the petition shall be furnished the proper
16 office of the Veterans Administration and notice of hearing shall be
17 given that office as provided in the case of hearing on a guardian's
18 account.

19 (b) Before authorizing the investment the court shall require
20 written evidence of value and of title and of the advisability of acquiring
21 the real estate. Title shall be taken in the ward's name. This
22 section does not limit the right of the guardian on behalf of his ward
23 to bid and become the purchaser of real estate at a sale under a decree
24 of foreclosure of lien held by or for the ward, or at a trustee's sale,
25 to protect the ward's right in the property foreclosed or sold; nor does
26 it limit the right of the guardian, if it is necessary to protect the
27 ward's interest and upon prior order of the court in which the guardian-
28 ship is pending, to agree with co-tenants of the ward for a partition
29 in kind, or to purchase from co-tenants the entire undivided interests

1 held by them, or to bid and purchase the same at a sale under a parti-
2 tion decree, or to compromise adverse claims of title to the ward's
3 realty.

4 **Sec. 13.36.570. COPIES FURNISHED.** When a copy of a public record
5 is required by the Veterans Administration to be used in determining
6 the eligibility of a person to participate in benefits made available
7 by the Veterans Administration the official custodian of the public
8 record shall without charge provide the applicant for benefits or any
9 person acting on his behalf or the authorized representative of the
10 Veterans Administration with a certified copy of the record.

11 **Sec. 13.36.580. DISCHARGE OF GUARDIAN AND RELEASE OF SURETIES.**
12 In addition to any other provisions of law relating to judicial restor-
13 ation and discharge of guardian, a certificate by the Veterans Adminis-
14 tration showing that a minor ward has attained majority, or that an
15 incompetent ward has been rated competent by the Veterans Administra-
16 tion upon examination in accordance with law shall be prima facie evi-
17 dence that the ward has attained majority, or has recovered his compe-
18 tency. Upon hearing after notice as provided by this chapter and the
19 determination by the court that the ward has attained majority or
20 has recovered his competency, an order shall be entered to that
21 effect, and the guardian shall file a final account. Upon hearing
22 after notice to the former ward and to the Veterans Administration as
23 in case of other accounts, upon approval of the final account, and upon
24 delivery to the ward of the assets due him from the guardian, the guard-
25 ian shall be discharged and his sureties released.

26 **Sec. 13.36.590. COMMITMENT.** (a) Whenever, in a proceeding
27 under the laws of this state for the commitment of a person alleged
28 to be of unsound mind or otherwise in need of confinement in a
29 hospital or other institution for his proper care, it is determined

1 after adjudication of the status of the person required by law
2 that commitment to a hospital for mental disease or other insti-
3 tution is necessary for safekeeping or treatment and it appears
4 that the person is eligible for care or treatment by the Veterans
5 Administration or other agency of the United States government, the
6 court, upon receipt of a certificate from the Veterans Administration
7 or other agency showing that facilities are available and that the per-
8 son is eligible for care or treatment, may commit the person to the
9 Veterans Administration or other agency. The person whose commitment
10 is sought shall be personally served with notice of the pending commit-
11 ment proceeding in the manner provided by the law of this state; and
12 nothing in this chapter affects his right to appear and be heard in
13 the proceedings. Upon commitment, the person, when admitted to a
14 facility operated by the agency inside or outside this state shall
15 be subject to the rules and regulations of the Veterans Administra-
16 tion or other agency. The chief officer of a facility of the Veterans
17 Administration or institution operated by another agency of the United
18 States to which the person is committed shall with respect to that per-
19 son be vested with the same powers as superintendents of state hospitals
20 for mental diseases in this state with respect to retention of custody,
21 transfer, parole or discharge. Jurisdiction is retained in the com-
22 mitting or other appropriate court of this state at any time to inquire
23 into the mental condition of the person committed, and to determine the
24 necessity for continuance of his restraint, and all commitments under
25 this chapter are so conditioned.

26 (b) The judgment or order of commitment by a court of competent
27 jurisdiction of another state or of the District of Columbia, committing
28 a person to the Veterans Administration, or other agency of the United
29 States government for care or treatment shall have the same force and

1 effect as to the committed person while in this state as in the juris-
2 diction in which is situated the court entering the judgment or making
3 the order; (and the courts of the committing state, or of the District
4 of Columbia, shall be considered to have retained jurisdiction of the
5 person committed for the purpose of inquiring into the mental condition
6 of that person, and of determining the necessity for continuance of his
7 restraint, as provided in (a) of this section with respect to persons
8 committed by the courts of this state. Consent is hereby given to the
9 application of the law of the committing state or district in respect
10 to the authority of the chief officer of a facility of the Veterans Ad-
11 ministration, or of an institution operated in this state by another
12 agency of the United States to retain custody, or transfer, parole or
13 discharge the committed person.)

14 (c) Upon receipt of a certificate of the Veterans Administration
15 or other agency that facilities are available for the care or treatment
16 of a person heretofore committed to a hospital for the insane or other
17 institution for the care or treatment of persons similarly afflicted and
18 that the person is eligible for care or treatment, the superintendent of
19 the institution may cause the transfer of the person to the Veterans
20 Administration or other agency for care or treatment. Upon effecting
21 the transfer, the committing court or proper officer of the court shall
22 be notified by the transferring agency. No person may be transferred to
23 the Veterans Administration or other agency if he is confined pursuant
24 to conviction of a felony or misdemeanor or if he has been acquitted of
25 the charge solely on the ground of insanity, unless before transfer,
26 the court or other authority originally committing the person enters an
27 order for the transfer after appropriate motion and hearing.

28 (d) A person transferred as provided in this section shall be
29 considered committed to the Veterans Administration or other agency

1 under the original commitment.

2 Sec. 13.36.600. DEFINITIONS. In secs. 430 - 600 of this chapter

3 (1) "person" means an individual, partnership, corporation
4 or association;

5 (2) "Veterans Administration" means the Veterans Administra-
6 tion, its predecessors or successors;

7 (3) "income" means money received from the Veterans Admin-
8 istration and revenue or profit from property wholly or partially
9 acquired with it;

10 (4) "estate" means income on hand and assets acquired
11 partially or wholly with income;

12 (5) "benefits" means all money paid or payable by the United
13 States through the Veterans Administration;

14 (6) "administrator" means the administrator of Veterans
15 Affairs of the United States or his successor;

16 (7) "ward" means a beneficiary of the Veterans Administra-
17 tion;

18 (8) "guardian" means any fiduciary for the person or estate
19 of a ward.

20 CHAPTER 37. GENERAL PROVISIONS.

21 Sec. 13.37.010. DISQUALIFICATION OF JUDGE. When a judge or his
22 spouse are related within and including the third degree of consanguin-
23 ity according to the civil law to any of the parties or their attorneys,
24 or have drawn the will of the decedent, or are interested or have been
25 counsel in any probate proceeding or any matter therein, it shall be
26 grounds for disqualifying the judge from acting in the proceeding or
27 the particular matter with respect to which his disqualification exists.
28 When grounds for disqualification exist, the judge may refuse to act
29 as judge in the proceedings or, upon the filing of a petition to

1 disqualify the judge, stating the grounds for disqualification, by a
2 person interested in the estate or the particular matter with respect
3 to which his disqualification exists, the judge shall not act in it.

4 Sec. 13.37.020. NOTICE. No notice to interested persons need be
5 given except as specifically provided for in this title or as ordered
6 by the court. When no notice is required by this title, the court may
7 require notice as it considers desirable.

8 Sec. 13.37.030. WAIVER OF NOTICE. A person legally competent who
9 is interested in a hearing in a probate proceeding may in person or by
10 attorney waive notice of the hearing. A person who submits to the
11 jurisdiction of the court in a hearing shall be considered to have
12 waived notice of it.

13 Sec. 13.37.040. DEFINITIONS. In this title, unless the context
14 requires otherwise

15 (1) "child" includes an adopted child and an illegitimate
16 child but does not include a grandchild or other more remote descendant;

17 (2) "claims" includes liabilities of the decedent which sur-
18 vive, whether arising in contract or in tort or otherwise, funeral ex-
19 penses, the expenses of a tombstone, expenses of administration, and
20 all estate and inheritance taxes;

21 (3) "devise," when used as a noun, means a testamentary
22 disposition of real or personal property or both;

23 (4) "devise," when used as a verb, means to dispose of real
24 or personal property or both by will;

25 (5) "devisee" includes legatee;

26 (6) "distributee" denotes a person who is entitled to the
27 real and personal property of a decedent under his will or under the
28 statutes of intestate succession;

29 (7) "estate" denotes the real and personal property of the

1 decedent or ward, as from time to time changed in form by sale, rein-
2 vestment or otherwise, and augmented or diminished by accretions,
3 additions, decreases, or distributions from it;

4 (8) "fiduciary" includes personal representative, guardian,
5 and testamentary trustee;

6 (9) "heirs" denotes those persons, including the surviving
7 spouse, who are entitled under the statutes of intestate succession to
8 the property of a decedent on his death intestate;

9 (10) "interested persons" means heirs, devisees, spouses,
10 creditors, representatives of the deceased, or any others having a pro-
11 perty right in or claim against the estate of a decedent being admin-
12 istered;

13 (11) "issue" of a person, when used to refer to persons who
14 take by intestate succession, includes all lineal descendants except
15 those who are the lineal descendants of living lineal descendants of the
16 intestate;

17 (12) "lease" includes an oil, gas or other mineral lease;

18 (13) "legacy" means a testamentary disposition of personal
19 property;

20 (14) "legatee" means a person entitled to personal property
21 under a will;

22 (15) "letters" includes letters testamentary, letters of ad-
23 ministration and letters of guardianship;

24 (16) "mortgage" includes deed of trust, vendor's lien, and
25 chattel mortgage;

26 (17) "person" includes natural persons and corporations,
27 except where corporations are specifically excluded from the definition;

28 (18) "personal property" includes interests in goods, money,
29 choses in action, evidences of debt, and chattels real;

1 (19) "personal representative" includes executor, adminis-
2 trator, and special administrator;

3 (20) "property" includes both real and personal property;

4 (21) "real property" includes estates and interests in land,
5 corporeal or incorporeal, legal or equitable, other than chattels real:

6 (22) "will" includes codicil and testamentary instruments
7 which merely appoint an executor or which merely revoke or revive
8 another will.

9 Sec. 13.37.050. SHORT TITLE. This title may be cited as the
10 Alaska Probate Code.

11 * Sec. 2. The following laws are repealed: AS 13.05.010 - 13.05.240;
12 AS 13.10.010 - 13.10.150; AS 13.13.010 - 13.13.070; AS 13.15.010 - 13.15.-
13 130; AS 13.20.010 - 13.20.440; AS 13.25.010 - 13.25.150; AS 13.30.010 -
14 13.30.910; AS 13.40.050 - 13.40.060; AS 13.45.010 - 13.45.020; AS 20.05.-
15 010 - 20.05.550.

16 * Sec. 3. This Act takes effect January 1, 1969, subject to the following
17 provisions:

18 (1) All wills made under the law of this state as it existed be-
19 fore January 1, 1969, are valid if valid under the former law. However, if
20 the will is amended, revoked, or added to after January 1, 1969, the validity
21 of the entire will is governed by this Act. What acts constitute amendment,
22 revocation, or adding to a will, as well as the legal effect of those acts,
23 shall be governed by this Act.

24 (2) The provisions prescribed in this Act govern all proceedings
25 in probate and guardianship brought after January 1, 1969, and also all
26 further procedure in proceedings in probate and guardianship then pending.
27 However, if due to proceedings commenced under the law of this state as it
28 existed before January 1, 1969, the application of this Act in particular
29 proceedings or parts of proceedings will not be feasible or would work

1 **injustice, the court may apply the former statutory provisions.**

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