

INDEX TO  
SENATE BILL NO. 248

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TITLE 13. DECEDENTS ESTATES, GUARDIANSHIPS AND TRUSTS

CHAPTER 6. GENERAL PROVISIONS, DEFINITIONS AND PROBATE JURISDICTION  
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1 IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST  
OF THE LEGISLATIVE COUNCIL

2 SENATE BILL NO. 248

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act adopting the Uniform Probate Code; to codify  
7 and amend the state laws relating to decedents' estates,  
8 guardians, conservators, trusts, and nonprobate trans-  
9 fers; and providing for an effective date."

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

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

12 TITLE 13. DECEDENTS ESTATES, GUARDIANSHIPS AND TRUSTS.

13 CHAPTER 6. GENERAL PROVISIONS, DEFINITIONS AND PROBATE

14 JURISDICTION OF COURT.

15 ARTICLE 1. SHORT TITLE, CONSTRUCTION, GENERAL PROVISIONS.

16 Sec. 13.06.005. SHORT TITLE. Chapters 06 - 36 of this title shall  
17 be known and may be cited as the Uniform Probate Code.

18 Sec. 13.06.010. PURPOSES; RULE OF CONSTRUCTION. (a) This code  
19 shall be liberally construed and applied to promote its underlying  
20 purposes and policies.

21 (b) The underlying purposes and policies of this code are to

22 (1) simplify and clarify the law concerning the affairs  
23 of decedents, missing persons, protected persons, minors and incapacitated persons;  
24

25 (2) discover and make effective the intent of a decedent  
26 in distribution of his property;

27 (3) promote a speedy and efficient system for liquidating  
28 the estate of the decedent and making distribution to its successors;

29 (4) facilitate use and enforcement of certain trusts; and

1 (5) make uniform the law among the various jurisdictions.

2 Sec. 13.06.015. SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLICABLE.

3 Unless displaced by the particular provisions of this code, the prin-  
4 ciples of law and equity supplement its provisions.

5 Sec. 13.06.020. SEVERABILITY. If any provision of this code or  
6 the application thereof to any person or circumstances is held  
7 invalid, the invalidity shall not affect other provisions or applica-  
8 tions of the code which can be given effect without the invalid  
9 provision or application, and to this end the provisions of this  
10 code are declared to be severable.

11 Sec. 13.06.025. CONSTRUCTION AGAINST IMPLIED REPEAL. This code  
12 is a general act intended as a unified coverage of its subject matter  
13 and no part of it shall be deemed impliedly repealed by subsequent  
14 legislation if it can reasonably be avoided.

15 Sec. 13.06.030. EFFECT OF FRAUD AND EVASION. Whenever fraud  
16 has been perpetrated in connection with any proceeding or in any  
17 statement filed under this code or if fraud is used to avoid or  
18 circumvent the provisions or purposes of this code, any person  
19 injured thereby may obtain appropriate relief against the perpetrator  
20 of the fraud including restitution from any person (other than a  
21 bona fide purchaser) benefitting from the fraud, whether innocent or  
22 not. Any proceeding must be commenced within two years after the  
23 discovery of the fraud, but no proceeding may be brought against one  
24 not a perpetrator of the fraud later than five years after the time of  
25 commission of the fraud. This section has no bearing on remedies  
26 relating to fraud practiced on a decedent during his lifetime which  
27 affects the succession of his estate.

28 Sec. 13.06.035. EVIDENCE AS TO DEATH OR STATUS. In proceedings  
29 under this code the rules of evidence in courts of general jurisdic-

1 tion including any relating to simultaneous deaths, are applicable  
2 unless specifically displaced by the code. In addition, the following  
3 rules relating to determination of death and status are applicable:

4 (1) a certified or authenticated copy of a death certificate  
5 purporting to be issued by an official or agency of the place where  
6 the death purportedly occurred is prima facie proof of the fact,  
7 place, date and time of death and the identity of the decedent;

8 (2) a certified or authenticated copy of any record or  
9 report of a governmental agency, domestic or foreign, that a person is  
10 missing, detained, dead, or alive is prima facie evidence of the  
11 status and of the dates, circumstances and places disclosed by the  
12 record or report.

13 Sec. 13.06.040. ACTS BY HOLDER OF GENERAL POWER. For the purpose  
14 of granting consent or approval with regard to the acts or accounts of  
15 a personal representative or trustee, including relief from liability  
16 or penalty for failure to post bond, to register a trust, or to perform  
17 other duties, and for purposes of consenting to modification or termin-  
18 ation of a trust or to deviation from its terms, the sole holder or all  
19 co-holders of a presently exercisable general power of appointment,  
20 including one in the form of a power of amendment or revocation, are  
21 considered to act for beneficiaries to the extent their interests  
22 (as objects, takers in default, or otherwise) are subject to the power.

23 ARTICLE 2. DEFINITIONS.

24 Sec. 13.06.050. GENERAL DEFINITIONS. Subject to additional  
25 definitions contained in the subsequent chapters which are applicable  
26 to specific chapters or sections, and unless the context otherwise  
27 requires, in this code:

28 (1) "application" means a written request to the registrar  
29 for an order of informal probate or appointment under AS 13.16.080 -

13.16.130;

2 (2) "beneficiary", as it relates to trust beneficiaries,  
3 includes a person who has any present or future interest, vested or  
4 contingent, and also includes the owner of an interest by assignment  
5 or other transfer and as it relates to a charitable trust, includes  
6 any person entitled to enforce the trust;

7 (3) "child" includes any individual entitled to take as a  
8 child under this code by intestate succession from the parent whose  
9 relationship is involved and excludes any person who is only a step-  
10 child, a foster child, a grandchild or any more remote descendant;

11 (4) "claims", in respect to estates of decedents and pro-  
12 tected persons, includes liabilities of the decedent or protected  
13 person whether arising in contract, in tort or otherwise, and liabili-  
14 ties of the estate which arise at or after the death of the decedent  
15 or after the appointment of a conservator, including funeral expenses  
16 and expenses of administration; the term does not include estate or  
17 inheritance taxes, demands or disputes regarding title of a decedent  
18 or protected person to specific assets alleged to be included in the  
19 estate;

20 (5) "court" means the superior court;

21 (6) "conservator" means a person who is appointed by a  
22 court to manage the estate of a protected person;

23 (7) "devise", when used as a noun, means a testamentary  
24 disposition of real or personal property and when used as a verb,  
25 means to dispose of real or personal property by will;

26 (8) "devisee" means any person designated in a will to  
27 receive a devise; in the case of a devise to an existing trust or  
28 trustee, or to a trustee on trust described by will, the trust or  
29 trustee is the devisee and the beneficiaries are not devisees;

1  
2 (9) "disability" means cause for a protective order as  
described by AS 13.26.160;

3 (10) "distributee" means any person who has received property  
4 of a decedent from his personal representative other than as a creditor  
5 or purchaser; a testamentary trustee is a distributee only to the  
6 extent of distributed assets or increment thereto remaining in his  
7 hands; a beneficiary of a testamentary trust to whom the trustee has  
8 distributed property received from a personal representative is a  
9 distributee of the personal representative;

10 (11) "estate" means all of the property of the decedent,  
11 trust, or other person whose affairs are subject to this code as  
12 originally constituted and as it exists from time to time during ad-  
13 ministration;

14 (12) "exempt property" means that property of a decedent's  
15 estate which is described in AS 13.11.130;

16 (13) "fiduciary" includes personal representative, guardian,  
17 conservator and trustee;

18 (14) "foreign personal representative" means a personal  
19 representative of another jurisdiction;

20 (15) "formal proceedings" means those conducted before a  
21 judge with notice to interested persons;

22 (16) "guardian" means a person who has qualified as a  
23 guardian of a minor or incapacitated person under testamentary or  
24 court appointment, but excludes one who is merely a guardian ad litem;

25 (17) "heirs" means those persons, including the surviving  
26 spouse, who are entitled under the statutes of intestate succession  
27 to the property of a decedent;

28 (18) "incapacitated person" is as defined in AS 13.26.005;

29 (19) "informal proceedings" mean those conducted without

1 notice to interested persons by an officer of the court acting as a  
2 registrar for probate of a will or appointment of a personal representa-  
3 tive;

4 (20) "interested person" includes heirs, devisees, children,  
5 spouses, creditors, beneficiaries and any others having a property  
6 right in or claim against a trust estate or the estate of a decedent,  
7 ward or protected person which may be affected by the proceeding; it  
8 also includes persons having priority for appointment as personal  
9 representative, and other fiduciaries representing interested persons;  
10 the meaning as it relates to particular persons may vary from time to  
11 time and must be determined according to the particular purposes of,  
12 and matter involved in, any proceeding;

13 (21) "issue" of a person means all his lineal descendants  
14 of all generations, with the relationship of parent and child at  
15 each generation being determined by the definitions of child and  
16 parent contained in this code;

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

18 (23) "letters" includes letters testamentary, letters of  
19 guardianship, letters of administration, and letters of conservator-  
20 ship;

21 (24) "minor" means a person who is under 18 years of age;

22 (25) "mortgage" means any conveyance, agreement or ar-  
23 rangement in which property is used as security;

24 (26) "nonresident decedent" means a decedent who was  
25 domiciled in another jurisdiction at the time of his death;

26 (27) "organization" includes a corporation, government  
27 or governmental subdivision or agency, business trust, estate, trust,  
28 partnership or association, two or more persons having a joint or  
29 common interest, or any other legal entity;

1 (28) "parent" includes any person entitled to take, or  
2 who would be entitled to take if the child died without a will, as  
3 a parent under this code by intestate succession from the child  
4 whose relationship is in question and excludes any person who is only  
5 a stepparent, foster parent, or grandparent;

6 (29) "person" means an individual, a corporation, an  
7 organization, or other legal entity;

8 (30) "personal representative" includes executor, adminis-  
9 trator, successor personal representative, special administrator,  
10 and persons who perform substantially the same function under the law  
11 governing their status; "general personal representative" excludes  
12 special administrator;

13 (31) "petition" means a written request to the court for  
14 an order after notice;

15 (32) "proceeding" includes action at law;

16 (33) "property" includes both real and personal property  
17 or any interest therein and means anything that may be the subject of  
18 ownership;

19 (34) "protected person" is as defined in AS 13.26.005;

20 (35) "protective proceeding" is as defined in AS 13.26.005;

21 (36) "registrar" refers to the official of the court  
22 designated to perform the functions of registrar as provided in sec.  
23 90 of this chapter;

24 (37) "security" includes any note, stock, treasury stock,  
25 bond, debenture, evidence of indebtedness, certificate of interest  
26 or participation in an oil, gas or mining title or lease or in  
27 payments out of production under such a title or lease, collateral  
28 trust certificate, transferable share, voting trust certificate or,  
29 in general, any interest or instrument commonly known as a security,

1 or any certificate of interest or participation, any temporary or  
2 interim certificate, receipt or certificate of deposit for, or any  
3 warrant or right to subscribe to or purchase, any of the foregoing;

4 (38) "settlement" in reference to a decedent's estate,  
5 includes the full process of administration, distribution and  
6 closing;

7 (39) "special administrator" means a personal representa-  
8 tive as described by AS 13.16.310 - 13.16.330;

9 (40) "state" includes any state of the United States, the  
10 District of Columbia, the Commonwealth of Puerto Rico, and any  
11 territory or possession subject to the legislative authority of the  
12 United States;

13 (41) "successor personal representative" means a personal  
14 representative, other than a special administrator, who is appointed  
15 to succeed a previously appointed personal representative;

16 (42) "successors" means those persons, other than credi-  
17 tors, who are entitled to property of a decedent under his will or  
18 this code;

19 (43) "supervised administration" refers to the proceedings  
20 described in AS 13.16.215 - 13.16.235;

21 (44) "testacy proceeding" means a proceeding to establish  
22 a will or determine intestacy;

23 (45) "trust" includes any express trust, private or charitable,  
24 with additions thereto, wherever and however created; it also includes  
25 a trust created or determined by judgment or decree under which the  
26 trust is to be administered in the manner of an express trust;  
27 "trust" excludes other constructive trusts, and it excludes resulting  
28 trusts, conservatorships, personal representatives, trust accounts as  
29 defined in AS 13.31, custodial arrangements under AS 45.60, business

1 trusts providing for certificates to be issued to beneficiaries,  
2 common trust funds, voting trusts, security arrangements, liquidation  
3 trusts, and trusts for the primary purpose of paying debts, dividends,  
4 interest, salaries, wages, profits, pensions, or employee benefits of  
5 any kind, and any arrangement under which a person is nominee or  
6 escrowee for another;

7 (46) "trustee" includes an original, additional, or suc-  
8 cessor trustee, whether or not appointed or confirmed by court;

9 (47) "unascertained person" means a person whose existence  
10 or identity is not certainly known or determined;

11 (48) "ward" is as defined in AS 13.26.005;

12 (49) "will" includes codicil and any testamentary instrument  
13 which merely appoints an executor or revokes or revises another will.

14 ARTICLE 3. SCOPE, JURISDICTION AND COURTS.

15 Sec. 13.06.060. TERRITORIAL APPLICATION. Except as otherwise  
16 provided in this code, this code applies to

17 (1) the affairs and estates of decedents, missing persons,  
18 and persons to be protected, domiciled in this state,

19 (2) the property of nonresidents located in this state or  
20 property coming into the control of a fiduciary who is subject to the  
21 laws of this state,

22 (3) incapacitated persons and minors in this state,

23 (4) survivorship and related accounts in this state, and

24 (5) trusts subject to administration in this state.

25 Sec. 13.06.065. SUBJECT MATTER JURISDICTION. To the full  
26 extent permitted by the constitution, the court has jurisdiction over  
27 all subject matter relating to

28 (1) estates of decedents, including construction of wills  
29 and determination of heirs and successors of decedents, and estates

1 of protected persons;

2 (2) protection of minors and incapacitated persons; and

3 (3) trusts.

4 Sec. 13.06.070. VENUE; MULTIPLE PROCEEDINGS; TRANSFER. (a)

5 Where a proceeding under this code could be maintained in more than  
6 one place in this state, the court in which the proceeding is first  
7 commenced has the exclusive right to proceed.

8 (b) If proceedings concerning the same estate, protected  
9 person, ward, or trust are commenced in more than one court of this  
10 state, the court in which the proceeding was first commenced shall  
11 continue to hear the matter, and the other courts shall hold the  
12 matter in abeyance until the question of venue is decided, and if the  
13 ruling court determines that venue is properly in another court,  
14 it shall transfer the proceeding to the other court.

15 (c) If a court finds that in the interest of justice a pro-  
16 ceeding or a file should be located in another court of this state,  
17 the court making the finding may transfer the proceeding or file to  
18 the other court.

19 Sec. 13.06.080. RECORDS AND CERTIFIED COPIES. The clerk of the  
20 court shall keep a record for each decedent, ward, protected person or  
21 trust involved in any document which may be filed with the court under  
22 this code, including petitions and applications, demands for notices  
23 or bonds, trust registrations, and of any orders or responses relating  
24 thereto by the registrar or court, and establish and maintain a system  
25 for indexing, filing or recording which is sufficient to enable users  
26 of the records to obtain adequate information. Upon payment of the  
27 fees required by law the clerk must issue certified copies of any  
28 probated wills, letters issued to personal representatives, or any  
29 other record or paper filed or recorded. Certificates relating to

1 probated wills must indicate whether the decedent was domiciled in  
2 this state and whether the probate was formal or informal. Certifi-  
3 cates relating to letters must show the date of appointment.

4 Sec. 13.06.085. JURY TRIAL. (a) If duly demanded, a party is  
5 entitled to trial by jury in any proceeding in which any controverted  
6 question of fact arises as to which any party has a constitutional  
7 right to trial by jury.

8 (b) If there is no right to trial by jury under (a) of this section  
9 or the right is waived, the court in its discretion may call a jury  
10 to decide any issue of fact, in which case the verdict is advisory  
11 only.

12 Sec. 13.06.090. REGISTRAR; POWERS. The acts and orders which  
13 this code specifies as performable by the registrar may be performed  
14 either by a judge of the court or by a person, including the clerk,  
15 designated by the court by a written order filed and recorded in the  
16 office of the court.

17 Sec. 13.06.100. OATH OR AFFIRMATION ON FILED DOCUMENTS. Except  
18 as otherwise specifically provided in this code or by rule, every  
19 document filed with the court under this code including applications,  
20 petitions, and demands for notice, shall be considered to include an  
21 oath, affirmation, or statement to the effect that its representations  
22 are true as far as the person executing or filing it knows or is  
23 informed, and penalties for perjury may follow deliberate falsifica-  
24 tion therein.

25 ARTICLE 4. NOTICE, PARTIES AND REPRESENTATION

26 IN ESTATE LITIGATION AND OTHER MATTERS.

27 Sec. 13.06.110. NOTICE; METHOD AND TIME OF GIVING. (a) If  
28 notice of a hearing on any petition is required and except for specific  
29 notice requirements as otherwise provided, the petitioner shall cause

1 notice of the time and place of hearing of any petition to be given  
2 to any interested person or his attorney if he has appeared by attorney  
3 or requested that notice be sent to his attorney. Notice shall be  
4 given:

5 (1) by mailing a copy thereof at least 14 days before the  
6 time set for the hearing by certified, registered or ordinary first  
7 class mail addressed to the person being notified at the post office  
8 address given in his demand for notice, if any, or at his office or  
9 place of residence, if known;

10 (2) by delivering a copy thereof to the person being  
11 notified personally at least 14 days before the time set for the  
12 hearing; or

13 (3) if the address, or identity of any person is not known  
14 and cannot be ascertained with reasonable diligence, by publishing  
15 at least once a week for three consecutive weeks, a copy thereof in  
16 a newspaper having general circulation in the judicial district  
17 where the hearing is to be held, the last publication of which is  
18 to be at least 10 days before the time set for the hearing.

19 (b) The court for good cause shown may provide for a different  
20 method or time of giving notice for any hearing.

21 (c) Proof of the giving of notice shall be made on or before  
22 the hearing and filed in the proceeding.

23 Sec. 13.06.115. NOTICE; WAIVER. A person, including a guardian  
24 ad litem, conservator, or other fiduciary, may waive notice by a  
25 writing signed by him or his attorney and filed in the proceeding.

26 Sec. 13.06.120. PLEADINGS; WHEN PARTIES BOUND BY OTHERS; NOTICE.  
27 In judicial proceedings involving trusts or estates of decedents,  
28 minors, protected persons, or incapacitated persons, and in judicially  
29 supervised settlements, the following apply:

1 (1) Interests to be affected shall be described in pleadings  
2 which give reasonable information to owners by name or class, by  
3 reference to the instrument creating the interests, or in other ap-  
4 propriate manner.

5 (2) Persons are bound by orders binding others in the follow-  
6 ing cases:

7 (A) Orders binding the sole holder or all co-holders  
8 of a power of revocation or a presently exercisable general  
9 power of appointment, including one in the form of a power of  
10 amendment, bind other persons to the extent their interests  
11 (as objects, takers in default, or otherwise) are subject to the  
12 power.

13 (B) To the extent there is no conflict of interest  
14 between them or among persons represented, orders binding a  
15 conservator bind the person whose estate he controls; orders  
16 binding a guardian bind the ward if no conservator of his estate  
17 has been appointed; orders binding a trustee bind beneficiaries  
18 of the trust in proceedings to probate a will establishing or  
19 adding to a trust, to review the acts or accounts of a prior  
20 fiduciary and in proceedings involving creditors or other third  
21 parties; and orders binding a personal representative bind  
22 persons interested in the undistributed assets of a decedent's  
23 estate in actions or proceedings by or against the estate; if there  
24 is no conflict of interest and no conservator or guardian has  
25 been appointed, a parent may represent his minor child.

26 (C) An unborn or unascertained person who is not  
27 otherwise represented is bound by an order to the extent his  
28 interest is adequately represented by another party having a  
29 substantially identical interest in the proceeding.

1 (3) Notice is required as follows:

2 (A) Notice as prescribed by sec. 110 of this chapter  
3 shall be given to every interested person or to one who can  
4 bind an interested person as described in (2)(A) or (B) of this  
5 section. Notice may be given both to a person and to another  
6 who may bind him.

7 (B) Notice is given to unborn or unascertained persons,  
8 who are not represented under (2)(A) or (B) of this section,  
9 by giving notice to all known persons whose interests in the  
10 proceedings are substantially identical to those of the unborn  
11 or unascertained persons.

12 (4) At any point in a proceeding, a court may appoint a  
13 guardian ad litem to represent the interest of a minor, an incapacitated  
14 unborn, or unascertained person, or a person whose identity or address  
15 is unknown, if the court determines that representation of the interest  
16 otherwise would be inadequate; if not precluded by conflict of  
17 interests, a guardian ad litem may be appointed to represent several  
18 persons or interests; the court shall set out its reasons for  
19 appointing a guardian ad litem as a part of the record of the proceed-  
20 ing.

21 CHAPTER 11. INTESTATE SUCCESSION AND WILLS.

22 ARTICLE 1. INTESTATE SUCCESSION.

23 Sec. 13.11.005. INTESTATE ESTATE. Any part of the estate of a  
24 decedent not effectively disposed of by his will passes to his heirs  
25 as prescribed in the following sections of this code.

26 Sec. 13.11.010. SHARE OF THE SPOUSE. The intestate share of the  
27 surviving spouse is:

28 (1) if there is no surviving issue or parent of the decedent,  
29 the entire intestate estate;

1 (2) if there is no surviving issue but the decedent is sur-  
2 vived by a parent or parents, the first \$50,000 , plus one-half of  
3 the balance of the intestate estate;

4 (3) if there are surviving issue all of whom are issue  
5 of the surviving spouse also, the first \$50,000 , plus one-half of  
6 the balance of the intestate estate;

7 (4) if there are surviving issue one or more of whom are  
8 not issue of the surviving spouse, one-half of the intestate estate.

9 Sec. 13.11.015. SHARE OF HEIRS OTHER THAN SURVIVING SPOUSE. The  
10 part of the intestate estate not passing to the surviving spouse under  
11 sec. 10 of this chapter, or the entire intestate estate if there is  
12 no surviving spouse, passes as follows:

13 (1) to the issue of the decedent; if they are all of the  
14 same degree of kinship to the decedent they take equally, but if of  
15 unequal degree, then those of more remote degree take by representa-  
16 tion;

17 (2) if there is no surviving issue, to his parent or parents  
18 equally;

19 (3) if there is no surviving issue or parent, to the brothers  
20 and sisters and the issue of each deceased brother or sister by  
21 representation; if there is no surviving brother or sister, the issue  
22 of brothers and sisters take equally if they are all of the same  
23 degree of kinship to the decedent, but if of unequal degree then  
24 those of more remote degree take by representation;

25 (4) if there is no surviving issue, parent or issue of a  
26 parent, but the decedent is survived by one or more grandparents or  
27 issue of grandparents, half of the estate passes to the paternal  
28 grandparents if both survive, or to the surviving paternal grandparent,  
29 or to the issue of the paternal grandparents if both are deceased,

1 the issue taking equally if they are all of the same degree of kin-  
2 ship to the decedent, but if of unequal degree those of more remote  
3 degree take by representation; and the other half passes to the maternal  
4 relatives in the same manner; but if there be no surviving grand-  
5 parent or issue of grandparent on either the paternal or the maternal  
6 side, the entire estate passes to the relatives on the other side  
7 in the same manner as the half.

8 Sec. 13.11.020. REQUIREMENT THAT HEIR SURVIVE DECEDENT FOR 120  
9 HOURS. Any person who fails to survive the decedent by 120 hours is  
10 considered to have predeceased the decedent for purposes of homestead  
11 allowance, exempt property and intestate succession, and the decedent's  
12 heirs are determined accordingly. If the time of death of the decedent  
13 or of the person who would otherwise be an heir, or the times of  
14 death of both, cannot be determined, and it cannot be established that  
15 the person who would otherwise be an heir has survived the decedent  
16 by 120 hours, it is considered that the person failed to survive  
17 for the required period. This section is not to be applied where its  
18 application would result in a taking of intestate estate by the state  
19 under sec. 25 of this chapter.

20 Sec. 13.11.025. NO TAKER. If there is no taker under the  
21 provisions of this chapter, the intestate estate passes to the state.

22 Sec. 13.11.030. REPRESENTATION. If representation is called  
23 for by this code, the estate is divided into as many shares as there  
24 are surviving heirs in the nearest degree of kinship and deceased  
25 persons in the same degree who left issue who survive the decedent,  
26 each surviving heir in the nearest degree receiving one share and the  
27 share of each deceased person in the same degree being divided among  
28 his issue in the same manner.

29 Sec. 13.11.035. KINDRED OF HALF BLOOD. Relatives of the half

1 blood inherit the same share they would inherit if they were of the  
2 whole blood.

3 Sec. 13.11.040. AFTERBORN HEIRS. Relatives of the decedent  
4 conceived before his death but born thereafter inherit as if they  
5 had been born in the lifetime of the decedent.

6 Sec. 13.11.045. MEANING OF CHILD AND RELATED TERMS. If, for  
7 purposes of intestate succession, a relationship of parent and child  
8 must be established to determine succession by, through, or from a  
9 person,

10 (1) an adopted person is the child of an adopting parent  
11 and not of the natural parents except that adoption of a child by  
12 the spouse of a natural parent has no effect on the relationship  
13 between the child and that natural parent;

14 (2) in cases not covered by (1) of this section, a person  
15 born out of wedlock is a child of the mother; that person is also a  
16 child of the father, if:

17 (A) the natural parents participated in a marriage  
18 ceremony before or after the birth of the child, even though  
19 the attempted marriage is void; or

20 (B) the paternity is established by an adjudication  
21 before the death of the father or is established thereafter by  
22 clear and convincing proof, except that the paternity established  
23 under this subparagraph is ineffective to qualify the father or  
24 his kindred to inherit from or through the child unless the  
25 father has openly treated the child as his, and has not refused  
26 to support the child.

27 Sec. 13.11.050. ADVANCEMENTS. If a person dies intestate as  
28 to all his estate, property which he gave in his lifetime to an  
29 heir is treated as an advancement against the latter's share of the

1 estate only if declared in a contemporaneous writing by the decedent  
2 or acknowledged in writing by the heir to be an advancement. For  
3 this purpose the property advanced is valued as of the time the heir  
4 came into possession or enjoyment of the property or as of the time  
5 of death of the decedent, whichever first occurs. If the recipient  
6 of the property fails to survive the decedent, the property is not  
7 taken into account in computing the intestate share to be received  
8 by the recipient's issue, unless the declaration or acknowledgment  
9 provides otherwise.

10 Sec. 13.11.055. DEBTS TO DECEDENT. A debt owed to the decedent  
11 is not charged against the intestate share of any person except the  
12 debtor. If the debtor fails to survive the decedent, the debt is  
13 not taken into account in computing the intestate share of the debtor's  
14 issue.

15 Sec. 13.11.060. ALIENAGE. No person is disqualified to take  
16 as an heir because he or a person through whom he claims is or has  
17 been an alien.

18 ARTICLE 2. ELECTIVE SHARE OF SURVIVING SPOUSE.

19 Sec. 13.11.070. RIGHT TO ELECTIVE SHARE. (a) If a married  
20 person domiciled in this state dies, the surviving spouse has a right  
21 of election to take an elective share of one-third of the augmented  
22 estate under the limitations and conditions hereinafter stated.

23 (b) If a married person not domiciled in this state dies, the  
24 right, if any, of the surviving spouse to take an elective share in  
25 property in this state is governed by the law of the decedent's  
26 domicile at death.

27 Sec. 13.11.075. AUGMENTED ESTATE. The augmented estate means the  
28 estate reduced by funeral and administration expenses, homestead  
29 allowance, family allowances and exemptions, and enforceable claims,

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to which is added the sum of the following amounts:

(1) The value of property transferred by the decedent at any time during marriage, to or for the benefit of any person other than the surviving spouse, to the extent that the decedent did not receive adequate and full consideration in money or money's worth for the transfer, if the transfer is of any of the following types:

(A) any transfer under which the decedent retained at the time of his death the possession or enjoyment of, or right to income from, the property;

(B) any transfer to the extent that the decedent retained at the time of his death a power, either alone or in conjunction with any other person, to revoke or to consume, invade or dispose of the principal for his own benefit;

(C) any transfer whereby property is held at the time of decedent's death by decedent and another with right of survivorship;

(D) any transfer made within two years of death of the decedent to the extent that the aggregate transfers to any one donee in either of the years exceed \$3,000.

(2) Any transfer is excluded if made with the written consent or joinder of the surviving spouse. Property is valued as of the decedent's death except that property given irrevocably to a donee during lifetime of the decedent is valued as of the date the donee came into possession or enjoyment if that occurs first. Nothing herein shall cause to be included in the augmented estate any life insurance, accident insurance, joint annuity, or pension payable to a person other than the surviving spouse.

(3) The value of property owned by the surviving spouse at the decedent's death, plus the value of property transferred by

1 the spouse at any time during marriage to any person other than the  
2 decedent which would have been includible in the spouse's augmented  
3 estate if the surviving spouse had predeceased the decedent, to the  
4 extent the owned or transferred property is derived from the decedent  
5 by any means other than testate or intestate succession without a full  
6 consideration in money or money's worth. For purposes of this sub-  
7 section:

8 (A) property derived from the decedent includes,  
9 but is not limited to, any beneficial interest of the surviving  
10 spouse in a trust created by the decedent during his lifetime,  
11 any property appointed to the spouse by the decedent's exercise  
12 of a general or special power of appointment also exercisable  
13 in favor of others than the spouse, any proceeds of insurance  
14 (including accidental death benefits) on the life of the decedent  
15 attributable to premiums paid by him, any lump sum immediately  
16 payable and the commuted value of the proceeds of annuity  
17 contracts under which the decedent was the primary annuitant  
18 attributable to premiums paid by him, the commuted value of  
19 amounts payable after the decedent's death under any public or  
20 private pension, disability compensation, death benefit or  
21 retirement plan, exclusive of the Federal Social Security system,  
22 by reason of service performed or disabilities incurred by the  
23 decedent, and the value of the share of the surviving spouse  
24 resulting from rights in community property in this or any other  
25 state formerly owned with the decedent; premiums paid by the  
26 decedent's employer, his partner, a partnership of which he was  
27 a member, or his creditors, are considered to have been paid by  
28 the decedent;

29 (B) property owned by the spouse at the decedent's

1 death is valued as of the date of death; property transferred  
2 by the spouse is valued at the time the transfer became irre-  
3 vocable, or at the decedent's death, whichever occurred first;  
4 income earned by included property before the decedent's death  
5 is not treated as property derived from the decedent;

6 (C) property owned by the surviving spouse as of  
7 the decedent's death, or previously transferred by the surviving  
8 spouse, is presumed to have been derived from the decedent  
9 except to the extent that the surviving spouse establishes that  
10 it was derived from another source.

11 Sec. 13.11.080. RIGHT OF ELECTION PERSONAL TO SURVIVING SPOUSE.

12 The right of election of the surviving spouse may be exercised only  
13 during his lifetime by him. In the case of a protected person, the  
14 right of election may be exercised only by order of the court in which  
15 protective proceedings as to his property are pending, after finding  
16 that exercise is necessary to provide adequate support for the pro-  
17 tected person during his probable life expectancy.

18 Sec. 13.11.085. WAIVER OF RIGHT TO ELECT AND OF OTHER RIGHTS.

19 The right of election of a surviving spouse and the rights of the  
20 surviving spouse to homestead allowance, exempt property and family  
21 allowance, or any of them, may be waived, wholly or partially, before  
22 or after marriage, by a written contract, agreement or waiver signed  
23 by the party waiving after fair disclosure. Unless it provides to  
24 the contrary, a waiver of "all rights" (or equivalent language) in  
25 the property or estate of a present or prospective spouse or a complete  
26 property settlement entered into after or in anticipation of separa-  
27 tion or divorce is a waiver of all rights to elective share, homestead  
28 allowance, exempt property and family allowance by each spouse in the  
29 property of the other and a renunciation by each of all benefits

1 which would otherwise pass to him from the other by intestate  
2 succession or by virtue of the provisions of any will executed before  
3 the waiver or property settlement.

4 Sec. 13.11.090. PROCEEDING FOR ELECTIVE SHARE; TIME LIMIT. (a)  
5 The surviving spouse may elect to take his elective share in the aug-  
6 mented net estate by filing in the court and mailing or delivering  
7 to the personal representative a petition for the elective share within  
8 six months after the publication of notice to creditors for filing  
9 claims which arose before the death of the decedent. The court may  
10 extend the time for election as it sees fit for cause shown by the  
11 surviving spouse before the time for election has expired.

12 (b) The surviving spouse shall give notice of the time and  
13 place set for hearing to persons interested in the estate and to  
14 the distributees and recipients of portions of the augmented net  
15 estate whose interests will be adversely affected by the taking of  
16 the elective share.

17 (c) The surviving spouse may withdraw his demand for an elective  
18 share at any time before entry of a final determination by the court.

19 (d) After notice and hearing, the court shall determine the  
20 amount of the elective share and shall order its payment from the  
21 assets of the augmented net estate or by contribution as appears  
22 appropriate under sec. 100 of this chapter. If it appears that a  
23 fund or property included in the augmented net estate has not come  
24 into the possession of the personal representative, or has been  
25 distributed by the personal representative, the court nevertheless  
26 shall fix the liability of any person who has any interest in the  
27 fund or property or who has possession thereof, whether as trustee  
28 or otherwise. The proceeding may be maintained against fewer than  
29 all persons against whom relief could be sought, but no person is

1 subject to contribution in any greater amount than he would have been  
2 if relief had been secured against all persons subject to contribution.

3 (e) The order or judgment of the court may be enforced as  
4 necessary in suit for contribution or payment in other courts of this  
5 state or other jurisdictions.

6 Sec. 13.11.095. EFFECT OF ELECTION ON BENEFITS BY WILL OR  
7 STATUTE. (a) The surviving spouse's election of his elective share  
8 does not affect the share of the surviving spouse under the provisions  
9 of the decedent's will or intestate succession unless the surviving  
10 spouse also expressly renounces in the petition for an elective share  
11 the benefit of all or any of the provisions. If any provision is so  
12 renounced, the property or other benefit which would otherwise have  
13 passed to the surviving spouse thereunder is treated, subject to  
14 contribution under sec. 100(b) of this chapter, as if the surviving  
15 spouse had predeceased the testator.

16 (b) A surviving spouse is entitled to homestead allowance,  
17 exempt property and family allowance whether or not he elects to take  
18 an elective share and whether or not he renounces the benefits con-  
19 ferred upon him by the will except that, if it clearly appears from  
20 the will that a provision therein made for the surviving spouse was  
21 intended to be in place of these rights, he is not so entitled if he  
22 does not renounce the provision so made for him in the will.

23 Sec. 13.11.100. CHARGING SPOUSE WITH GIFTS RECEIVED; LIABILITY  
24 OF OTHERS FOR BALANCE OF ELECTIVE SHARE. (a) In the proceeding for  
25 an elective share, property which is part of the augmented estate which  
26 passes or has passed to the surviving spouse by testate or intestate  
27 succession or other means and which has not been renounced, including  
28 that described in sec. 75(3) of this chapter, is applied first  
29 to satisfy the elective share and to reduce the amount due from other

1 recipients of portions of the augmented estate.

2 (b) Remaining property of the augmented estate is so applied  
3 that liability for the balance of the elective share of the surviving  
4 spouse is equitably apportioned among the recipients of the augmented  
5 estate in proportion to the value of their interests therein.

6 (c) Only original transferees from, or appointees of, the  
7 decedent and their donees, to the extent the donees have the property  
8 or its proceeds, are subject to the contribution to make up the elective  
9 share of the surviving spouse. A person liable to contribution may  
10 choose to give up the property transferred to him or to pay its value  
11 as of the time it is considered in computing the augmented estate.

12 ARTICLE 3. SPOUSE AND CHILDREN UNPROVIDED FOR IN WILLS.

13 Sec. 13.11.110. OMITTED SPOUSE. (a) If a testator fails to  
14 provide by will for his surviving spouse who married the testator  
15 after the execution of the will, the omitted spouse shall receive  
16 the same share of the estate he would have received if the decedent  
17 left no will unless it appears from the will that the omission was  
18 intentional or the testator provided for the spouse by transfer  
19 outside the will and the intent that the transfer be in place of a  
20 testamentary provision is shown by statements of the testator or from  
21 the amount of the transfer or other evidence.

22 (b) In satisfying a share provided by this section, the devises  
23 made by the will abate as provided in AS 13.16.540.

24 Sec. 13.11.115. PRETERMITTED CHILDREN. (a) If a testator  
25 fails to provide in his will for any of his children born or adopted  
26 after the execution of his will, the omitted child receives a share  
27 in the estate equal in value to that which he would have received if  
28 the testator had died intestate unless:

29 (1) it appears from the will that the omission was inten-

1 tional;

2 (2) when the will was executed the testator had one or more  
3 children and devised substantially all his estate to the other parent  
4 of the omitted child; or

5 (3) the testator provided for the child by transfer outside  
6 the will and the intent that the transfer be in place of a testamentary  
7 provision is shown by statements of the testator or from the amount  
8 of the transfer or other evidence.

9 (b) If at the time of execution of the will the testator fails  
10 to provide in his will for a living child solely because he believes  
11 the child to be dead, the child receives a share in the estate equal  
12 in value to that which he would have received if the testator had  
13 died intestate.

14 (c) In satisfying a share provided by this section, the devise  
15 made by the will abate as provided in AS 13.16.540.

16 ARTICLE 4. EXEMPT PROPERTY AND ALLOWANCES.

17 Sec. 13.11.125. HOMESTEAD ALLOWANCE. A surviving spouse of a  
18 decedent who was domiciled in this state is entitled to a homestead  
19 allowance of \$8,000. If there is no surviving spouse, each minor  
20 child and each dependent child of the decedent is entitled to a home-  
21 stead allowance amounting to \$8,000 divided by the number of minor  
22 and dependent children of the decedent. The homestead allowance is  
23 exempt from and has priority over all claims against the estate.  
24 Homestead allowance is in addition to any share passing to the surviving  
25 spouse or minor or dependent child by the will of the decedent unless  
26 otherwise provided, by intestate succession or by way of elective  
27 share.

28 Sec. 13.11.130. EXEMPT PROPERTY. In addition to the homestead  
29 allowance, the surviving spouse of a decedent who was domiciled in

1 this state is entitled from the estate to value not exceeding \$3,500  
2 in excess of any security interests therein in household furniture,  
3 automobiles, furnishings, appliances and personal effects. If there  
4 is no surviving spouse, children of the decedent are entitled jointly  
5 to the same value. If encumbered chattels are selected and if the  
6 value in excess of security interests, plus that of other exempt  
7 property, is less than \$3,500, or if there is not \$3,500 worth of  
8 exempt property in the estate, the spouse or children are entitled  
9 to other assets of the estate, if any, to the extent necessary to  
10 make up the \$3,500 value. Rights to exempt property and assets needed  
11 to make up a deficiency of exempt property have priority over all  
12 claims against the estate, except that the right to any assets to  
13 make up a deficiency of exempt property shall abate as necessary to  
14 permit prior payment of homestead allowance and family allowance.  
15 These rights are in addition to any benefit or share passing to the  
16 surviving spouse or children by the will of the decedent unless  
17 otherwise provided, by intestate succession, or by way of elective  
18 share.

19 Sec. 13.11.135. FAMILY ALLOWANCE. (a) In addition to the right to  
20 homestead allowance and exempt property, if the decedent was domiciled  
21 in this state, the surviving spouse and minor children whom the de-  
22 cedent was obligated to support and children who were in fact being  
23 supported by him are entitled to a reasonable allowance in money out  
24 of the estate for their maintenance during the period of administra-  
25 tion, which allowance may not continue for longer than one year if  
26 the estate is inadequate to discharge allowed claims. The allowance  
27 may be paid as a lump sum or in periodic installments. It is payable  
28 to the surviving spouse, if living, for the use of the surviving  
29 spouse and minor and dependent children; otherwise to the children,

1 or persons having their care and custody; but in case any minor child  
2 or dependent child is not living with the surviving spouse, the allow-  
3 ance may be made partially to the child or his guardian or other  
4 person having his care and custody, and partially to the spouse, as  
5 their needs may appear. The family allowance is exempt from and has  
6 priority over all claims but not over the homestead allowance.

7 (b) The family allowance is not chargeable against any benefit  
8 or share passing to the surviving spouse or children by the will of  
9 the decedent unless otherwise provided, by intestate succession, or  
10 by way of elective share. The death of any person entitled to family  
11 allowance terminates his right to allowances not yet paid.

12 Sec. 13.11.140. SOURCE, DETERMINATION AND DOCUMENTATION. If the  
13 estate is otherwise sufficient, property specifically devised is not  
14 used to satisfy rights to homestead and exempt property. Subject  
15 to this restriction, the surviving spouse, the guardians of the minor  
16 children, or children who are adults may select property of the  
17 estate as homestead allowance and exempt property. The personal  
18 representative may make these selections if the surviving spouse,  
19 the children or the guardians of the minor children are unable or fail  
20 to do so within a reasonable time or if there are no guardians of  
21 the minor children. The personal representative may execute an  
22 instrument or deed of distribution to establish the ownership of  
23 property taken as homestead allowance or exempt property. He may  
24 determine the family allowance in a lump sum not exceeding \$6,000  
25 or periodic installments not exceeding \$500 per month for one year,  
26 and may disburse funds of the estate in payment of the family allowance  
27 and any part of the homestead allowance payable in cash. The  
28 personal representative or any interested person aggrieved by any  
29 selection, determination, payment, proposed payment, or failure to

1 act under this section may petition the court for appropriate relief,  
2 which relief may provide a family allowance larger or smaller than  
3 that which the personal representative determined or could have  
4 determined.

5 ARTICLE 5. WILLS.

6 Sec. 13.11.150. WHO MAY MAKE A WILL. Any person 18 or more  
7 years of age who is of sound mind may make a will.

8 Sec. 13.11.155. EXECUTION. Except as provided for nuncupative  
9 wills within sec. 158 of this chapter, holographic wills, writings  
10 within sec. 210 of this chapter, and wills within sec. 175 of this  
11 chapter, every will shall be in writing signed by the testator or in  
12 the testator's name by some other person in the testator's presence  
13 and by his direction, and shall be signed by at least two persons each  
14 of whom witnessed either the signing or the testator's acknowledgment  
15 of the signature or of the will.

16 Sec. 13.11.158. NUNCUPATIVE WILLS FOR MARINERS AND SOLDIERS. (a)  
17 A mariner at sea, or soldier in the military service, may dispose of his  
18 wages or other personal property as he might have done by common law,  
19 or by reducing the same to writing.

20 (b) No proof of a nuncupative will shall be received unless it  
21 is offered within six months after speaking the testamentary words,  
22 or unless the words, or the substance of the words, were reduced to  
23 writing within 30 days after they were spoken.

24 (c) No probate of a nuncupative will is granted for 14 days  
25 after the death of the testator, nor shall a nuncupative will be at  
26 any time proved, unless the testamentary words, or the substance of  
27 the testamentary words are first committed to writing, and a citation  
28 issued, accompanied with a copy thereof, to call the widow or next of  
29 kin to the deceased so they may contest the will if they think

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proper.

Sec. 13.11.160. HOLOGRAPHIC WILL. A will which does not comply with sec. 155 of this chapter is valid as a holographic will, whether or not witnessed, if the signature and the material provisions are in the handwriting of the testator.

Sec. 13.11.165. SELF-PROVED WILL. An attested will may at the time of its execution or at any subsequent date be made self-proved, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of this state, and evidenced by the officer's certificate, under official seal, attached or annexed to the will in form and content substantially as follows:

THE STATE OF .....  
JUDICIAL DISTRICT OF .....

We, ....., ....., and ....., the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as his last will and that he had signed willingly or directed another to sign for him, and that he executed it as his free and voluntary act for the purposes therein expressed; and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of his knowledge the testator was at that time 18 or more years of age, of sound mind and under no constraint or undue influence.

.....

Testator

.....

Witness

.....

Witness

Subscribed, sworn to and acknowledged before me by .....,  
the testator, and subscribed and sworn to before me by .....  
and ....., witnesses, this ..... day of ....., .....

(SEAL) (Signed) .....

.....  
(Official capacity of officer)

Sec. 13.11.170. WHO MAY WITNESS. (a) Any person generally  
competent to be a witness may act as a witness to a will.

(b) A will or any provision thereof is not invalid because the  
will is signed by an interested witness.

Sec. 13.11.175. CHOICE OF LAW AS TO EXECUTION. A written will  
is valid if executed in compliance with secs 155 and 160 of this  
chapter or if its execution complies with the law at the time of  
execution of the place where the will is executed, or of the law of  
the place where at the time of execution or at the time of death the  
testator is domiciled, has a place of abode or is a national.

Sec. 13.11.180. REVOCATION BY WRITING OR BY ACT. A will or any  
part thereof is revoked

(1) by a subsequent will which revokes the prior will or  
part expressly or by inconsistency; or

(2) by being burned, torn, canceled, obliterated, or de-  
stroyed, with the intent and for the purpose of revoking it by the  
testator or by another person in his presence and by his direction.

Sec. 13.11.185. REVOCATION BY DIVORCE; NO REVOCATION BY OTHER  
CHANGES OF CIRCUMSTANCES. If after executing a will the testator  
is divorced or his marriage annulled, the divorce or annulment revokes  
any disposition or appointment of property made by the will to the

1 former spouse, any provision conferring a general or special power  
2 of appointment on the former spouse, and any nomination of the former  
3 spouse as executor, trustee, conservator, or guardian, unless the will  
4 expressly provides otherwise. Property prevented from passing to a  
5 former spouse because of revocation by divorce or annulment passes  
6 as if the former spouse failed to survive the decedent, and other pro-  
7 visions conferring some power or office on the former spouse are  
8 interpreted as if the spouse failed to survive the decedent. If  
9 provisions are revoked solely by this section, they are revived by  
10 testator's remarriage to the former spouse. For purposes of this  
11 section, divorce or annulment means any divorce or annulment which  
12 would exclude the spouse as a surviving spouse within the meaning of  
13 sec. 300(b) of this chapter. A decree of separation which does not  
14 terminate the status of husband and wife is not a divorce for purposes  
15 of this section. No change of circumstances other than as described  
16 in this section revokes a will.

17 Sec. 13.11.190. REVIVAL OF REVOKED WILL. (a) If a second will  
18 which, had it remained effective at death, would have revoked the  
19 first will in whole or in part, is thereafter revoked by acts under  
20 sec. 180 of this chapter, the first will is revoked in whole or in  
21 part unless it is evident from the circumstances of the revocation  
22 of the second will or from testator's contemporary or subsequent  
23 declarations that he intended the first will to take effect as exe-  
24 cuted.

25 (b) If a second will which, had it remained effective at death,  
26 would have revoked the first will in whole or in part, is thereafter  
27 revoked by a third will, the first will is revoked in whole or in  
28 part, except to the extent it appears from the terms of the third will  
29 that the testator intended the first will to take effect.

1           Sec. 13.11.195. INCORPORATION BY REFERENCE. Any writing in  
2 existence when a will is executed may be incorporated by reference  
3 if the language of the will manifests this intent and describes the  
4 writing sufficiently to permit its identification.

5           Sec. 13.11.200. TESTAMENTARY ADDITIONS TO TRUSTS. A devise or  
6 bequest, the validity of which is determinable by the law of this  
7 state, may be made by a will to the trustee of a trust established or  
8 to be established by the testator or by the testator and some other  
9 person or by some other person (including a funded or unfunded life  
10 insurance trust, although the trustor has reserved any or all rights  
11 of ownership of the insurance contracts) if the trust is identified  
12 in the testator's will and its terms are set out in a written instrument  
13 (other than a will) executed before or concurrently with the execution  
14 of the testator's will or in the valid last will of a person who has  
15 predeceased the testator (regardless of the existence, size, or  
16 character of the corpus of the trust). The devise is not invalid  
17 because the trust is amendable or revocable, or because the trust was  
18 amended after the execution of the will or after the death of the  
19 testator. Unless the testator's will provides otherwise, the property  
20 so devised (1) is not considered to be held under a testamentary trust  
21 of the testator but becomes a part of the trust to which it is given  
22 and (2) shall be administered and disposed of in accordance with the  
23 provisions of the instrument or will setting out the terms of the  
24 trust, including any amendments thereto made before the death of the  
25 testator (regardless of whether made before or after the execution  
26 of the testator's will), and, if the testator's will so provides,  
27 including any amendments to the trust made after the death of the  
28 testator. A revocation or termination of the trust before the death  
29 of the testator causes the devise to lapse.

1           Sec. 13.11.205. EVENTS OF INDEPENDENT SIGNIFICANCE. A will  
2 may dispose of property by reference to acts and events which have  
3 significance apart from their effect upon the dispositions made by  
4 the will, whether they occur before or after the execution of the  
5 will or before or after the testator's death. The execution or revo-  
6 cation of a will of another person is such an event.

7           Sec. 13.11.210. SEPARATE WRITING IDENTIFYING BEQUEST OF TANGIBLE  
8 PROPERTY. Whether or not the provisions relating to holographic  
9 wills apply, a will may refer to a written statement or list to dispose  
10 of items of tangible personal property not otherwise specifically  
11 disposed of by the will, other than money, evidences of indebtedness,  
12 documents of title, securities, and property used in trade or  
13 business. To be admissible under this section as evidence of the  
14 intended disposition, the writing must either be in the handwriting  
15 of the testator or be signed by him and must describe the items and  
16 the devisees with reasonable certainty. The writing may be referred  
17 to as one to be in existence at the time of the testator's death; it  
18 may be prepared before or after the execution of the will; it may be  
19 altered by the testator after its preparation; and it may be a writing  
20 which has no significance apart from its effect upon the dispositions  
21 made by the will.

22                           ARTICLE 6. RULES OF CONSTRUCTION.

23           Sec. 13.11.220. REQUIREMENT THAT DEVISEE SURVIVE TESTATOR BY  
24 120 HOURS. A devisee who does not survive the testator by 120 hours  
25 is treated as if he predeceased the testator, unless the will of  
26 decedent contains some language dealing explicitly with simultaneous  
27 deaths or deaths in a common disaster, or requiring that the devisee  
28 survive the testator or survive the testator for a stated period in  
29 order to take under the will.

1           Sec. 13.11.225. CHOICE OF LAW AS TO MEANING AND EFFECT OF WILLS.

2           The meaning and legal effect of a disposition in a will shall be  
3           determined by the local law of a particular state selected by the  
4           testator in his instrument unless the application of that law is  
5           contrary to the public policy of this state otherwise applicable  
6           to the disposition.

7           Sec. 13.11.230. RULES OF CONSTRUCTION AND INTENTION. The intention  
8           of a testator as expressed in his will controls the legal effect of  
9           his dispositions. The rules of construction expressed in the succeed-  
10          ing section 235 - 275 of this chapter apply unless a  
11          contrary intention is indicated by the will.

12          Sec. 13.11.235. CONSTRUCTION THAT WILL PASSES ALL PROPERTY;  
13          AFTER-ACQUIRED PROPERTY. A will is construed to pass all property  
14          which the testator owns at his death including property acquired after  
15          the execution of the will.

16          Sec. 13.11.240. ANTI-LAPSE; DECEASED DEVISEE; CLASS GIFTS. If  
17          a devisee who is a grandparent or a lineal descendant of a grandparent  
18          of the testator is dead at the time of execution of the will, fails  
19          to survive the testator, or is treated as if he predeceased the  
20          testator, the issue of the deceased devisee who survive the testator  
21          by 120 hours take in place of the deceased devisee and if they are  
22          all of the same degree of kinship to the devisee they take  
23          equally, but if of unequal degree then those of more remote degree  
24          take by representation. One who would have been a devisee under a  
25          class gift if he had survived the testator is treated as a devisee  
26          for purposes of this section whether his death occurred before or  
27          after the execution of the will.

28          Sec. 13.11.245. FAILURE OF TESTAMENTARY PROVISION. (a) Except  
29          as provided in sec. 240 of this chapter if a devise other than a

1 residuary devise fails for any reason, it becomes a part of the  
2 residue.

3 (b) Except as provided in sec. 240 of this chapter if the  
4 residue is devised to two or more persons and the share of one of the  
5 residuary devisees fails for any reason, his share passes to the  
6 other residuary devisee, or to other residuary devisees in proportion  
7 to their interests in the residue.

8 Sec. 13.11.250. CHANGE IN SECURITIES; ACCESSIONS; NONADEMPTION.

9 (a) If the testator intended a specific devise of certain securities  
10 rather than the equivalent value thereof, the specific devisee is  
11 entitled only to:

12 (1) as much of the devised securities as is a part of the  
13 estate at time of the testator's death;

14 (2) any additional or other securities of the same entity  
15 owned by the testator by reason of action initiated by the entity ex-  
16 cluding any acquired by exercise of purchase options;

17 (3) securities of another entity owned by the testator  
18 as a result of a merger, consolidation, reorganization or other similar  
19 action initiated by the entity; and

20 (4) any additional securities of the entity owned by the  
21 testator as a result of a plan of reinvestment if it is a regulated  
22 investment company.

23 (b) Distributions prior to death with respect to a specifically  
24 devised security not provided for in (a) of this section are not part  
25 of the specific devise.

26 Sec. 13.11.255. NONADEMPTION OF SPECIFIC DEVISES IN CERTAIN  
27 CASES; SALE BY CONSERVATOR; UNPAID PROCEEDS OF SALE, CONDEMNATION OR  
28 INSURANCE. (a) If specifically devised property is sold by a con-  
29 servator, or if a condemnation award or insurance proceeds are paid to

1 a conservator as a result of condemnation, fire, or casualty, the  
2 specific devisee has the right to a general pecuniary devise equal  
3 to the net sale price, the condemnation award, or the insurance pro-  
4 ceeds. This subsection does not apply if subsequent to the sale,  
5 condemnation, or casualty, it is adjudicated the disability of the  
6 testator has ceased and the testator survives the adjudication by  
7 one year. The right of the specific devisee under this subsection  
8 is reduced by any right he has under (b) of this section.

9 (b) A specific devisee has the right to the remaining specifi-  
10 cally devised property and:

11 (1) any balance of the purchase price (together with any  
12 security interest) owing from a purchaser to the testator at death  
13 by reason of sale of the property;

14 (2) any amount of a condemnation award for the taking of  
15 the property unpaid at death;

16 (3) any proceeds unpaid at death on fire or casualty  
17 insurance on the property; and

18 (4) property owned by testator at his death as a result of  
19 foreclosure, or obtained in lieu of foreclosure, of the security for  
20 a specifically devised obligation.

21 Sec. 13.11.260. NON-EXONERATION. A specific devise passes  
22 subject to any security interest existing at the date of death, with-  
23 out right of exoneration, regardless of a general directive in the  
24 will to pay debts.

25 Sec. 13.11.265. EXERCISE OF POWER OF APPOINTMENT. A general  
26 residuary clause in a will, or a will making general disposition of  
27 all of the testator's property, does not exercise a power of appoint-  
28 ment held by the testator unless specific reference is made to the  
29 power or there is some other indication of intention to include the

1 property subject to the power.

2 Sec. 13.11.270. CONSTRUCTION OF GENERIC TERMS TO ACCORD WITH  
3 RELATIONSHIPS AS DEFINED FOR INTESTATE SUCCESSION. Halfbloods, adopted  
4 persons and persons born out of wedlock are included in class gift  
5 terminology and terms of relationship in accordance with rules for  
6 determining relationships for purposes of intestate succession, but a  
7 person born out of wedlock is not treated as the child of the father  
8 unless the person is openly and notoriously so treated by the father.

9 Sec. 13.11.275. ADEMPION BY SATISFACTION. Property which a  
10 testator gave in his lifetime to a person is treated as a satisfac-  
11 tion of a devise to that person in whole or in part, only if the will  
12 provides for deduction of the lifetime gift, or the testator declares  
13 in a contemporaneous writing that the gift is to be deducted from the  
14 devise or is in satisfaction of the devise, or the devisee acknowledges  
15 in writing that the gift is in satisfaction. For purpose of partial  
16 satisfaction, property given during lifetime is valued as of the time  
17 the devisee came into possession or enjoyment of the property or as  
18 of the time of death of the testator, whichever occurs first.

19 ARTICLE 7. CONTRACTUAL ARRANGEMENTS RELATING TO DEATH.

20 Sec. 13.11.285. CONTRACTS CONCERNING SUCCESSION. A contract  
21 to make a will or devise, or not to revoke a will or devise, or to  
22 die intestate, if executed after the effective date of this Act,  
23 can be established only by:

24 (1) provisions of a will stating material provisions of the  
25 contract;

26 (2) an express reference in a will to a contract and ex-  
27 trinsic evidence providing the terms of the contract;

28 (3) or a writing signed by the decedent evidencing the  
29 contract. The execution of a joint will or mutual wills does not

1 create a presumption of a contract not to revoke the will or wills.

2 ARTICLE 8. GENERAL PROVISIONS.

3 Sec. 13.11.295. RENUNCIATION OF SUCCESSION. (a) A person (or  
4 his personal representative) who is an heir, devisee, person succeeding  
5 to a renounced interest, beneficiary under a testamentary instrument  
6 or person designated to take under a power of appointment exercised  
7 by a testamentary instrument may renounce in whole or in part the  
8 succession to any property or interest therein by filing a written  
9 instrument within the time and at the place hereinafter provided. The  
10 instrument shall

11 (1) describe the property or part thereof or interest  
12 therein renounced,

13 (2) be signed by the person renouncing and

14 (3) declare the renunciation and the extent thereof.

15 (b) The writing specified in (a) must be filed within six months  
16 after the death of the decedent or the donee of the power, or if the  
17 taker of the property is not then finally ascertained not later than  
18 six months after the event by which the taker or the interest is  
19 finally ascertained. The writing must be filed in the court of the  
20 judicial district where proceedings concerning the decedent's estate  
21 are pending, or where they would be pending if commenced. A copy  
22 of the writing also shall be mailed to the personal representative of  
23 the decedent.

24 (c) Unless the decedent or donee of the power has otherwise  
25 indicated by his will, the interest renounced, and any future interest  
26 which is to take effect in possession or enjoyment at or after the  
27 termination of the interest renounced, passes as if the person renoun-  
28 cing had predeceased the decedent, or if the person renouncing is one  
29 designated to take under a power of appointment exercised by a testa-

1           mentary instrument, as if the person renouncing had predeceased the  
2           donee of the power. In every case the renunciation relates back for  
3           all purposes to the date of death of the decedent or the donee, as  
4           the case may be.

5           (d) Any

6                 (1) assignment, conveyance, encumbrance, pledge or transfer  
7           of property therein or any contract therefore,

8                 (2) written waiver of the right to renounce or any accep-  
9           tance of property by an heir, devisee, person succeeding to a renounced  
10           interest; beneficiary or person designated to take under a power of  
11           appointment exercised by testamentary instrument, or

12                 (3) sale or other disposition of property under judicial  
13           process, made before the expiration of the period in which he is  
14           permitted to renounce, bars the right to renounce as to the property.

15           (e) The right to renounce granted by this section exists irre-  
16           spective of any limitation on the interest of the person renouncing in  
17           the nature of a spendthrift provision or similar restriction.

18           (f) This section does not abridge the right of any person to  
19           assign, convey, release, or renounce any property arising under any  
20           other section of this code or other statute.

21           (g) Any interest in property which exists on the effective date  
22           of this section, but which has not then become indefeasibly fixed both  
23           in quality and quantity, or the taker of which has not then become  
24           finally ascertained, may be renounced after the effective date of this  
25           section as provided herein. An interest which has arisen before the  
26           effective date of this section in any person other than the person  
27           renouncing is not destroyed or diminished by any action of the person  
28           renouncing taken under this section.

29           Sec. 13.11.300. EFFECT OF DIVORCE, ANNULMENT, AND DECREE OF

1 SEPARATION. (a) A person who is divorced from the decedant or  
2 whose marriage to the decedent has been annulled is not a surviving  
3 spouse unless, by virtue of a subsequent marriage, he is married to  
4 the decedent at the time of death. A decree of separation which  
5 does not terminate the status of husband and wife is not a divorce for  
6 purposes of this section.

7 (b) For purposes of sections 5 - 140 of this chapter, a surviving  
8 spouse does not include:

9 (1) a person who obtains or consents to a final decree or  
10 judgment of divorce from the decedent or an annulment of their mar-  
11 riage, which decree or judgment is not recognized as valid in this  
12 state, unless they subsequently participate in a marriage ceremony  
13 purporting to marry each to the other, or subsequently live together  
14 as man and wife;

15 (2) a person who, following a decree or judgment of divorce  
16 or annulment obtained by the decedent, participates in a marriage  
17 ceremony with a third person; or

18 (3) a person who was a party to a valid proceeding concluded  
19 by an order purporting to terminate all marital property rights.

20 Sec. 13.11.305. EFFECT OF HOMICIDE ON INTESTATE SUCCESSION,  
21 WILLS, JOINT ASSETS, LIFE INSURANCE AND BENEFICIARY DESIGNATIONS.

22 (a) A surviving spouse, heir or devisee who feloniously and inten-  
23 tionally kills the decedent is not entitled to any benefits under the  
24 will or under this chapter, and the estate of decedent passes as if  
25 the killer had predeceased the decedent. Property appointed by the  
26 will of the decedent to or for the benefit of the killer passes as if  
27 the killer had predeceased the decedent.

28 (b) Any joint tenant who feloniously and intentionally kills  
29 another joint tenant thereby effects a severance of the interest of

1 the decedent so that the share of the decedent passes as his property  
2 and the killer has no rights by survivorship. This provision applies  
3 to joint tenancies and tenancies by the entirety in real and personal  
4 property, joint accounts in banks, savings and loan associations,  
5 credit unions and other institutions, and any other form of co-owner-  
6 ship with survivorship incidents.

7 (c) A named beneficiary of a bond, life insurance policy, or  
8 other contractual arrangement who feloniously and intentionally kills  
9 the principal obligee or the person upon whose life the policy is  
10 issued is not entitled to any benefit under the bond, policy or other  
11 contractual arrangement, and it becomes payable as though the killer  
12 had predeceased the decedent.

13 (d) Any other acquisition of property or interest by the killer  
14 shall be treated in accordance with the principles of this section.

15 (e) A final judgment of conviction of felonious and intentional  
16 killing is conclusive for purposes of this section. In the absence of  
17 a conviction of felonious and intentional killing the court may deter-  
18 mine by a preponderance of evidence whether the killing was felonious  
19 and intentional for purposes of this section.

20 (f) This section does not affect the rights of any person who,  
21 before rights under this section have been adjudicated, purchases from  
22 the killer for value and without notice property which the killer  
23 would have acquired except for this section, but the killer is liable  
24 for the amount of the proceeds or the value of the property. Any  
25 insurance company, bank or other obligor making payment according to  
26 the terms of its policy or obligation is not liable by reason of this  
27 section unless prior to payment it has received at its home office or  
28 principal address written notice of a claim under this section.  
29

1                   ARTICLE 9. CUSTODY AND DEPOSIT OF WILLS

2                   Sec. 13.11.315. DEPOSIT OF WILL WITH COURT IN TESTATOR'S LIFE-  
3 TIME. A will may be deposited by the testator or his agent with any  
4 court for safekeeping, under rules of the court. The will shall be  
5 kept confidential. During the testator's lifetime a deposited will  
6 shall be delivered only to him or to a person authorized in writing  
7 signed by him to receive the will. A conservator may be allowed to  
8 examine a deposited will of a protected testator under procedures  
9 designed to maintain the confidential character of the document to  
10 the extent possible, and to assure that it will be resealed and left  
11 on deposit after the examination. Upon being informed of the testator's  
12 death, the court shall notify any person designated to receive the will  
13 and deliver it to him on request; or the court may deliver the will to  
14 the appropriate court.

15                   Sec. 13.11.320. DUTY OF CUSTODIAN OF WILL; LIABILITY. After  
16 the death of a testator and on request of an interested person, any  
17 person having custody of a will of the testator shall deliver it with  
18 reasonable promptness to a person able to secure its probate and if  
19 none is known, to an appropriate court. Any person who wilfully fails  
20 to deliver a will is liable to any person aggrieved for the damages  
21 which may be sustained by the failure. Any person who wilfully refuses  
22 or fails to deliver a will after being ordered by the court in a pro-  
23 ceeding brought for the purpose of compelling delivery is subject to  
24 penalty for contempt of court.

25                   CHAPTER 16. PROBATE OF WILLS AND ADMINISTRATION.

26                   ARTICLE 1. GENERAL PROVISIONS.

27                   Sec. 13.16.005. DEVOLUTION OF ESTATE AT DEATH; RESTRICTIONS. The  
28 power of a person to leave property by will, and the rights of credi-  
29 tors, devisees, and heirs to his property are subject to the restric-

1 tions and limitations contained in this code to facilitate the prompt  
2 settlement of estates. Upon the death of a person, his real and  
3 personal property devolves to the persons to whom it is devised by his  
4 last will or to those indicated as substitutes for them in cases in-  
5 volving lapse, renunciation, or other circumstances affecting the  
6 devolution of testate estate, or in the absence of testamentary dispo-  
7 sition, to his heirs, or to those indicated as substitutes for them in  
8 cases involving renunciation or other circumstances affecting devolu-  
9 tion of intestate estates, subject to homestead allowance, exempt  
10 property and family allowance, to rights of creditors, elective share  
11 of the surviving spouse, and to administration.  
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6           Sec. 13.16.010. NECESSITY OF ORDER OF PROBATE FOR WILL. Except  
7 as provided in Section 680 of this chapter, to be effective to prove  
8 the transfer of any property or to nominate an executor, a will must  
9 be declared to be valid by an order of informal probate by the regis-  
10 trar, or an adjudication of probate by the court, except that a duly  
11 executed and unrevoked will which has not been probated may be admitted  
12 as evidence of a devise if

13                   (1) no court proceeding concerning the succession or admin-  
14 istration of the estate has occurred, and

15                   (2) either the devisee or his successors and assigns  
16 possessed the property devised in accordance with the provisions of  
17 the will, or the property devised was not possessed or claimed by any-  
18 one by virtue of the decedent's title during the time period for test-  
19 acy proceedings.

20           Sec. 16.015. NECESSITY OF APPOINTMENT FOR ADMINISTRATION. Except  
21 as otherwise provided in Chapter 21 of this title, to acquire the  
22 powers and undertake the duties and liabilities of a personal repre-  
23 sentative of a decedent, a person must be appointed by order of the  
24 court or registrar, qualify and be issued letters. Administration of  
25 an estate is commenced by the issuance of letters.

26           Sec. 13.16.020. CLAIMS AGAINST DECEDENT; NECESSITY OF ADMINIS-  
27 TRATION. No proceeding to enforce a claim against the estate of a  
28 decedent or his successors may be revived or commenced before the  
29 appointment of a personal representative. After the appointment and

1 until distribution, all proceedings and actions to enforce a claim  
2 against the estate are governed by the procedure prescribed by this  
3 chapter. After distribution a creditor whose claim has not been  
4 barred may recover from the distributees as provided in Section 635  
5 of this chapter or from a former personal representative individually  
6 liable as provided in Section 640 of this chapter. This section has  
7 no application to a proceeding by a secured creditor of the decedent  
8 to enforce his right to his security except as to any deficiency  
9 judgment which might be sought therein.

10 Sec. 13.16.025. PROCEEDINGS AFFECTING DEVOLUTION AND ADMINISTRA-  
11 TION; JURISDICTION OF SUBJECT MATTER. Persons interested in decedents'  
12 estates may apply to the registrar for determination in the informal  
13 proceedings provided in this chapter, and may petition the court for  
14 orders in formal proceedings within the court's jurisdiction including  
15 but not limited to those described in this chapter. The court has  
16 exclusive jurisdiction of formal proceedings to determine how decedents'  
17 estates subject to the laws of this state are to be administered,  
18 expended and distributed. The court has concurrent jurisdiction of any  
19 other action or proceeding concerning a succession or to which an  
20 estate, through a personal representative, may be a party, including  
21 actions to determine title to property alleged to belong to the estate,  
22 and of any action or proceeding in which property distributed by a  
23 personal representative or its value is sought to be subjected to rights  
24 of creditors or successors of the decedent.

25 Sec. 13.16.030. PROCEEDINGS WITHIN THE EXCLUSIVE JURISDICTION OF  
26 COURT; SERVICE; JURISDICTION OVER PERSONS. In proceedings within the  
27 exclusive jurisdiction of the court where notice is required by this  
28 code or by rule, interested persons may be bound by the orders of the  
29 court in respect to property in or subject to the laws of this state

1 by notice in conformity with AS 13.06.110. An order is binding as to  
2 all who are given notice of the proceeding though less than all inter-  
3 ested persons are notified.

4 Sec. 13.16.035. SCOPE OF PROCEEDINGS; PROCEEDINGS INDEPENDENT;  
5 EXCEPTION. Unless supervised administration as described in secs. 215  
6 235 of this chapter is involved,

7 (1) each proceeding before the court or registrar is inde-  
8 pendent of any other proceeding involving the same estate;

9 (2) petitions for formal orders of the court may combine  
10 various requests for relief in a single proceeding if the orders sought  
11 may be finally granted without delay. Except as required for proceed-  
12 ings which are particularly described by other sections of this chapter,  
13 no petition is defective because it fails to embrace all matters which  
14 might then be the subject of a final order;

15 (3) proceedings for probate of wills or adjudications of no  
16 will may be combined with proceedings for appointment of personal  
17 representatives; and

18 (4) a proceeding for appointment of a personal representa-  
19 tive is concluded by an order making or declining the appointment.

20 Sec. 13.16.040. PROBATE, TESTACY AND APPOINTMENT PROCEEDINGS;  
21 ULTIMATE TIME LIMIT. No informal probate or appointment proceeding or  
22 formal testacy or appointment proceeding, other than a proceeding to  
23 probate a will previously probated at the testator's domicile and  
24 appointment proceedings relating to an estate in which there has been  
25 a prior appointment, may be commenced more than three years after the  
26 decedent's death, except

27 (1) if a previous proceeding was dismissed because of doubt  
28 about the fact of the decedent's death, appropriate probate, appoint-  
29 ment or testacy proceedings may be maintained at any time thereafter

1 upon a finding that the decedent's death occurred prior to the initia-  
2 tion of the previous proceeding and the applicant or petitioner has  
3 not delayed unduly in initiating the subsequent proceeding;

4 (2) appropriate probate, appointment or testacy proceedings  
5 may be maintained in relation to the estate of an absent, disappeared  
6 or missing person for whose estate a conservator has been appointed,  
7 at any time within three years after the conservator becomes able to  
8 establish the death of the protected person; and

9 (3) a proceeding to contest an informally probated will and  
10 to secure appointment of the person with legal priority for appointment  
11 in the event the contest is successful, may be commenced within the  
12 later of 12 months from the informal probate or three years from the  
13 decedent's death. These limitations do not apply to proceedings to  
14 construe probated wills or determine heirs of an intestate. In cases  
15 under (1) or (2) of this section, the date on which a testacy or  
16 appointment proceeding is properly commenced shall be considered to  
17 be the date of the decedent's death for purposes of other limitations  
18 provisions of this code which relate to the date of death.

19 Sec. 13.16.045. STATUTES OF LIMITATION ON DECEDENT'S CAUSE OF  
20 ACTION. No statute of limitation running on a cause of action belong-  
21 ing to a decedent which had not been barred as of the date of his death,  
22 shall apply to bar a cause of action surviving the decedent's death  
23 sooner than four months after death. A cause of action which, but  
24 for this section, would have been barred less than four months after  
25 death, is barred after four months unless tolled.

26 ARTICLE 2. VENUE FOR PROBATE AND ADMINISTRATION;

27 PRIORITY TO ADMINISTER; DEMAND FOR NOTICE

28 Sec. 13.16.055. VENUE FOR FIRST AND SUBSEQUENT ESTATE PROCEED-  
29 INGS; LOCATION OF PROPERTY. (a) Venue for the first informal or

1 formal testacy or appointment proceedings after a decedent's death is:

2 (1) in the judicial district where the decedent had his  
3 domicile at the time of his death; or

4 (2) if the decedent was not domiciled in this state, in any  
5 judicial district where property of the decedent was located at the  
6 time of his death.

7 (b) Venue for all subsequent proceedings within the exclusive  
8 jurisdiction of the court is in the place where the initial proceeding  
9 occurred, unless the initial proceeding has been transferred as pro-  
10 vided in AS 13.06.070 or (c) of this section.

11 (c) If the first proceeding was informal, on application of an  
12 interested person and after notice to the proponent in the first pro-  
13 ceeding, the court, upon finding that venue is elsewhere, may transfer  
14 the proceeding and the file to the other court.

15 (d) For the purpose of aiding determinations concerning location  
16 of assets which may be relevant in cases involving non-domiciliaries,  
17 a debt, other than one evidenced by investment or commercial paper or  
18 other instrument in favor of a non-domiciliary, is located where the  
19 debtor resides or, if the debtor is a person other than an individual,  
20 at the place where it has its principal office. Commercial paper,  
21 investment paper and other instruments are located where the instrument  
22 is. An interest in property held in trust is located where the trustee  
23 may be sued.

24 Sec. 13.16.060. APPOINTMENT OR TESTACY PROCEEDINGS; CONFLICTING  
25 CLAIM OF DOMICILE IN ANOTHER STATE. If conflicting claims as to the  
26 domicile of a decedent are made in a formal testacy or appointment  
27 proceeding commenced in this state, and in a testacy or appointment  
28 proceeding after notice pending at the same time in another state,  
29 the court of this state must stay, dismiss, or permit suitable amend-

1 ment in, the proceeding here unless it is determined that the local  
2 proceeding was commenced before the proceeding elsewhere. The deter-  
3 mination of domicile in the proceeding first commenced must be accepted  
4 as determinative in the proceeding of this state.

5 Sec. 13.16.065. PRIORITY AMONG PERSONS SEEKING APPOINTMENT AS  
6 PERSONAL REPRESENTATIVE. (a) Whether the proceedings are formal or  
7 informal, persons who are not disqualified have priority for appoint-  
8 ment in the following order:

- 9 (1) the person with priority as determined by a probated  
10 will including a person nominated by a power conferred in a will;  
11 (2) the surviving spouse of the decedent who is a devisee  
12 of the decedent;  
13 (3) other devisees of the decedent;  
14 (4) the surviving spouse of the decedent;  
15 (5) other heirs of the decedent;  
16 (6) 45 days after the death of the decedent, any creditor.

17 (b) An objection to an appointment can be made only in formal  
18 proceedings. In case of objection the priorities stated in (a) of  
19 this section apply except that

20 (1) if the estate appears to be more than adequate to  
21 meet exemptions and costs of administration but inadequate to discharge  
22 anticipated unsecured claims, the court, on petition of creditors, may  
23 appoint any qualified person;

24 (2) in case of objection to appointment of a person other  
25 than one whose priority is determined by will by an heir or devisee  
26 appearing to have a substantial interest in the estate, the court may  
27 appoint a person who is acceptable to heirs and devisees whose interests  
28 in the estate appear to be worth in total more than half of the probable  
29 distributable value, or, in default of this accord any suitable person.

1 (c) A person entitled to letters under (a)(2) - (5) of this  
2 section, and a person aged 18 and over who would be entitled to  
3 letters but for his age, may nominate a qualified person to act as  
4 personal representative. Any person aged 18 and over may renounce  
5 his right to nominate or to an appointment by appropriate writing  
6 filed with the court. When two or more persons share a priority,  
7 those of them who do not renounce must concur in nominating another  
8 to act for them, or in applying for appointment.

9 (d) Conservators of the estates of protected persons, or if  
10 there is no conservator, any guardian except a guardian ad litem of  
11 a minor or incapacitated person, may exercise the same right to nomin-  
12 ate, to object to another's appointment, or to participate in deter-  
13 mining the preference of a majority in interest of the heirs and  
14 devisees that the protected person or ward would have if qualified  
15 for appointment.

16 (e) Appointment of one who does not have priority, including  
17 priority resulting from renunciation or nomination determined under  
18 this section, may be made only in formal proceedings. Before appoint-  
19 ing one without priority, the court must determine that those having  
20 priority, although given notice of the proceedings, have failed to  
21 request appointment or to nominate another for appointment, and that  
22 administration is necessary.

23 (f) No person is qualified to serve as a personal representative  
24 who is:

- 25 (1) under the age of 19;  
26 (2) a person whom the court finds unsuitable in formal  
27 proceedings;  
28

29 (g) A personal representative appointed by a court of the  
decendent's domicile has priority over all other persons except where

1 the decedent's will nominates different persons to be personal repre-  
2 sentative in this state and in the state of domicile. The domiciliary  
3 personal representative may nominate another, who shall have the same  
4 priority as the domiciliary personal representative.

5 (h) This section governs priority for appointment of a successor  
6 personal representative but does not apply to the selection of a special  
7 administrator.

8 Sec. 13.16.070. DEMAND FOR NOTICE OF ORDER OR FILING CONCERNING  
9 DECEDENT'S ESTATE. Any person desiring notice of any order or filing  
10 pertaining to a decedent's estate in which he has a financial or prop-  
11 erty interest, may file a demand for notice with the court at any time  
12 after the death of the decedent stating the name of the decedent, the  
13 nature of his interest in the estate, and the demandant's address or  
14 that of his attorney. The clerk shall mail a copy of the demand to  
15 the personal representative if one has been appointed. After filing  
16 of a demand, no order or filing to which the demand relates shall be  
17 made or accepted without notice as prescribed in AS 13.06.110 to the  
18 demandant or his attorney. The validity of an order which is issued  
19 or filing which is accepted without compliance with this requirement  
20 shall not be affected by the error, but the petitioner receiving the  
21 order or the person making the filing may be liable for any damage  
22 caused by the absence of notice. The requirement of notice arising  
23 from a demand under this provision may be waived in writing by the  
24 demandant and shall cease upon the termination of his interest in the  
25 estate.

26 ARTICLE 3. INFORMAL PROBATE AND APPOINTMENT PROCEEDINGS.

27 Sec. 13.16.080. INFORMAL PROBATE OR APPOINTMENT PROCEEDINGS;  
28 APPLICATION; CONTENTS. Applications for informal probate or informal  
29 appointment shall be directed to the registrar, and verified by the

1 applicant to be accurate and complete to the best of his knowledge and  
2 belief as to the following information:

3 (1) Every application for informal probate of a will or  
4 for informal appointment of a personal representative other than a  
5 special, ancillary or successor representative, shall contain the  
6 following:

7 (A) a statement of the interest of the applicant;

8 (B) the name, and date of death of the decedent, his  
9 age, and the judicial district and state of his domicile at the  
10 time of death, and the names and addresses of the spouse, children,  
11 heirs and devisees and the ages of any who are minors so far as  
12 known or ascertainable with reasonable diligence by the applicant;

13 (C) if the decedent was not domiciled in the state at  
14 the time of his death, a statement showing venue;

15 (D) a statement identifying and indicating the address  
16 of any personal representative of the decedent appointed in this  
17 state or elsewhere whose appointment has not been terminated;

18 (E) a statement indicating whether the applicant has  
19 received a demand for notice, or is aware of any demand for notice  
20 of any probate or appointment proceeding concerning the decedent  
21 that may have been filed in this state or elsewhere.

22 (2) An application for informal probate of a will shall  
23 state the following in addition to the statements required by (1) of  
24 this section:

25 (A) that the original of the decedent's last will is  
26 in the possession of the court, or accompanies the application,  
27 or that an authenticated copy of a will probated in another juris-  
28 diction accompanies the application;

29 (B) that the applicant, to the best of his knowledge,

1 believes the will to have been validly executed;

2 (C) that after the exercise of reasonable diligence,  
3 the applicant is unaware of any instrument revoking the will,  
4 and that the applicant believes that the instrument which is the  
5 subject of the application is the decedent's last will;

6 (D) that the time limit for informal probate as pro-  
7 vided in this chapter has not expired either because three years  
8 or less have passed since the decedent's death, or, if more than  
9 three years from death have passed, that circumstances as described  
10 by Section 40 of this chapter authorizing tardy probate have  
11 occurred.

12 (3) An application for informal appointment of a personal  
13 representative to administer an estate under a will shall describe the  
14 will by date of execution and state the time and place of probate or  
15 the pending application or petition for probate. The application for  
16 appointment shall adopt the statements in the application or petition  
17 for probate and state the name, address and priority for appointment  
18 of the person whose appointment is sought.

19 (4) An application for informal appointment of an adminis-  
20 trator in intestacy shall state in addition to the statements required  
21 by (1) of this section:

22 (A) that after the exercise of reasonable diligence,  
23 the applicant is unaware of any unrevoked testamentary instru-  
24 ment relating to property having a situs in this state under  
25 AS 13.06.060, or, a statement why any such instrument of which  
26 he may be aware is not being probated;

27 (B) the priority of the person whose appointment is  
28 sought and the names of any other persons having a prior or equal  
29 right to the appointment under sec. 65 of this chapter.

1 (5) An application for appointment of a personal representa-  
2 tive to succeed a personal representative appointed under a different  
3 testacy status shall refer to the order in the most recent testacy  
4 proceeding, state the name and address of the person whose appointment  
5 is sought and of the person whose appointment will be terminated if the  
6 application is granted, and describe the priority of the applicant.

7 (6) An application for appointment of a personal representa-  
8 tive to succeed a personal representative who has tendered a resigna-  
9 tion as provided in sec. 290(c) of this chapter, or whose appoint-  
10 ment has been terminated by death or removal, shall adopt the state-  
11 ments in the application or petition which led to the appointment of  
12 the person being succeeded except as specifically changed or corrected,  
13 state the name and address of the person who seeks appointment as  
14 successor, and describe the priority of the applicant.

15 Sec. 13.16.085. INFORMAL PROBATE; DUTY OF REGISTRAR; EFFECT OF  
16 INFORMAL PROBATE. Upon receipt of an application requesting informal  
17 probate of a will, the registrar, upon making the findings required by  
18 sec. 90 of this chapter shall issue a written statement of informal  
19 probate if at least 120 hours have elapsed since the decedent's death.  
20 Informal probate is conclusive as to all persons until superseded by  
21 an order in a formal testacy proceeding. No defect in the application  
22 or procedure relating thereto which leads to informal probate of a will  
23 renders the probate void.

24 Sec. 13.16.090. INFORMAL PROBATE; PROOF AND FINDINGS REQUIRED.  
25 (a) In an informal proceeding for original probate of a will, the  
26 registrar shall determine whether:

- 27 (1) the application is complete;  
28 (2) the applicant has made oath or affirmation that the  
29 statements contained in the application are true to the best of his

1 knowledge and belief;

2 §3) the applicant appears from the application to be an  
3 interested person as defined in AS 13.06.050(20);

4 (4) on the basis of the statements in the application,  
5 venue is proper;

6 (5) an original, duly executed and apparently unrevoked  
7 will is in the registrar's possession;

8 (6) any notice required by sec. 70 of this chapter has  
9 been given and that the application is not within sec. 95 of this  
10 chapter; and

11 (7) it appears from the application that the time limit  
12 for original probate has not expired.

13 (b) The application shall be denied if it indicates that a  
14 personal representative has been appointed in another judicial district  
15 of this state or except as provided in (d) of this section, if it  
16 appears that this or another will of the decedent has been the subject  
17 of a previous probate order.

18 (c) A will which appears to have the required signatures and  
19 which contains an attestation clause showing that requirements of  
20 execution under AS 13.11.155, AS 13.11.160, or AS 13.11.175 have been  
21 met shall be probated without further proof. In other cases, the  
22 registrar may assume execution if the will appears to have been  
23 properly executed, or he may accept a sworn statement or affidavit of  
24 any person having knowledge of the circumstances of execution, whether  
25 or not the person was a witness to the will.

26 (d) Informal probate of a will which has been previously probated  
27 elsewhere may be granted at any time upon written application by any  
28 interested person, together with deposit of an authenticated copy of  
29 the will and of the statement probating it from the office or court

1 where it was first probated.

2 (e) A will from a place which does not provide for probate of  
3 a will after death and which is not eligible for probate under (a)  
4 of this section, may be probated in this state upon receipt by the  
5 registrar of a duly authenticated copy of the will and a duly authen-  
6 ticated certificate of its legal custodian that the copy filed is a  
7 true copy and that the will has become operative under the law of the  
8 other place.

9 Sec. 13.16.095. INFORMAL PROBATE; UNAVAILABLE IN CERTAIN CASES.  
10 Applications for informal probate which relate to one or more of a  
11 known series of testamentary instruments (other than wills and codi-  
12 cils), the latest of which does not expressly revoke the earlier,  
13 shall be declined.

14 Sec. 13.16.100. INFORMAL PROBATE; REGISTRAR NOT SATISFIED. If  
15 the registrar is not satisfied that a will is entitled to be probated  
16 in informal proceedings because of failure to meet the requirements  
17 of secs. 90 and 95 of this chapter or any other reason, he may decline  
18 the application. A declination of informal probate is not an adjudi-  
19 cation and does not preclude formal probate proceedings.

20 Sec. 13.16.105. INFORMAL PROBATE; NOTICE REQUIREMENTS. The  
21 moving party must give notice as described by AS 13.16.110 of his  
22 application for informal probate

23 (1) to any person demanding it under sec. 70 of this  
24 chapter, and

25 (2) to ~~any~~ personal representative of the decedent whose  
26 appointment has not been terminated. No other notice of informal  
27 probate is required.

28 Sec. 13.16.110. INFORMAL APPOINTMENT PROCEEDINGS; DELAY IN  
29 ORDER; DUTY OF REGISTRAR; EFFECT OF APPOINTMENT. (a) Upon receipt

1 of an application for informal appointment of a personal representa-  
2 tive other than a special administrator as provided in sec. 310 of  
3 this chapter, if at least 120 hours have elapsed since the decedent's  
4 death, the registrar, after making the findings required by sec. 115  
5 of this chapter, shall appoint the applicant subject to qualification  
6 and acceptance; provided, that if the decedent was a nonresident, the  
7 registrar shall delay the order of appointment until 30 days have  
8 elapsed since death unless the personal representative appointed at  
9 the decedent's domicile is the applicant, or unless the decedent's  
10 will directs that his estate be subject to the laws of this state.

11 (b) The status of personal representative and the powers and  
12 duties pertaining to the office are fully established by informal  
13 appointment. An appointment, and the office of personal representative  
14 created thereby, is subject to termination as provided in secs. 280 -  
15 300 of this chapter, but is not subject to retroactive vacation.

16 Sec. 13.16.115. INFORMAL APPOINTMENT PROCEEDINGS; PROOF AND  
17 FINDINGS REQUIRED. (a) In informal appointment proceedings, the  
18 registrar must determine whether:

19 (1) the application for informal appointment of a personal  
20 representative is complete;

21 (2) the applicant has made oath or affirmation that the  
22 statements contained in the application are true to the best of his  
23 knowledge and belief;

24 (3) the applicant appears from the application to be an  
25 interested person as defined in AS 13.06.050(20);

26 (4) on the basis of the statements in the application,  
27 venue is proper;

28 (5) any will to which the requested appointment relates  
29 has been formally or informally probated; but this requirement does not

1 apply to the appointment of a special administrator;

2 (6) any notice required by sec. 70 of this chapter has  
3 been given;

4 (7) from the statements in the application, the person  
5 whose appointment is sought has priority entitling him to the appoint-  
6 ment.

7 (b) Unless sec. 300 of this chapter controls, the application  
8 must be denied if it indicates that a personal representative who  
9 has not filed a written statement of resignation as provided in sec.  
10 290(c) of this chapter has been appointed in this or another judicial  
11 district of this state, that (unless the applicant is the domiciliary  
12 personal representative or his nominee) the decedent was not domiciled  
13 in this state and that a personal representative whose appointment  
14 has not been terminated has been appointed by a court in the state of  
15 domicile, or that other requirements of this section have not been met.

16 Sec. 13.16.120. INFORMAL APPOINTMENT PROCEEDINGS; REGISTRAR NOT  
17 SATISFIED. If the registrar is not satisfied that a requested informal  
18 appointment of a personal representative should be made because of fail-  
19 ure to meet the requirements of secs. 110 and 115 of this chapter, or  
20 for any other reason, he may decline the application. A declination  
21 of informal appointment is not an adjudication and does not preclude  
22 appointment in formal proceedings.

23 Sec. 13.16.125. INFORMAL APPOINTMENT PROCEEDINGS; NOTICE  
24 REQUIREMENTS. The moving party must give notice as described by AS  
25 13.06.110 of his intention to seek an appointment informally:

26 (1) to any person demanding it under sec. 70 of this chapter;  
27 and

28 (2) to any person having a prior or equal right to appoint-  
29 ment not waived in writing and filed with the court. No other notice

1 of an informal appointment proceeding is required.

2 Sec. 13.16.130. INFORMAL APPOINTMENT UNAVAILABLE IN CERTAIN  
3 CASES. If an application for informal appointment indicates the exis-  
4 tence of a possible unrevoked testamentary instrument which may relate  
5 to property subject to the laws of this state, and which is not filed  
6 for probate in this court, the registrar shall decline the application.

7 ARTICLE 4. FORMAL TESTACY AND APPOINTMENT PROCEEDINGS.

8 Sec. 13.16.140. FORMAL TESTACY PROCEEDINGS; NATURE; WHEN  
9 COMMENCED. (a) A formal testacy proceeding is litigation to determine  
10 whether a decedent left a valid will. A formal testacy proceeding  
11 may be commenced by an interested person filing a petition as described  
12 in sec. 145(a) of this chapter in which he requests that the court,  
13 after notice and hearing, enter an order probating a will, or a peti-  
14 tion to set aside an informal probate of a will or to prevent informal  
15 probate of a will which is the subject of a pending application, or  
16 a petition in accordance with sec. 145 (b) of this chapter for an  
17 order that the decedent died intestate.

18 (b) A petition may seek formal probate of a will without regard  
19 to whether the same or a conflicting will has been informally probated.  
20 A formal testacy proceeding may, but need not, involve a request for  
21 appointment of a personal representative.

22 (c) During the pendency of a formal testacy proceeding, the  
23 registrar shall not act upon any application for informal probate of  
24 any will of the decedent or any application for informal appointment  
25 of a personal representative of the decedent.

26 (d) Unless a petition in a formal testacy proceeding also requests  
27 confirmation of the previous informal appointment, a previously appoint-  
28 ed personal representative, after receipt of notice of the commence-  
29 ment of a formal probate proceeding, must refrain from exercising his

1 power to make any further distribution of the estate during the  
2 pendency of the formal proceeding. A petitioner who seeks the appoint-  
3 ment of a different personal representative in a formal proceeding also  
4 may request an order restraining the acting personal representative  
5 from exercising any of the powers of his office and requesting the  
6 appointment of a special administrator. In the absence of a request,  
7 or if the request is denied, the commencement of a formal proceeding  
8 has no effect on the powers and duties of a previously appointed  
9 personal representative other than those relating to distribution.

10 Sec. 13.16.145. FORMAL TESTACY OR APPOINTMENT PROCEEDINGS;  
11 PETITION; CONTENTS. (a) Petitions for formal probate of a will, or  
12 for adjudication of intestacy with or without request for appointment  
13 of a personal representative, must be directed to the court, request  
14 a judicial order after notice and hearing and contain further state-  
15 ments as indicated in this section. A petition for formal probate of  
16 a will

17 (1) requests an order as to the testacy of the decedent in  
18 relation to a particular instrument which may or may not have been  
19 informally probated and determining the heirs,

20 (2) contains the statements required for informal applica-  
21 tions as stated in the five subparagraphs under sec. 80(1) of this  
22 chapter, the statements required by sec. 80(2)(B) and (C) of this  
23 chapter, and

24 (3) states whether the original of the last will of the  
25 decedent is in the possession of the court or accompanies the petition.

26 (b) If the original will is neither in the possession of the  
27 court nor accompanies the petition and no authenticated copy of a will  
28 probated in another jurisdiction accompanies the petition, the petition  
29 also must state the contents of the will, and indicate that it is lost,

1 destroyed, or otherwise unavailable.

2 (c) A petition for adjudication of intestacy and appointment  
3 of an administrator in intestacy must request a judicial finding and  
4 order that the decedent left no will and determining the heirs, contain  
5 the statements required by sec. 80(1) and (4) of this chapter and  
6 indicate whether supervised administration is sought. A petition may  
7 request an order determining intestacy and heirs without requesting  
8 the appointment of an administrator, in which case, the statements  
9 required by sec. 80(4)(B) of this chapter may be omitted.

10 Sec. 13.16.150. FORMAL TESTACY PROCEEDING; NOTICE OF HEARING ON  
11 PETITION. (a) Upon commencement of a formal testacy proceeding, the  
12 court shall fix a time and place of hearing. Notice shall be given  
13 in the manner prescribed by AS 13.06.110 by the petitioner to the  
14 persons herein enumerated and to any additional person who has filed  
15 a demand for notice under sec. 70 of this chapter. Notice shall be  
16 given to the following persons:

17 (1) the surviving spouse, children, and other heirs  
18 of the decedent,

19 (2) the devisees and executors named in any will that  
20 is being, or has been probated, or offered for informal or formal  
21 probate in the judicial district, or that is known by the petitioner  
22 to have been probated, or offered for informal or formal probate  
23 elsewhere, and

24 (3) any personal representative of the decedent whose  
25 appointment has not been terminated.

26 (4) Notice may be given to other persons. In addition,  
27 the petitioner shall give notice by publication to all unknown persons  
28 and to all known persons whose addresses are unknown who have any  
29 interest in the matters being litigated.

1 (b) If it appears by the petition or otherwise that the fact of  
2 the death of the alleged decedent may in doubt, or on the written  
3 demand of any interested person, a copy of the notice of the hearing  
4 on said petition shall be sent by registered mail to the alleged  
5 decedent at his last known address. The court shall direct the peti-  
6 tioner to report the results of, or make and report back concerning,  
7 a reasonably diligent search for the alleged decedent in any manner  
8 that may seem advisable, including any or all of the following methods:

9 (1) by inserting in one or more suitable periodicals a  
10 notice requesting information from any person having knowledge of the  
11 whereabouts of the alleged decedent;

12 (2) by notifying law enforcement officials and public welfare  
13 agencies in appropriate locations of the disappearance of the alleged  
14 decedent;

15 (3) by engaging the services of an investigator; the costs  
16 of any search so directed shall be paid by the petitioner if there  
17 is no administration or by the estate of the decedent in case there is  
18 administration.

19 Sec. 13.16.155. FORMAL TESTACY PROCEEDINGS; WRITTEN OBJECTIONS  
20 TO PROBATE. Any party to a formal proceeding who opposes the probate  
21 of a will for any reason shall state in his pleadings his objections  
22 to probate of the will.

23 Sec. 13.16.160. FORMAL TESTACY PROCEEDINGS; UNCONTESTED CASES;  
24 HEARINGS AND PROOF. If a petition in a testacy proceeding is unopposed,  
25 the court may order probate or intestacy on the strength of the plead-  
26 ings if satisfied that the conditions of sec. 180 of this chapter have  
27 been met, or conduct a hearing in open court and require proof of the  
28 matters necessary to support the order sought. If evidence concerning  
29 execution of the will is necessary, the affidavit or testimony of one

1 of any attesting witnesses to the instrument is sufficient. If the  
2 affidavit or testimony of an attesting witness is not available,  
3 execution of the will may be proved by other evidence or affidavit.

4 Sec. 13.16.165. FORMAL TESTACY PROCEEDINGS; CONTESTED CASES;  
5 TESTIMONY OF ATTESTING WITNESSES. (a) If evidence concerning execu-  
6 tion of an attested will which is not self-proved is necessary in  
7 contested cases, the testimony of at least one of the attesting  
8 witnesses, if within the state competent and able to testify, is  
9 required. Due execution of an attested or unattested will may be proved  
10 by other evidence.

11 (b) If the will is self-proved, compliance with signature  
12 requirements for execution is conclusively presumed and other require-  
13 ments of execution are presumed subject to rebuttal without the testi-  
14 mony of any witness upon filing the will and the acknowledgment and  
15 affidavits annexed or attached thereto, unless there is proof of fraud  
16 or forgery affecting the acknowledgment or affidavit.

17 Sec. 13.16.170. FORMAL TESTACY PROCEEDINGS; BURDENS IN CONTESTED  
18 CASES. In contested cases, petitioners who seek to establish intestacy  
19 have the burden of establishing prima facie proof of death, venue, and  
20 heirship. Proponents of a will have the burden of establishing prima  
21 facie proof of due execution in all cases, and if they are also peti-  
22 tioners, prima facie proof of death and venue. Contestants of a will  
23 have the burden of establishing lack of testamentary intent or capacity,  
24 undue influence, fraud, duress, mistake or revocation. Parties have  
25 the ultimate burden of persuasion as to matters with respect to which  
26 they have the initial burden of proof. If a will is opposed by the  
27 petition for probate of a later will revoking the former, it shall be  
28 determined first whether the later will is entitled to probate, and if  
29 a will is opposed by a petition for a declaration of intestacy, it

1 shall be determined first whether the will is entitled to probate.

2 Sec. 13.16.175. FORMAL TESTACY PROCEEDINGS; WILL CONSTRUCTION;  
3 EFFECT OF FINAL ORDER IN ANOTHER JURISDICTION. A final order of a  
4 court of another state determining testacy, the validity or construc-  
5 tion of a will, made in a proceeding involving notice to and an  
6 opportunity for contest by all interested persons must be accepted  
7 as determinative by the courts of this state if it includes, or is  
8 based upon, a finding that the decedent was domiciled at his death in  
9 the state where the order was made.

10 Sec. 13.16.180. FORMAL TESTACY PROCEEDINGS; ORDER; FOREIGN  
11 WILL. After the time required for any notice has expired, upon proof  
12 of notice, and after any hearing that may be necessary, if the court  
13 finds that the testator is dead, venue is proper and that the pro-  
14 ceeding was commenced within the limitation prescribed by sec. 40 of  
15 this chapter, it shall determine the decedent's domicile at death, his  
16 heirs and his state of testacy. Any will found to be valid and unre-  
17 voked shall be formally probated. Termination of any previous informal  
18 appointment of a personal representative, which may be appropriate in  
19 view of the relief requested and findings, is governed by sec. 300  
20 of this chapter. The petition shall be dismissed or appropriate amend-  
21 ment allowed if the court is not satisfied that the alleged decedent  
22 is dead. A will from a place which does not provide for probate of  
23 a will after death, may be proved for probate in this state by a duly  
24 authenticated certificate of its legal custodian that the copy intro-  
25 duced is a true copy and that the will has become effective under the  
26 law of the other place.

27 Sec. 13.16.185. FORMAL TESTACY PROCEEDINGS; PROBATE OF MORE  
28 THAN ONE INSTRUMENT. If two or more instruments are offered for pro-  
29 bate before a final order is entered in a formal testacy proceeding,

1 more than one instrument may be probated if neither expressly revokes  
2 the other or contains provisions which work a total revocation by  
3 implication. If more than one instrument is probated, the order shall  
4 indicate what provisions control in respect to the nomination of an  
5 executor, if any. The order may, but need not, indicate how any  
6 provisions of a particular instrument are affected by the other instru-  
7 ment. After a final order in a testacy proceeding has been entered,  
8 no petition for probate of any other instrument of the decedent may be  
9 entertained, except incident to a petition to vacate or modify a pre-  
10 vious probate order and subject to the time limits of sec. 195 of  
11 this chapter.

12 Sec. 13.16.190. FORMAL TESTACY PROCEEDINGS; PARTIAL INTESTACY.

13 If it becomes evident in the course of a formal testacy proceeding  
14 that, though one or more instruments are entitled to be probated, the  
15 decedent's estate is or may be partially intestate, the court shall  
16 enter an order to that effect.

17 Sec. 13.16.195. FORMAL TESTACY PROCEEDINGS; EFFECT OF ORDER;  
18 VACATION. (a) Subject to appeal and subject to vacation as provided  
19 herein and in sec. 200 of this chapter, a formal testacy order under  
20 secs. 180 - 190 of this chapter, including an order that the decedent  
21 left no valid will and determining heirs, is final as to all persons  
22 with respect to all issues concerning the decedent's estate that the  
23 court considered or might have considered incident to its rendition  
24 relevant to the question of whether the decedent left a valid will,  
25 and to the determination of heirs, except that:

26 (1) the court shall entertain a petition for modification  
27 or vacation of its order and probate of another will of the decedent  
28 if it is shown that the proponents of the later-offered will were una-  
29 ware of its existence at the time of the earlier proceeding or were

1 unaware of the earlier proceeding and were given no notice thereof,  
2 except by publication.

3 (2) If intestacy of all or part of the estate has been  
4 ordered, the determination of heirs of the decedent may be reconsidered  
5 if it is shown that one or more persons were omitted from the determina-  
6 tion and it is also shown that the persons were unaware of their rela-  
7 tionship to the decedent, were unaware of his death or were given no  
8 notice of any proceeding concerning his estate, except by publication.

9 (3) A petition for vacation under either (1) or (2) of this  
10 section must be filed prior to the earlier of the following time limits:

11 (A) If a personal representative has been appointed  
12 for the estate, the time of entry of any order approving final  
13 distribution of the estate, or, if the estate is closed by state-  
14 ment, six months after the filing of the closing statement.

15 (B) Whether or not a personal representative has been  
16 appointed for the estate of the decedent, the time prescribed  
17 by sec. 40 of this chapter when it is no longer possible to ini-  
18 tiate an original proceeding to probate a will of the decedent.

19 (C) 12 months after the entry of the order sought to  
20 be vacated.

21 (4) The order originally rendered in the testacy proceeding  
22 may be modified or vacated, if appropriate under the circumstances, by  
23 the order of probate of the later-offered will or the order redetermin-  
24 ing heirs.

25 (5) The finding of the fact of death is conclusive as to  
26 the alleged decedent only if notice of the hearing on the petition in  
27 the formal testacy proceeding was sent by registered or certified mail  
28 addressed to the alleged decedent at his last known address and the  
29 court finds that a search under sec. 150(b) of this chapter was made.

1 (b) If the alleged decedent is not dead, even if notice was  
2 sent and search was made, he may recover estate assets in the hands  
3 of the personal representative. In addition to any remedies available  
4 to the alleged decedent by reason of any fraud or intentional wrong-  
5 doing, the alleged decedent may recover any estate or its proceeds  
6 from distributees that is in their hands, or the value of distributions  
7 received by them, to the extent that any recovery from distributees  
8 is equitable in view of all of the circumstances.

9 Sec. 13.16.200. FORMAL TESTACY PROCEEDINGS; VACATION OF ORDER  
10 FOR OTHER CAUSE. For good cause shown, an order in a formal testacy  
11 proceeding may be modified or vacated within the time allowed for  
12 appeal.

13 Sec. 13.16.205. FORMAL PROCEEDINGS CONCERNING APPOINTMENT OF  
14 PERSONAL REPRESENTATIVE. (a) A formal proceeding for adjudication  
15 regarding the priority or qualification of one who is an applicant for  
16 appointment as personal representative, or of one who previously has  
17 been appointed personal representative in informal proceedings, if an  
18 issue concerning the testacy of the decedent is or may be involved,  
19 is governed by sec. 145 of this chapter, as well as by this section.  
20 In other cases, the petition shall contain or adopt the statements re-  
21 quired by sec. 80(1) of this chapter and describe the question relating  
22 to priority or qualification of the personal representative which is  
23 to be resolved. If the proceeding precedes any appointment of a per-  
24 sonal representative, it shall stay any pending informal appointment  
25 proceedings as well as any commenced thereafter. If the proceeding  
26 is commenced after appointment, the previously appointed personal  
27 representative, after receipt of notice thereof, shall refrain from  
28 exercising any power of administration except as necessary to preserve  
29 the estate or unless the court orders otherwise.

1 (b) After notice to interested persons, including all persons  
2 interested in the administration of the estate as successors under  
3 the applicable assumption concerning testacy, any previously appointed  
4 personal representative and any person having or claiming priority for  
5 appointment as personal representative, the court shall determine who  
6 is entitled to appointment under sec. 65 of this chapter, make a proper  
7 appointment and, if appropriate, terminate any prior appointment found  
8 to have been improper as provided in cases of removal under sec. 295  
9 of this chapter.

10 ARTICLE 5. SUPERVISED ADMINISTRATION.

11 Sec. 13.16.215. SUPERVISED ADMINISTRATION; NATURE OF PROCEEDING.  
12 Supervised administration is a single in rem proceeding to secure  
13 complete administration and settlement of a decedent's estate under the  
14 continuing authority of the court which extends until entry of an order  
15 approving distribution of the estate and discharging the personal rep-  
16 resentative or other order terminating the proceeding. A supervised  
17 personal representative is responsible to the court, as well as to the  
18 interested parties, and is subject to directions concerning the estate  
19 made by the court on its own motion or on the motion of any interested  
20 party. Except as otherwise provided in secs. 215-235 of this chapter,  
21 or as otherwise ordered by the court, a supervised personal representa-  
22 tive has the same duties and powers as a personal representative who  
23 is not supervised.

24 Sec. 13.16.220. SUPERVISED ADMINISTRATION; PETITION; ORDER. A  
25 petition for supervised administration may be filed by any interested  
26 person or by a personal representative at any time or the prayer for  
27 supervised administration may be joined with a petition in a testacy  
28 or appointment proceeding. If the testacy of the decedent and the  
29 priority and qualification of any personal representative have not

1           been adjudicated previously, the petition for supervised administration  
2 shall include the matters required of a petition in a formal testacy  
3 proceeding and the notice requirements and procedures applicable to  
4 a formal testacy proceeding apply. If not previously adjudicated, the  
5 Court shall adjudicate the testacy of the decedent and questions relat-  
6 ing to the priority and qualifications of the personal representative  
7 in any case involving a request for supervised administration, even  
8 though the request for supervised administration may be denied. After  
9 notice to interested persons, the court shall order supervised adminis-  
10 tration of a decedent's estate:

11                   (1) if the decedent's will directs supervised administration,  
12 it shall be ordered unless the court finds that circumstances bearing  
13 on the need for supervised administration have changed since the execu-  
14 tion of the will and that there is no necessity for supervised admin-  
15 istration;

16                   (2) if the decedent's will directs unsupervised administra-  
17 tion, supervised administration shall be ordered only upon a finding  
18 that it is necessary for protection of persons interested in the estate;  
19 or

20                   (3) in other cases if the court finds that supervised admin-  
21 istration is necessary under the circumstances.

22           Sec. 13.16.225. SUPERVISED ADMINISTRATION; EFFECT ON OTHER  
23 PROCEEDINGS. (a) The pendency of a proceeding for supervised admin-  
24 istration of a decedent's estate stays action on any informal applica-  
25 tion then pending or thereafter filed.

26                   (b) If a will has been previously probated in informal proceed-  
27 ings, the effect of the filing of a petition for supervised administra-  
28 tion is as provided for formal testacy proceedings by sec. 140 of this  
29 chapter.

1 (c) After he has received notice of the filing of a petition  
2 for supervised administration, a personal representative who has  
3 been appointed previously shall not exercise his power to distribute  
4 any estate. The filing of the petition does not affect his other  
5 powers and duties unless the court restricts the exercise of any of  
6 them pending full hearing on the petition.

7 Sec. 13.16.230. SUPERVISED ADMINISTRATION; POWERS OF PERSONAL  
8 REPRESENTATIVE. Unless restricted by the court, a supervised personal  
9 representative has, without interim orders approving exercise of a  
10 power, all powers of personal representatives under this code, but he  
11 shall not exercise his power to make any distribution of the estate  
12 without prior order of the court. Any other restriction on the power  
13 of a personal representative which may be ordered by the court must  
14 be endorsed on his letters of appointment and, unless so endorsed,  
15 is ineffective as to persons dealing in good faith with the personal  
16 representative.

17 Sec. 13.16.235. SUPERVISED ADMINISTRATION; INTERIM ORDERS;  
18 DISTRIBUTION AND CLOSING ORDERS. Unless otherwise ordered by the court,  
19 supervised administration is terminated by order in accordance with  
20 time restrictions, notices and contents of orders prescribed for pro-  
21 ceedings under sec. 620 of this chapter. Interim orders approving or  
22 directing partial distributions or granting other relief may be issued  
23 by the court at any time during the pendency of a supervised adminis-  
24 tration on the application of the personal representative or any  
25 interested person.

26 ARTICLE 6. PERSONAL REPRESENTATIVE; APPOINTMENT,  
27 CONTROL AND TERMINATION OF AUTHORITY.

28 Sec. 13.16.245. QUALIFICATION. Prior to receiving letters, a  
29 personal representative shall qualify by filing with the appointing

1 court any required bond and a statement of acceptance of the duties  
2 of the office.

3 Sec. 13.16.250. ACCEPTANCE OF APPOINTMENT; CONSENT TO JURIS-  
4 DICTION. By accepting appointment, a personal representative submits  
5 personally to the jurisdiction of the court in any proceeding relating  
6 to the estate that may be instituted by any interested person. Notice  
7 of any proceeding shall be delivered to the personal representative,  
8 or mailed to him by ordinary first class mail at his address as listed  
9 in the application or petition for appointment or as thereafter report-  
10 ed to the court and to his address as then known to the petitioner.

11 Sec. 13.16.255. BOND NOT REQUIRED WITHOUT COURT ORDER,  
12 EXCEPTIONS. (a) .No bond is required of a personal representative  
13 appointed in informal proceedings, except

14 (1) upon the appointment of a special administrator;

15 (2) when an executor or other personal representative is  
16 appointed to administer an estate under a will containing an express  
17 requirement of bond or

18 (3) when bond is required under sec. 265 of this chapter.

19 (b) Bond may be required by court order at the time of appoint-  
20 ment of a personal representative appointed in any formal proceeding  
21 except that bond is not required of a personal representative appointed  
22 in formal proceedings if the will relieves the personal representative  
23 of bond, unless bond has been requested by an interested party and  
24 the court is satisfied that it is desirable. Bond required by any  
25 will may be dispensed with in formal proceedings upon determination  
26 by the court that it is not necessary.

27 (c) No bond is required of any personal representative who,  
28 pursuant to statute, has deposited cash or collateral with an agency  
29 of this state to secure performance of his duties.

1           Sec. 13.16.260. BOND AMOUNT; SECURITY; PROCEDURE; REDUCTION. If  
2 bond is required and the provisions of the will or order do not specify  
3 the amount, unless stated in his application or petition, the person  
4 qualifying shall file a statement under oath with the registrar indicat-  
5 ing his best estimate of the value of the personal estate of the dece-  
6 dent and of the income expected from the personal and real estate dur-  
7 ing the next year, and he shall execute and file a bond with the regis-  
8 trar, or give other suitable security, in an amount not less than the  
9 estimate. The registrar shall determine that the bond is duly executed  
10 by a corporate surety, or one or more individual sureties whose per-  
11 formance is secured by pledge of personal property, mortgage on real  
12 property or other adequate security. The registrar may permit the  
13 amount of the bond to be reduced by the value of assets of the estate  
14 deposited with a domestic financial institution (as defined in AS  
15 13.31.005) in a manner that prevents their unauthorized disposition.  
16 On petition of the personal representative or another interested  
17 person the court may excuse a requirement of bond, increase or reduce  
18 the amount of the bond, release sureties, or permit the substitution  
19 of another bond with the same or different sureties.

20           Sec. 13.16.265. DEMAND FOR BOND BY INTERESTED PERSON. Any person  
21 apparently having an interest in the estate worth in excess of \$1,000,  
22 or any creditor having a claim in excess of \$1,000, may make a written  
23 demand that a personal representative give bond. The demand must be  
24 filed with the registrar and a copy mailed to the personal representa-  
25 tive, if appointment and qualification have occurred. Thereupon, bond  
26 is required, but the requirement ceases if the person demanding bond  
27 ceases to be interested in the estate, or if bond is excused as pro-  
28 vided in secs. 255 or 260 of this chapter. After he has received  
29 notice and until the filing of the bond or cessation of the requirement

1 of bond, the personal representative shall refrain from exercising  
2 any powers of his office except as necessary to preserve the estate.  
3 Failure of the personal representative to meet a requirement of bond  
4 by giving suitable bond within 30 days after receipt of notice is  
5 cause for his removal and appointment of a successor personal repre-  
6 sentative.

7 Sec. 13.16.270. TERMS AND CONDITIONS OF BONDS. (a) The follow-  
8 ing requirements and provisions apply to any bond required by secs.  
9 245 - 330 of this chapter:

10 (1) Bonds shall name the state as obligee for the benefit  
11 of persons interested in the estate and shall be conditioned upon  
12 the faithful discharge by the fiduciary of all duties according to  
13 law.

14 (2) Unless otherwise provided by the terms of the approved  
15 bond, sureties are jointly and severally liable with the personal  
16 representative and with each other. The address of sureties shall be  
17 stated in the bond.

18 (3) By executing an approved bond of a personal represen-  
19 tative, the surety consents to the jurisdiction of the probate court  
20 which issued letters to the primary obligor in any proceedings per-  
21 taining to the fiduciary duties of the personal representative and  
22 naming the surety as a party. Notice of any proceeding shall be  
23 delivered to the surety or mailed to him by registered or certified  
24 mail at his address as listed with the court where the bond is filed  
25 and to his address as then known to the petitioner.

26 (4) On petition of a successor personal representative,  
27 any other personal representative of the same decedent, or any inter-  
28 ested person, a proceeding in the court may be initiated against a  
29 surety for breach of the obligation of the bond of the personal

1 representative.

2 (5) The bond of the personal representative is not void  
3 after the first recovery but may be proceeded against from time to  
4 time until the whole penalty is exhausted.

5 (b) No action or proceeding may be commenced against the surety  
6 on any matter as to which an action or proceeding against the primary  
7 obligor is barred by adjudication or limitation.

8 Sec. 13.16.275. ORDER RESTRAINING PERSONAL REPRESENTATIVE.

9 (a) On petition of any person who appears to have an interest in the  
10 estate, the court by temporary order may restrain a personal repre-  
11 sentative from performing specified acts of administration, disburse-  
12 ment, or distribution, or exercise of any powers or discharge of any  
13 duties of his office, or make any other order to secure proper per-  
14 formance of his duty, if it appears to the court that the personal  
15 representative otherwise may take some action which would jeopardize  
16 unreasonably the interest of the applicant or of some other interested  
17 person. Persons with whom the personal representative may transact  
18 business may be made parties.

19 (b) The matter shall be set for hearing within 10 days unless  
20 the parties otherwise agree. Notice as the court directs shall be  
21 given to the personal representative and his attorney of record, if  
22 any, and to any other parties named defendant in the petition.

23 Sec. 13.16.280. TERMINATION OF APPOINTMENT; GENERAL. Termina-  
24 tion of appointment of a personal representative occurs as indicated  
25 in secs. 285 - 300 of this chapter, inclusive. Termination ends the  
26 right and power pertaining to the office of personal representative  
27 as conferred by this code or any will, except that a personal repre-  
28 sentative, at any time prior to distribution or until restrained or  
29 enjoined by court order, may perform acts necessary to protect the

1 estate and may deliver the assets to a successor representative.  
2 Termination does not discharge a personal representative from liability  
3 for transactions or omissions occurring before termination, or relieve  
4 him of the duty to preserve assets subject to his control, to account  
5 therefor and to deliver the assets. Termination does not affect  
6 the jurisdiction of the court over the personal representative, but  
7 terminates his authority to represent the estate in any pending or  
8 future proceeding.

9 Sec. 13.16.285. TERMINATION OF APPOINTMENT; DEATH OR DISABILITY.

10 The death of a personal representative or the appointment of a conser-  
11 vator for the estate of a personal representative, terminates his  
12 appointment. Until appointment and qualification of a successor or  
13 special representative to replace the deceased or protected represen-  
14 tative, the representative of the estate of the deceased or protected  
15 personal representative, if any, has the duty to protect the estate  
16 possessed and being administered by his decedent or ward at the time  
17 his appointment terminates, has the power to perform acts necessary  
18 for protection and shall account for and deliver the estate assets to  
19 a successor or special personal representative upon his appointment  
20 and qualification.

21 Sec. 13.16.290. TERMINATION OF APPOINTMENT; VOLUNTARY. (a) An  
22 appointment of a personal representative terminates as provided in  
23 sec. 630 of this chapter, one year after the filing of a closing  
24 statement.

25 (b) An order closing an estate as provided in secs. 620 or 625  
26 of this chapter terminates an appointment of a personal representative.

27 (c) A personal representative may resign his position by filing  
28 a written statement of resignation with the registrar after he has  
29 given at least 15 days written notice to the persons known to be

1 interested in the estate. If no one applies or petitions for appoint-  
2 ment of a successor representative within the time indicated in the  
3 notice, the filed statement of resignation is ineffective only upon  
4 the appointment and qualification of a successor representative and  
5 delivery of the assets to him.

6 Sec. 13.16.295. TERMINATION OF APPOINTMENT BY REMOVAL; CAUSE;  
7 PROCEDURE. (a) A person interested in the estate may petition for  
8 removal of a personal representative for cause at any time. Upon  
9 filing of the petition, the court shall fix a time and place for  
10 hearing. Notice shall be given by the petitioner to the personal  
11 representative, and to other persons as the court may order. Except  
12 as otherwise ordered as provided in sec. 275 of this chapter, after  
13 receipt of notice of removal proceedings, the personal representative  
14 shall not act except to account, to correct maladministration or  
15 preserve the estate. If removal is ordered, the court also shall  
16 direct by order the disposition of the assets remaining in the name  
17 of, or under the control of, the personal representative being removed.

18 (b) Cause for removal exists when removal would be in the best  
19 interests of the estate, or if it is shown that a personal represen-  
20 tative or the person seeking his appointment intentionally misrepres-  
21 ented material facts in the proceedings leading to his appointment,  
22 or that the personal representative has disregarded an order of the  
23 court, has become incapable of discharging the duties of his office,  
24 or has mismanaged the estate or failed to perform any duty pertaining  
25 to the office. Unless the decedent's will directs otherwise, a per-  
26 sonal representative appointed at the decedent's domicile, incident  
27 to securing appointment of himself or his nominee as ancillary personal  
28 representative, may obtain removal of another who was appointed per-  
29 sonal representative in this state to administer local assets.

1           Sec. 13.16.300.   TERMINATION OF APPOINTMENT; CHANGE OF TESTACY STATUS.  
2           Except as otherwise ordered in formal proceedings, the probate of a  
3           will subsequent to the appointment of a personal representative in  
4           intestacy or under a will which is superseded by formal probate of  
5           another will, or the vacation of an informal probate of a will sub-  
6           sequent to the appointment of the personal representative thereunder,  
7           does not terminate the appointment of the personal representative  
8           although his powers may be reduced as provided in sec. 140 of this  
9           chapter. Termination occurs upon appointment in informal or formal  
10          appointment proceedings of a person entitled to appointment under the  
11          later assumption concerning testacy. If no request for new appoint-  
12          ment is made within 30 days after expiration of time for appeal from  
13          the order in formal testacy proceedings, or from the informal probate,  
14          changing the assumption concerning testacy, the previously appointed  
15          personal representative upon request may be appointed personal  
16          representative under the subsequently probated will, or as in intestacy  
17          as the case may be.

18                 Sec. 13.16.305.   SUCCESSOR PERSONAL REPRESENTATIVE.   Secs. 80 -  
19                 205 of this chapter govern proceedings for appointment of a personal  
20                 representative to succeed one whose appointment has been terminated.  
21                 After appointment and qualification, a successor personal representa-  
22                 tive may be substituted in all actions and proceedings to which the  
23                 former personal representative was a party, and no notice, process  
24                 or claim which was given or served upon the former personal represen-  
25                 tative need be given to or served upon the successor in order to  
26                 preserve any position or right the person giving the notice or filing  
27                 the claim may thereby have obtained or preserved with reference to  
28                 the former personal representative. Except as otherwise ordered by  
29                 the court, the successor personal representative has the powers and

1 duties in respect to the continued administration which the former  
2 personal representative would have had if his appointment had not been  
3 terminated.

4 Sec. 13.16.310. SPECIAL ADMINISTRATOR; APPOINTMENT. A special  
5 administrator may be appointed:

6 (1) informally by the registrar on the application of any  
7 interested person when necessary to protect the estate of a decedent  
8 prior to the appointment of a general personal representative or if a  
9 prior appointment has been terminated as provided in sec. 285 of this  
10 chapter;

11 (2) in a formal proceeding by order of the court on the  
12 petition of any interested person and finding, after notice and hearing,  
13 that appointment is necessary to preserve the estate or to secure its  
14 proper administration including its administration in circumstances  
15 where a general personal representative cannot or should not act. If  
16 it appears to the court that an emergency exists, appointment may be  
17 ordered without notice.

18 Sec. 13.16.315. SPECIAL ADMINISTRATOR; WHO MAY BE APPOINTED.

19 (a) If a special administrator is to be appointed pending the probate  
20 of a will which is the subject of a pending application or petition  
21 for probate, the person named executor in the will shall be appointed  
22 if available, and qualified.

23 (b) In other cases, any proper person may be appointed special  
24 administrator.

25 Sec. 13.16.320. SPECIAL ADMINISTRATOR; APPOINTED INFORMALLY;  
26 POWERS AND DUTIES. A special administrator appointed by the registrar  
27 in informal proceedings pursuant to sec. 310(1) of this chapter has  
28 the duty to collect and manage the assets of the estate, to preserve  
29 them, to account therefor and to deliver them to the general personal

1 representative upon his qualification. The special administrator  
2 has the power of a personal representative under the code necessary  
3 to perform his duties.

4 Sec. 13.16.325. SPECIAL ADMINISTRATOR; FORMAL PROCEEDINGS; POWER  
5 AND DUTIES. A special administrator appointed by order of the court  
6 in any formal proceeding has the power of a general personal repre-  
7 sentative except as limited in the appointment and duties as prescribed  
8 in the order. The appointment may be for a specified time, to perform  
9 particular acts or on other terms as the court may direct.

10 Sec. 13.16.330. TERMINATION OF APPOINTMENT; SPECIAL ADMINISTRA-  
11 TOR. The appointment of a special administrator terminates in accord-  
12 ance with the provisions of the order of appointment or on the appoint-  
13 ment of a general personal representative. In other cases, the appoint-  
14 ment of a special administrator is subject to termination as provided  
15 in secs. 280 - 295 of this chapter.

16 ARTICLE 7. DUTIES AND POWERS OF PERSONAL REPRESENTATIVES

17 Sec. 13.16.340. TIME OF ACCRUAL OF DUTIES AND POWERS. The  
18 duties and powers of a personal representative commence upon his  
19 appointment. The powers of a personal representative relate back in  
20 time to give acts by the person appointed which are beneficial to the  
21 estate occurring prior to appointment the same effect as those occur-  
22 ring thereafter. Prior to appointment, a person named executor in a  
23 will may carry out written instructions of the decedent relating to his  
24 body, funeral and burial arrangements. A personal representative may  
25 ratify and accept acts on behalf of the estate done by others where  
26 the acts would have been proper for a personal representative.

27 Sec. 13.16.345. PRIORITY AMONG DIFFERENT LETTERS. A person to  
28 whom general letters are issued first has exclusive authority under  
29 the letters until his appointment is terminated or modified. If,

1 through error, general letters are afterwards issued to another, the  
2 first appointed representative may recover any property of the estate  
3 in the hands of the representative subsequently appointed, but the  
4 acts of the latter done in good faith before notice of the first letters  
5 are not void for want of validity of appointment.

6 Sec. 13.16.350. GENERAL DUTIES; RELATION AND LIABILITY TO PERSONS  
7 INTERESTED IN ESTATE; STANDING TO SUE. (a) A personal representative  
8 is a fiduciary who shall observe the standards of care applicable to  
9 trustees as described by AS 13.36.075. A personal representative is  
10 under a duty to settle and distribute the estate of the decedent in  
11 accordance with the terms of any probated and effective will and this  
12 code, and as expeditiously and efficiently as is consistent with the  
13 best interests of the estate. He shall use the authority conferred  
14 upon him by this code, the terms of the will, if any, and any order  
15 in proceedings to which he is party for the best interests of successors  
16 to the estate.

17 (b) A personal representative shall not be surcharged for acts  
18 of administration or distribution if the conduct in question was  
19 authorized at the time. Subject to other obligations of administration,  
20 an informally probated will is authority to administer and distribute  
21 the estate according to its terms. An order of appointment of a personal  
22 representative, whether issued in informal or formal proceedings, is  
23 authority to distribute apparently intestate assets to the heirs of  
24 the decedent if, at the time of distribution, the personal representa-  
25 tive is not aware of a pending testacy proceeding, a proceeding to  
26 vacate an order entered in an earlier testacy proceeding, a formal  
27 proceeding questioning his appointment or fitness to continue, or a  
28 supervised administration proceeding. Nothing in this section affects  
29 the duty of the personal representative to administer and distribute

1 the estate in accordance with the rights of claimants, the surviving  
2 spouse, any minor and dependent children and any pretermitted child  
3 of the decedent as described elsewhere in this code.

4 (c) Except as to proceedings which do not survive the death of  
5 the decedent, a personal representative of a decedent domiciled in  
6 this state at his death has the same standing to sue and be sued in the  
7 courts of this state and the courts of any other jurisdiction as his  
8 decedent had immediately prior to death.

9 Sec. 13.16.355. PERSONAL REPRESENTATIVE TO PROCEED WITHOUT  
10 COURT ORDER; EXCEPTION. A personal representative shall proceed ex-  
11 peditiously with the settlement and distribution of a decedent's estate  
12 and, except as otherwise specified or ordered in regard to a supervised  
13 personal representative, do so without adjudication, order, or direc-  
14 tion of the court, but he may invoke the jurisdiction of the court, in  
15 proceedings authorized by this code, to resolve questions concerning  
16 the estate or its administration.

17 Sec. 13.16.360. DUTY OF PERSONAL REPRESENTATIVE; INFORMATION TO  
18 HEIRS AND DEVISEES. Not later than 30 days after his appointment every  
19 personal representative, except any special administrator, shall give  
20 information of his appointment to the heirs and devisees, including,  
21 if there has been no formal testacy proceeding and if the personal  
22 representative was appointed on the assumption that the decedent died  
23 intestate, the devisees in any will mentioned in the application for  
24 appointment of a personal representative. The information shall be  
25 delivered or sent by ordinary mail to each of the heirs and devisees  
26 whose address is reasonably available to the personal representative.  
27 The duty does not extend to require information to persons who have  
28 been adjudicated in a prior formal testacy proceeding to have no  
29 interest in the estate. The information shall include the name and

1 address of the personal representative, indicate that it is being  
2 sent to persons who have or may have some interest in the estate being  
3 administered, indicate whether bond has been filed, and describe the  
4 court where papers relating to the estate are on file. The personal  
5 representative's failure to give this information is a breach of his  
6 duty to the persons concerned but does not affect the validity of his  
7 appointment, his powers or other duties. A personal representative may  
8 inform other persons of his appointment by delivery or ordinary first  
9 class mail.

10 Sec. 13.16.365. DUTY OF PERSONAL REPRESENTATIVE; INVENTORY AND  
11 APPRAISEMENT. (a) Within three months after his appointment, a per-  
12 sonal representative, who is not a special administrator or a successor  
13 to another representative who has previously discharged this duty,  
14 shall prepare and file or mail an inventory of property owned by the  
15 decedent at the time of his death, listing it with reasonable detail,  
16 and indicating as to each listed item, its fair market value as of the  
17 date of the decedent's death, and the type and amount of any encumbrance  
18 that may exist with reference to any item.

19 (b) The personal representative shall send a copy of the inven-  
20 tory to interested persons who request it, or he may file the original  
21 of the inventory with the court.

22 Sec. 13.16.370. EMPLOYMENT OF APPRAISERS. The personal repre-  
23 sentative may employ a qualified and disinterested appraiser to assist  
24 him in ascertaining the fair market value as of the date of the dece-  
25 dent's death of any asset the value of which may be subject to reason-  
26 able doubt. Different persons may be employed to appraise different  
27 kinds of assets included in the estate. The names and addresses of  
28 any appraiser shall be indicated on the inventory with the item or  
29 items he appraised.

1           Sec. 13.16.375. DUTY OF PERSONAL REPRESENTATIVE; SUPPLEMENTARY  
2 INVENTORY. If any property not included in the original inventory  
3 comes to the knowledge of a personal representative or if the personal  
4 representative learns that the value or description indicated in the  
5 original inventory for any item is erroneous or misleading, he shall  
6 make a supplementary inventory or appraisal showing the market  
7 value as of the date of the decedent's death of the new item or the  
8 revised market value or descriptions, and the appraisers or other data  
9 relied upon, if any, and file it with the court if the original inven-  
10 tory was filed, or furnish copies thereof or information thereof to  
11 persons interested in the new information.

12           Sec. 13.16.380. DUTY OF PERSONAL REPRESENTATIVE; POSSESSION OF  
13 ESTATE. Except as otherwise provided by a decedent's will, every  
14 personal representative has a right to, and shall take possession or  
15 control of, the decedent's property, except that any real property or  
16 tangible personal property may be left with or surrendered to the  
17 person presumptively entitled thereto unless or until, in the judgment  
18 of the personal representative, possession of the property by him will  
19 be necessary for purposes of administration. The request by a personal  
20 representative for delivery of any property possessed by an heir or  
21 devisee is conclusive evidence, in any action against the heir or  
22 devisee for possession thereof, that the possession of the property by  
23 the personal representative is necessary for purposes of administration.  
24 The personal representative shall pay taxes on, and take all steps  
25 reasonably necessary for the management, protection and preservation  
26 of, the estate in his possession. He may maintain an action to recover  
27 possession of property or to determine the title thereto.

28           Sec. 13.16.385. POWER TO AVOID TRANSFERS. The property liable  
29 for the payment of unsecured debts of a decedent includes all property

1 transferred by him by any means which is in law void or voidable as  
2 against his creditors, and subject to prior liens, the right to recover  
3 this property, so far as necessary for the payment of unsecured debts  
4 of the decedent, is exclusively in the personal representative.

5 Sec. 13.16.390. POWERS OF PERSONAL REPRESENTATIVES; IN GENERAL.

6 Until termination of his appointment a personal representative has  
7 the same power over the title to property of the estate that an abso-  
8 lute owner would have, in trust however, for the benefit of the credi-  
9 tors and others interested in the estate. This power may be exercised  
10 without notice, hearing, or order of court.

11 Sec. 13.16.395. IMPROPER EXERCISE OF POWER; BREACH OF FIDUCIARY

12 DUTY. If the exercise of power concerning the estate is improper, the  
13 personal representative is liable to interested persons for damage or  
14 loss resulting from breach of his fiduciary duty to the same extent  
15 as a trustee of an express trust. The rights of purchasers and others  
16 dealing with a personal representative shall be determined as provided  
17 in secs. 400 and 405 of this chapter.

18 Sec. 13.16.400. SALES, ENCUMBRANCE OR TRANSACTION INVOLVING CON-

19 FFLICT OF INTEREST; VOIDABLE; EXCEPTIONS. Any sale or encumbrance to  
20 the personal representative, his spouse, agent or attorney, or any  
21 corporation or trust in which he has a substantial beneficial interest,  
22 or any transaction which is affected by a substantial conflict of in-  
23 terest on the part of the personal representative, is voidable by any  
24 person interested in the estate except one who has consented after fair  
25 disclosure, unless

26 (1) the will or a contract entered into by the decedent  
27 expressly authorized the transaction; or

28 (2) the transaction is approved by the court after notice  
29 to interested persons.

1           Sec. 13.16.405. PERSONS DEALING WITH PERSONAL REPRESENTATIVE;  
2 PROTECTION. A person who in good faith either assists a personal  
3 representative or deals with him for value is protected as if the  
4 personal representative properly exercised his power. The fact that  
5 a person knowingly deals with a personal representative does not alone  
6 require the person to inquire into the existence of a power or the  
7 propriety of its exercise. Except for restrictions on powers of  
8 supervised personal representatives which are endorsed on letters as  
9 provided in sec. 230 of this chapter, no provision in any will or  
10 order of court purporting to limit the power of a personal representa-  
11 tive is effective except as to persons with actual knowledge thereof.  
12 A person is not bound to see to the proper application of estate  
13 assets paid or delivered to a personal representative. The protection  
14 here expressed extends to instances in which some procedural irregu-  
15 larity or jurisdictional defect occurred in proceedings leading to  
16 the issuance of letters, including a case in which the alleged decedent  
17 is found to be alive. The protection here expressed is not by substi-  
18 tution for that provided by comparable provisions of the laws relating  
19 to commercial transactions and laws simplifying transfers of securities  
20 by fiduciaries.

21           Sec. 13.16.410. TRANSACTIONS AUTHORIZED FOR PERSONAL REPRESENTA-  
22 TIVES; EXCEPTIONS. Except as restricted or otherwise provided by the  
23 will or by an order in a formal proceeding and subject to the priorities  
24 stated in sec. 540 of this chapter, a personal representative, acting  
25 reasonably for the benefit of the interested persons, may properly:  
26

27           (1) retain assets owned by the decedent pending distribution  
28 or liquidation including those in which the representative is person-  
29 ally interested or which are otherwise improper for trust investment;

          (2) receive assets from fiduciaries, or other sources;

1 (3) perform, compromise or refuse performance of the dece-  
2 dent's contracts that continue as obligations of the estate, as he  
3 may determine under the circumstances; in performing enforceable  
4 contracts by the decedent to convey or lease land, the personal repre-  
5 sentative, among other possible courses of action, may:

6 (A) execute and deliver a deed of conveyance for cash  
7 payment of all sums remaining due on the purchaser's note for the  
8 sum remaining due secured by a mortgage or deed of trust on the  
9 land; or

10 (B) deliver a deed in escrow with directions that the  
11 proceeds, when paid in accordance with the escrow agreement, be  
12 paid to the successors of the decedent, as designated in the  
13 escrow agreement;

14 (4) satisfy written charitable pledges of the decedent ir-  
15 respective of whether the pledges constituted binding obligations of  
16 the decedent or were properly presented as claims, if in the judgment  
17 of the personal representative the decedent would have wanted the  
18 pledges completed under the circumstances;

19 (5) if funds are not needed to meet debts and expenses  
20 currently payable and are not immediately distributable, deposit or  
21 invest liquid assets of the estate, including moneys received from  
22 the sale of other assets, in federally insured interest-bearing  
23 accounts, readily marketable secured loan arrangements or other prudent  
24 investments which would be reasonable for use by trustees generally;

25 (6) acquire or dispose of an asset, including land in this  
26 or another state, for cash or on credit, at public or private sale;  
27 and manage, develop, improve, exchange, partition, change the character  
28 of, or abandon an estate asset;

29 (7) make ordinary or extraordinary repairs or alterations in

1           Sec. 13.16.375. DUTY OF PERSONAL REPRESENTATIVE; SUPPLEMENTARY  
2 INVENTORY. If any property not included in the original inventory  
3 comes to the knowledge of a personal representative or if the personal  
4 representative learns that the value or description indicated in the  
5 original inventory for any item is erroneous or misleading, he shall  
6 make a supplementary inventory or appraisal showing the market  
7 value as of the date of the decedent's death of the new item or the  
8 revised market value or descriptions, and the appraisers or other data  
9 relied upon, if any, and file it with the court if the original inven-  
10 tory was filed, or furnish copies thereof or information thereof to  
11 persons interested in the new information.

12           Sec. 13.16.380. DUTY OF PERSONAL REPRESENTATIVE; POSSESSION OF  
13 ESTATE. Except as otherwise provided by a decedent's will, every  
14 personal representative has a right to, and shall take possession or  
15 control of, the decedent's property, except that any real property or  
16 tangible personal property may be left with or surrendered to the  
17 person presumptively entitled thereto unless or until, in the judgment  
18 of the personal representative, possession of the property by him will  
19 be necessary for purposes of administration. The request by a personal  
20 representative for delivery of any property possessed by an heir or  
21 devisee is conclusive evidence, in any action against the heir or  
22 devisee for possession thereof, that the possession of the property by  
23 the personal representative is necessary for purposes of administration.  
24 The personal representative shall pay taxes on, and take all steps  
25 reasonably necessary for the management, protection and preservation  
26 of, the estate in his possession. He may maintain an action to recover  
27 possession of property or to determine the title thereto.

28           Sec. 13.16.385. POWER TO AVOID TRANSFERS. The property liable  
29 for the payment of unsecured debts of a decedent includes all property

1 transferred by him by any means which is in law void or voidable as  
2 against his creditors, and subject to prior liens, the right to recover  
3 this property, so far as necessary for the payment of unsecured debts  
4 of the decedent, is exclusively in the personal representative.

5 Sec. 13.16.390. POWERS OF PERSONAL REPRESENTATIVES; IN GENERAL.

6 Until termination of his appointment a personal representative has  
7 the same power over the title to property of the estate that an abso-  
8 lute owner would have, in trust however, for the benefit of the credi-  
9 tors and others interested in the estate. This power may be exercised  
10 without notice, hearing, or order of court.

11 Sec. 13.16.395. IMPROPER EXERCISE OF POWER; BREACH OF FIDUCIARY  
12 DUTY. If the exercise of power concerning the estate is improper, the  
13 personal representative is liable to interested persons for damage or  
14 loss resulting from breach of his fiduciary duty to the same extent  
15 as a trustee of an express trust. The rights of purchasers and others  
16 dealing with a personal representative shall be determined as provided  
17 in secs. 400 and 405 of this chapter.

18 Sec. 13.16.400. SALES, ENCUMBRANCE OR TRANSACTION INVOLVING CON-  
19 FFLICT OF INTEREST; VOIDABLE; EXCEPTIONS. Any sale or encumbrance to  
20 the personal representative, his spouse, agent or attorney, or any  
21 corporation or trust in which he has a substantial beneficial interest,  
22 or any transaction which is affected by a substantial conflict of in-  
23 terest on the part of the personal representative, is voidable by any  
24 person interested in the estate except one who has consented after fair  
25 disclosure, unless

26  
27 (1) the will or a contract entered into by the decedent  
28 expressly authorized the transaction; or

29 (2) the transaction is approved by the court after notice  
to interested persons.

1 buildings or other structures, demolish any improvements, raze existing  
2 or erect new party walls or buildings;

3 (8) subdivide, develop or dedicate land to public use; make  
4 or obtain the vacation of plats and adjust boundaries; or adjust dif-  
5 ferences in valuation on exchange or partition by giving or receiving  
6 considerations; or dedicate easements to public use without considera-  
7 tion;

8 (9) enter for any purpose into a lease as lessor or lessee,  
9 with or without option to purchase or renew, for a term within or  
10 extending beyond the period of administration;

11 (10) enter into a lease or arrangement for exploration and  
12 removal of minerals or other natural resources or enter into a pooling  
13 or unitization agreement;

14 (11) abandon property when, in the opinion of the personal  
15 representative, it is valueless, or is so encumbered, or is in condi-  
16 tion that it is of no benefit to the estate;

17 (12) vote stocks or other securities in person or by general  
18 or limited proxy;

19 (13) pay calls, assessments, and other sums chargeable or  
20 accruing against or on account of securities, unless barred by the  
21 provisions relating to claims;

22 (14) hold a security in the name of a nominee or in other  
23 form without disclosure of the interest of the estate but the personal  
24 representative is liable for any act of the nominee in connection with  
25 the security so held;

26 (15) insure the assets of the estate against damage, loss  
27 and liability and himself against liability as to third persons;

28 (16) borrow money with or without security to be repaid  
29 from the estate assets or otherwise; and advance money for the

1 protection of the estate;

2 (17) effect a fair and reasonable compromise with any  
3 debtor or obligor, or extend, renew or in any manner modify the terms  
4 of any obligation owing to the estate; if the personal representative  
5 holds a mortgage, pledge or other lien upon property of another person,  
6 he may, in place of foreclosure, accept a conveyance or transfer of  
7 encumbered assets from the owner of it in satisfaction of the indebted-  
8 ness secured by lien;

9 (18) pay taxes, assessments, compensation of the personal  
10 representative, and other expenses incident to the administration of  
11 the estate;

12 (19) sell or exercise stock subscription or conversion  
13 rights; consent, directly or through a committee or other agent, to  
14 the reorganization, consolidation, merger, dissolution, or liquidation  
15 of a corporation or other business enterprise;

16 (20) allocate items of income or expense to either estate  
17 income or principal, as permitted or provided by law;

18 (21) employ persons, including attorneys, auditors, invest-  
19 ment advisors, or agents, even if they are associated with the personal  
20 representative, to advise or assist the personal representative in the  
21 performance of his administrative duties; act without independent in-  
22 vestigation upon their recommendations; and instead of acting person-  
23 ally, employ one or more agents to perform any act of administration,  
24 whether or not discretionary;

25 (22) prosecute or defend claims, or proceedings in any  
26 jurisdiction for the protection of the estate and of the personal  
27 representative in the performance of his duties;

28 (23) sell, mortgage, or lease any real or personal property  
29 of the estate or any interest therein for cash, credit, or for part

1 cash and part credit, and with or without security for unpaid balances;

2 (24) continue any unincorporated business or venture in  
3 which the decedent was engaged at the time of his death

4 (A) in the same business form for a period of not more  
5 than four months from the date of appointment of a general person-  
6 al representative if continuation is a reasonable means of pre-  
7 serving the value of the business including good will,

8 (B) in the same business form for any additional period  
9 of time that may be approved by order of the court in a formal  
10 proceeding to which the persons interested in the estate are  
11 parties; or

12 (C) throughout the period of administration if the  
13 business is incorporated by the personal representative and if  
14 none of the probable distributees of the business who are compe-  
15 tent adults object to its incorporation and retention in the  
16 estate;

17 (25) incorporate any business or venture in which the  
18 decedent was engaged at the time of his death;

19 (26) provide for exoneration of the personal representative  
20 from personal liability in any contract entered into on behalf of the  
21 estate;

22 (27) satisfy and settle claims and distribute the estate as  
23 provided in this code.

24 Sec. 13.16.415. POWERS AND DUTIES OF SUCCESSOR PERSONAL REPRE-  
25 SENTATIVE. A successor personal representative has the same power and  
26 duty as the original personal representative to complete the adminis-  
27 tration and distribution of the estate, as expeditiously as possible,  
28 but he shall not exercise any power expressly made personal to the  
29 executor named in the will.

1           Sec. 13.16.420. CO-REPRESENTATIVES; WHEN JOINT ACTION REQUIRED.

2           If two or more persons are appointed co-representatives and unless  
3           the will provides otherwise, the concurrence of all is required on all  
4           acts connected with the administration and distribution of the estate.  
5           This restriction does not apply when any co-representative receives  
6           and receipts for property due the estate, when the concurrence of all  
7           cannot readily be obtained in the time reasonably available for emer-  
8           gency action necessary to preserve the estate, or when a co-represen-  
9           tative has been delegated to act for the others. Persons dealing with  
10          a co-representative if actually unaware that another has been appointed  
11          to serve with him or if advised by the personal representative with  
12          whom they deal that he has authority to act alone for any of the  
13          reasons mentioned herein, are as fully protected as if the person with  
14          whom they dealt had been the sole personal representative.

15          Sec. 13.16.425. POWERS OF SURVIVING PERSONAL REPRESENTATIVE.

16          Unless the terms of the will otherwise provide, every power exercisable  
17          by personal co-representatives may be exercised by the one or more  
18          remaining after the appointment of one or more is terminated, and if  
19          one of two or more nominated as co-executors is not appointed, those  
20          appointed may exercise all the powers incident to the office.

21          Sec. 13.16.430. COMPENSATION OF PERSONAL REPRESENTATIVE. A per-  
22          sonal representative is entitled to reasonable compensation for his  
23          services. If a will provides for compensation of the personal repre-  
24          sentative and there is no contract with the decedent regarding compen-  
25          sation, he may renounce the provision before qualifying and be entitled  
26          to reasonable compensation. A personal representative also may re-  
27          nounce his right to all or any part of the compensation. A written  
28          renunciation of fee may be filed with the court.

29          Sec. 13.16.435. EXPENSES IN ESTATE LITIGATION. If any personal

1 representative or person nominated as personal representative defends  
2 or prosecutes any proceeding in good faith, whether successful or not  
3 he is entitled to receive from the estate his necessary expenses and  
4 disbursements including reasonable attorneys' fees incurred.

5       Sec. 13.16.440. PROCEEDINGS FOR REVIEW OF EMPLOYMENT OF AGENTS  
6 AND COMPENSATION OF PERSONAL REPRESENTATIVES AND EMPLOYEES OF ESTATE.  
7 After notice to all interested persons or on petition of an interested  
8 person or on appropriate motion if administration is supervised, the  
9 propriety of employment of any person by a personal representative  
10 including any attorney, auditor, investment advisor or other specialized  
11 agent or assistant, the reasonableness of the compensation of any per-  
12 son so employed, or the reasonableness of the compensation determined  
13 by the personal representative for his own services, may be reviewed  
14 by the court. Any person who has received excessive compensation  
15 from an estate for services rendered may be ordered to make appropriate  
16 refunds.

#### 17                   ARTICLE 8. CREDITOR'S CLAIMS

18       Sec. 13.16.450. NOTICE TO CREDITORS. Unless notice has already  
19 been given under this section, a personal representative upon his  
20 appointment shall publish a notice once a week for three successive  
21 weeks in a newspaper of general circulation in the judicial district  
22 announcing his appointment and address and notifying creditors of the  
23 estate to present their claims within four months after the date of  
24 the first publication of the notice or be forever barred.

25       Sec. 13.16.455. STATUTES OF LIMITATIONS. Unless an estate is  
26 insolvent the personal representative, with the consent of all succes-  
27 sors, may waive any defense of limitations available to the estate.  
28 If the defense is not waived, no claim which was barred by any statute  
29 of limitations at the time of the decedent's death shall be allowed

1 or paid. The running of any statute of limitations measured from  
2 some other event than death and advertisement for claims against a  
3 decedent is suspended during the four months following the decedent's  
4 death but resumes thereafter as to claims not barred pursuant to the  
5 sections which follow. For purposes of any statute of limitations,  
6 the proper presentation of a claim under sec. 465 of this chapter is  
7 equivalent to commencement of a proceeding on the claim.

8 Sec. 13.16.460. LIMITATIONS ON PRESENTATION OF CLAIMS. (a) All  
9 Claims against a decedent's estate which arose before the death of  
10 the decedent, including claims of the state and any subdivision thereof,  
11 whether due or to become due, absolute or contingent, liquidated or  
12 unliquidated, founded on contract, tort or other legal basis, if not  
13 barred earlier by other statute of limitations, are barred against the  
14 estate, the personal representative, and the heirs and devisees of the  
15 decedent, unless presented as follows:

16 (1) within four months after the date of the first publica-  
17 tion of notice to creditors if notice is given in compliance with  
18 sec. 450 of this chapter; provided, claims barred by the non-claim  
19 statute at the decedent's domicile before the first publication for  
20 claims in this state are also barred in this state.

21 (2) within three years after the decedent's death, if notice  
22 to creditors has not been published.

23 (b) All claims against a decedent's estate which arise at or  
24 after the death of the decedent, including claims of the state and any  
25 subdivision thereof, whether due or to become due, absolute or contin-  
26 gent, liquidated or unliquidated, founded on contract, tort, or other  
27 legal basis, are barred against the estate, the personal representative,  
28 and the heirs and devisees of the decedent, unless presented as follows:

29 (1) a claim based on a contract with the personal represen-

1           tative, within four months after performance by the personal represen-  
2           tative is due;

3                   (2) any other claim, within four months after it arises.

4           (c) Nothing in this section affects or prevents:

5                   (1) any proceeding to enforce any mortgage, pledge, or  
6           lien upon property of the estate; or

7                   (2) to the limits of the insurance protection only, any  
8           proceeding to establish liability of the decedent or the personal  
9           representative for which he is protected by liability insurance.

10           Sec. 13.16.465. MANNER OF PRESENTATION OF CLAIMS. Claims  
11           against a decedent's estate may be presented as follows:

12                   (1) The claimant may deliver or mail to the personal  
13           representative a written statement of the claim indicating its basis,  
14           the name and address of the claimant, and the amount claimed, or may  
15           file a written statement of the claim, in the form prescribed by rule,  
16           with the clerk of the court. The claim is considered presented on  
17           the first to occur of receipt of the written statement of claim by  
18           the personal representative, or the filing of the claim with the  
19           court. If a claim is not yet due, the date when it will become due  
20           shall be stated. If the claim is contingent or unliquidated, the  
21           nature of the uncertainty shall be stated. If the claim is secured,  
22           the security shall be described. Failure to describe correctly the  
23           security, the nature of any uncertainty, and the due date of a claim  
24           not yet due does not invalidate the presentation made.

25                   (2) The claimant may commence a proceeding against the  
26           personal representative in any court where the personal representative  
27           may be subjected to jurisdiction, to obtain payment of his claim  
28           against the estate, but the commencement of the proceeding must occur  
29           within the time limited for presenting the claim. No presentation

1 of claim is required in regard to matters claimed in proceedings  
2 against the decedent which were pending at the time of his death.

3 (3) If a claim is presented under (1) of this section, no  
4 proceeding thereon may be commenced more than 60 days after the personal  
5 representative has mailed a notice of disallowance; but, in the case  
6 of a claim which is not presently due or which is contingent or  
7 unliquidated, the personal representative may consent to an extension  
8 of the 60-day period, or to avoid injustice the court, on petition,  
9 may order an extension of the 60-day period, but in no event shall  
10 the extension run beyond the applicable statute of limitations.

11 Sec. 13.16.470. CLASSIFICATION OF CLAIMS. (a) If the applicable  
12 assets of the estate are insufficient to pay all claims in full, the  
13 personal representative shall make payment in the following order:

14 (1) costs and expenses of administration;

15 (2) reasonable funeral expenses and reasonable and  
16 necessary medical and hospital expenses of the last illness of the  
17 decedent, including compensation of persons attending him;

18 (3) debts and taxes with preference under federal law or  
19 the laws of this state;

20 (4) all other claims.

21 (b) No preference shall be given in the payment of any claim  
22 over any other claim of the same class, and a claim due and payable  
23 shall not be entitled to a preference over claims not due.

24 Sec. 13.16.475. ALLOWANCE OF CLAIMS. (a) As to claims presented  
25 in the manner described in sec. 465 of this chapter within the time  
26 limit prescribed in sec. 460 of this chapter, the personal representa-  
27 tive may mail a notice to any claimant stating that the claim has  
28 been disallowed. If, after allowing or disallowing a claim, the  
29 personal representative changes his decision concerning the claim,

1 he shall notify the claimant. The personal representative may not  
2 change a disallowance of a claim after the time for the claimant to  
3 file a petition for allowance or to commence a proceeding on the claim  
4 has run and the claim has been barred. Every claim which is disallowed  
5 in whole or in part by the personal representative is barred so far  
6 as not allowed unless the claimant files a petition for allowance in  
7 the court or commences a proceeding against the personal representative  
8 not later than 60 days after the mailing of the notice of disallowance  
9 or partial allowance if the notice warns the claimant of the impending  
10 bar. Failure of the personal representative to mail notice to a claimant  
11 of action on his claim for 60 days after the time for original presenta-  
12 tion of the claim has expired has the effect of a notice of allowance.

13 (b) Upon the petition of the personal representative or of a  
14 claimant in a proceeding for the purpose, the court may allow in whole  
15 or in part any claim or claims presented to the personal representative  
16 or filed with the clerk of the court in due time and not barred by (a)  
17 of this section. Notice in this proceeding shall be given to the claimant,  
18 the personal representative and those other persons interested in the  
19 estate as the court may direct by order entered at the time the  
20 proceeding is commenced.

21 (c) A judgment in a proceeding in another court against a  
22 personal representative to enforce a claim against a decedent's estate  
23 is an allowance of the claim.

24 (d) Unless otherwise provided in any judgment in another court  
25 entered against the personal representative, allowed claims bear  
26 interest at the legal rate for the period commencing 60 days after the  
27 time for original presentation of the claim has expired unless based  
28 on a contract making a provision for interest, in which case they bear  
29 interest in accordance with that provision.

1           Sec. 13.16.480. PAYMENT OF CLAIMS. (a) Upon the expiration of  
2 four months from the date of the first publication of the notice to  
3 creditors, the personal representative shall proceed to pay the claims  
4 allowed against the estate in the order of priority prescribed, after  
5 making provision for homestead, family and support allowances, for  
6 claims already presented which have not yet been allowed or whose al-  
7 lowance has been appealed, and for unbarred claims which may yet be  
8 presented, including costs and expenses of administration. By petition  
9 to the court in a proceeding for the purpose, or by appropriate motion  
10 if the administration is supervised, a claimant whose claim has been  
11 allowed but not paid as provided herein may secure an order directing  
12 the personal representative to pay the claim to the extent that  
13 funds of the estate are available for the payment.

14           (b) The personal representative at any time may pay any just  
15 claim which has not been barred, with or without formal presentation,  
16 but he is personally liable to any other claimant whose claim is allowed  
17 and who is injured by such payment if

18           (1) the payment was made before the expiration of the time  
19 limit stated in (a) of this section and the personal representative  
20 failed to require the payee to give adequate security for the refund  
21 of any of the payment necessary to pay other claimants; or

22           (2) the payment was made, due to the negligence or wilful  
23 fault of the personal representative, in such manner as to deprive the  
24 injured claimant of his priority.

25           Sec. 13.16.485. INDIVIDUAL LIABILITY OF PERSONAL REPRESENTATIVE.

26           (a) Unless otherwise provided in the contract, a personal representa-  
27 tive is not individually liable on a contract properly entered into in  
28 his fiduciary capacity in the course of administration of the estate  
29 unless he fails to reveal his representative capacity and identify

1 the estate in the contract.

2 (b) A personal representative is individually liable for obliga-  
3 tions arising from ownership or control of the estate or for torts  
4 committed in the course of administration of the estate only if he is  
5 personally at fault.

6 (c) Claims based on contracts entered into by a personal repre-  
7 sentative in his fiduciary capacity, on obligations arising from  
8 ownership or control of the estate or on torts committed in the course  
9 of estate administration may be asserted against the estate by proceeding  
10 against the personal representative in his fiduciary capacity, whether  
11 or not the personal representative is individually liable therefor.

12 (d) Issues of liability as between the estate and the personal  
13 representative individually may be determined in a proceeding for ac-  
14 counting, surcharge or indemnification or other appropriate proceeding.

15 Sec. 13.16.490. SECURED CLAIMS. Payment of a secured claim  
16 is upon the basis of the amount allowed if the creditor surrenders his  
17 security; otherwise payment is upon the basis of one of the following:

18 (1) if the creditor exhausts his security before receiving  
19 payment, unless precluded by other law upon the amount of the claim  
20 allowed less the fair value of the security; or

21 (2) if the creditor does not have the right to exhaust his  
22 security or has not done so, upon the amount of the claim allowed less  
23 the value of the security determined by converting it into money  
24 according to the terms of the agreement under which the security was  
25 delivered to the creditor, or by the creditor and personal representa-  
26 tive by agreement, arbitration, compromise or litigation.

27 Sec. 13.16.495. CLAIMS NOT DUE AND CONTINGENT OR UNLIQUIDATED  
28 CLAIMS. (a) If a claim which will become due at a future time or a  
29 contingent or unliquidated claim becomes due or certain before the

1 distribution of the estate, and if the claim has been allowed or estab-  
2 lished by a proceeding, it is paid in the same manner as presently  
3 due and absolute claims of the same class.

4 (b) In other cases the personal representative or, on petition  
5 of the personal representative or the claimant in a special proceeding  
6 for the purpose, the court may provide for payment as follows:

7 (1) if the claimant consents, he may be paid the present or  
8 agreed value of the claim, taking any uncertainty into account;

9 (2) arrangement for future payment, or possible payment,  
10 on the happening of the contingency or on liquidation may be made by  
11 creating a trust, giving a mortgage, obtaining a bond or security from  
12 a distributee, or otherwise.

13 Sec. 13.16.500. COUNTERCLAIMS. In allowing a claim the personal  
14 representative may deduct any counterclaim which the estate has against  
15 the claimant. In determining a claim against an estate a court shall  
16 reduce the amount allowed by the amount of any counterclaims and, if the  
17 counterclaims exceed the claim, render a judgment against the claimant  
18 in the amount of the excess. A counterclaim, liquidated or unliquidated,  
19 may arise from a transaction other than that upon which the claim is  
20 based. A counterclaim may give rise to relief exceeding in amount or  
21 different in kind from that sought in the claim.

22 Sec. 13.16.505. EXECUTION AND LEVIES PROHIBITED. No execution  
23 may issue upon nor may any levy be made against any property of the  
24 estate under any judgment against a decedent or a personal representative,  
25 but this section shall not be construed to prevent the enforcement  
26 of mortgages, pledges or liens upon real or personal property in an  
27 appropriate proceeding.

28 Sec. 13.16.510. COMPROMISE OF CLAIMS. When a claim against the  
29 estate has been presented in any manner, the personal representative

1 may, if it appears for the best interest of the estate, compromise the  
2 claim, whether due or not due, absolute or contingent, liquidated or  
3 unliquidated.

4 Sec. 13.16.515. ENCUMBERED ASSETS. If any assets of the estate  
5 are encumbered by mortgage, pledge, lien, or other security interest,  
6 the personal representative may pay the encumbrance or any part thereof,  
7 renew or extend any obligation secured by the encumbrance or convey  
8 or transfer the assets to the creditor in satisfaction of his lien,  
9 in whole or in part, whether or not the holder of the encumbrance has  
10 filed a claim, if it appears to be for the best interest of the estate.  
11 Payment of an encumbrance does not increase the share of the distributee  
12 entitled to the encumbered assets unless the distributee is entitled  
13 to exoneration.

14 Sec. 13.16.520. ADMINISTRATION IN MORE THAN ONE STATE; DUTY OF  
15 PERSONAL REPRESENTATIVE. (a) All assets of estates being administered  
16 in this state are subject to all claims, allowances and charges existing  
17 or established against the personal representative wherever appointed.

18 (b) If the estate either in this state or as a whole is insuffi-  
19 cient to cover all family exemptions and allowances determined by the  
20 law of the decedent's domicile, prior charges and claims, after satis-  
21 faction of the exemptions, allowances and charges, each claimant whose  
22 claim has been allowed either in the state or elsewhere in administra-  
23 tions of which the personal representative is aware, is entitled to re-  
24 ceive payment of an equal proportion of his claim. If a preference or  
25 security in regard to a claim is allowed in another jurisdiction but  
26 not in this state, the creditor so benefited is to receive dividends  
27 from local assets only upon the balance of his claim after deducting  
28 the amount of the benefit.

29 (c) In case the family exemptions and allowances, prior charges

1 and claims of the entire estate exceed the total value of the portions  
2 of the estate being administered separately and this state is not the  
3 state of the decedent's last domicile, the claims allowed in this state  
4 shall be paid their proportion if local assets are adequate for the  
5 purpose, and the balance of local assets shall be transferred to the  
6 domiciliary personal representative. If local assets are not sufficient  
7 to pay all claims allowed in this state the amount to which they are  
8 entitled, local assets shall be marshalled so that each claim allowed  
9 in this state is paid its proportion as far as possible, after taking into  
10 account all dividends on claims allowed in this state from assets in  
11 other jurisdictions.

12 Sec. 13.16.525. FINAL DISTRIBUTION TO DOMICILIARY REPRESENTATIVE.  
13 The estate of a nonresident decedent being administered by a personal  
14 representative appointed in this state shall, if there is a personal  
15 representative of the decedent's domicile willing to receive it, be  
16 distributed to the domiciliary personal representative for the benefit  
17 of the successors of the decedent unless (1) by virtue of the decedent's  
18 will, if any, and applicable choice of law rules, the successors are  
19 identified under the local law of this state without reference to the  
20 local law of the decedent's domicile; (2) the personal representative  
21 of this state, after reasonable inquiry, is unaware of the existence  
22 or identify of a domiciliary personal representative; or (3) the court  
23 orders otherwise in a proceeding for a closing order under sec.620 of  
24 this chapter or incident to the closing of a supervised administration.  
25 In other cases, distribution of the estate of a decedent shall be  
26 made in accordance with secs. 5 - 400 and secs. 535 - 695 of  
27 this chapter.

28 ARTICLE 9. SPECIAL PROVISIONS RELATING TO DISTRIBUTION.

29 Sec. 13.16.535. SUCCESSORS' RIGHTS IF NO ADMINISTRATION. In the

1 absence of administration, the heirs and devisees are entitled to the  
2 estate in accordance with the terms of a probated will or the laws of  
3 intestate succession. Devisees may establish title by the probated  
4 will to devised property. Persons entitled to property by homestead  
5 allowance, exemption or intestacy may establish title thereto by  
6 proof of the decedent's ownership, his death, and their relationship  
7 to the decedent. Successors take subject to all charges incident to  
8 administration, including the claims of creditors and allowances of  
9 surviving spouse and dependent children, and subject to the rights of  
10 others resulting from abatement, retainer, advancement, and ademption.

11 Sec. 13.16.540. DISTRIBUTION; ORDER IN WHICH ASSETS APPROPRI-  
12 ATED; ABATEMENT. (a) Except as provided in (b) of this section and  
13 except as provided in connection with the share of the surviving spouse  
14 who elects to take an elective share, shares of distributees abate,  
15 without any preference or priority as between real and personal property,  
16 in the following order: (1) property not disposed of by the will;  
17 (2) residuary devisees; (3) general devisees; (4) specific devisees.  
18 For purposes of abatement, a general devise charged on any specific  
19 property or fund is a specific devise to the extent of the value of the  
20 property on which it is charged, and upon the failure or insufficiency  
21 of the property on which it is charged, a general devise to the extent  
22 of the failure or insufficiency. Abatement within each classification  
23 is in proportion to the amounts of property each of the beneficiaries  
24 would have received if full distribution of the property had been made  
25 in accordance with the terms of the will.

26 (b) If the will expresses an order of abatement, or if the testa-  
27 mentary plan or the express or implied purpose of the devise would be  
28 defeated by the order of abatement stated in (a) of this section, the  
29 shares of the distributees abate as may be found necessary to give

1 effect to the intention of the testator.

2 (c) If the subject of a preferred devise is sold or used incident  
3 to administration, abatement shall be achieved by appropriate adjust-  
4 ments in, or contribution from, other interests in the remaining  
5 assets.

6 Sec. 13.16.545. RIGHT OF RETAINER. The amount of a noncontingent  
7 indebtedness of a successor to the estate if due, or its present value  
8 if not due, shall be offset against the successor's interest; but the  
9 successor has the benefit of any defense which would be available to  
10 him in a direct proceeding for recovery of the debt.

11 Sec. 13.16.550. INTEREST ON GENERAL PECUNIARY DEVISE. General  
12 pecuniary devises bear interest at the legal rate beginning one year  
13 after the first appointment of a personal representative until payment,  
14 unless a contrary intent is indicated by the will.

15 Sec. 13.16.555. PENALTY CLAUSE FOR CONTEST. A provision in a will  
16 purporting to penalize any interested person for contesting the will  
17 or instituting other proceedings relating to the estate is unenforce-  
18 able if probable cause exists for instituting proceedings.

19 Sec. 13.16.560. DISTRIBUTION IN KIND; VALUATION; METHOD. (a)  
20 Unless a contrary intention is indicated by the will, the distributable  
21 assets of a decedent's estate shall be distributed in kind to the  
22 extent possible through application of the following provisions:

23 (1) A specific devisee is entitled to distribution of the  
24 thing devised to him, and a spouse or child who has selected particular  
25 assets of an estate as provided in AS 13.11.130 shall receive the items  
26 selected.

27 (2) Any homestead or family allowance or devise payable in  
28 money may be satisfied by value in kind provided

29 (A) the person entitled to the payment has not demanded

1 payment in cash;

2 (B) the property distributed in kind is valued at fair  
3 market value as of the date of its distribution, and

4 (C) no residuary devisee has requested that the asset  
5 in question remain a part of the residue of the estate.

6 (3) For the purpose of valuation under (2) of this subsection  
7 securities regularly traded on recognized exchanges, if distributed  
8 in kind, are valued at the price for the last sale of like securities  
9 traded on the business day prior to distribution, or if there was no  
10 sale on that day, at the median between amounts bid and offered at the  
11 close of that day. Assets consisting of sums owed the decedent or the  
12 estate by solvent debtors as to which there is no known dispute or de-  
13 fense are valued at the sum due with accrued interest or discounted to  
14 the date of distribution. For assets which do not have readily as-  
15 certainable values, a valuation as of a date not more than 30 days  
16 prior to the date of distribution, if otherwise reasonable, controls.  
17 For purposes of facilitating distribution, the personal representative  
18 may ascertain the value of the assets as of the time of the proposed  
19 distribution in any reasonable way, including the employment of quali-  
20 fied appraisers, even if the assets may have been previously appraised.

21 (4) The residuary estate shall be distributed in kind if  
22 there is no objection to the proposed distribution and it is practicable  
23 to distribute undivided interests. In other cases, residuary property  
24 may be converted into cash for distribution.

25 (b) After the probable charges against the estate are known, the  
26 personal representative may mail or deliver a proposal for distribution  
27 to all persons who have a right to object to the proposed distribution.  
28 The right of any distributee to object to the proposed distribution on  
29 the basis of the kind or value of asset he is to receive, if not waived

1 earlier in writing, terminates if he fails to object in writing re-  
2 ceived by the personal representative within 30 days after mailing or  
3 delivery of the proposal.

4 Sec. 13.16.565. DISTRIBUTION IN KIND; EVIDENCE. If distribution  
5 in kind is made, the personal representative shall execute an instrument  
6 or deed of distribution assigning, transferring or releasing the assets  
7 to the distributee as evidence of the distributee's title to the  
8 property.

9 Sec. 13.16.570. DISTRIBUTION; RIGHT OR TITLE OF DISTRIBUTEES.  
10 Proof that a distributee has received an instrument or deed of distri-  
11 bution of assets in kind, or payment in distribution, from a personal  
12 representative, is conclusive evidence that the distributee has suc-  
13 ceeded to the interest of the estate in the distributed assets, as  
14 against all persons interested in the estate, except that the personal  
15 representative may recover the assets or their value if the distribu-  
16 tion was improper.

17 Sec. 13.16.575. IMPROPER DISTRIBUTION; LIABILITY OF DISTRIBUTEES.  
18 Unless the distribution or payment no longer can be questioned because  
19 of adjudication, estoppel, or limitation, a distributee of property  
20 improperly distributed or paid, or a claimant who was improperly paid,  
21 is liable to return the property improperly received and its income  
22 since distribution if he has the property. If he does not have the  
23 property, then he is liable to return the value as of the date of  
24 disposition of the property improperly received and its income and  
25 gain received by him.

26 Sec. 13.16.580. PURCHASERS FROM DISTRIBUTEES PROTECTED.  
27 If property distributed in kind or a security interest therein is  
28 acquired by a purchaser, or lender, for value from a distributee who  
29 has received an instrument or deed of distribution from the personal

1 representative, the purchaser or lender takes title free of any claims  
2 of the estate and incurs no personal liability to the estate, whether  
3 or not the distribution was proper. To be protected under this provi-  
4 sion, a purchaser or lender need not inquire whether a personal repre-  
5 sentative acted properly in making the distribution in kind.

6 Sec. 13.16.585. PARTITION FOR PURPOSE OF DISTRIBUTION. When two  
7 or more heirs or devisees are entitled to distribution of undivided  
8 interests in any real or personal property of the estate, the personal  
9 representative or one or more of the heirs or devisees may petition the  
10 court prior to the formal or informal closing of the estate, to make  
11 partition. After notice to the interested heirs or devisees, the court  
12 shall partition the property in the same manner as provided by the law  
13 for civil actions of partition. The court may direct the personal  
14 representative to sell any property which cannot be partitioned without  
15 prejudice to the owners and which cannot conveniently be allotted to  
16 any one party.

17 Sec. 13.16.590. PRIVATE AGREEMENTS AMONG SUCCESSORS TO DECEDENT  
18 BINDING ON PERSONAL REPRESENTATIVE. Subject to the rights of creditors  
19 and taxing authorities, competent successors may agree among themselves  
20 to alter the interests, shares, or amounts to which they are entitled  
21 under the will of the decedent, or under the laws of intestacy, in any  
22 way that they provide in a written contract executed by all who are  
23 affected by its provisions. The personal representative shall abide  
24 by the terms of the agreement subject to his obligation to administer  
25 the estate for the benefit of creditors, to pay all taxes and costs of  
26 administration, and to carry out the responsibilities of his office  
27 for the benefit of any successors of the decedent who are not parties.  
28 Personal representatives of decedents' estates are not required to see  
29 to the performance of trusts if the trustee thereof is another person

1 who is willing to accept the trust. Accordingly, trustees of a testa-  
2 mentary trust are successors for the purposes of this section. Nothing  
3 herein relieves trustees of any duties owed to beneficiaries of trusts.

4 Sec. 13.16.595. DISTRIBUTIONS TO TRUSTEE. (a) Before distri-  
5 buting to a trustee, the personal representative may require that the  
6 trust be registered if the state in which it is to be administered  
7 provides for registration and that the trustee inform the beneficiaries  
8 as provided in AS 13.36.080.

9 (b) If the trust instrument does not excuse the trustee from  
10 giving bond, the personal representative may petition the appropriate  
11 court to require that the trustee post bond if he apprehends that  
12 distribution might jeopardize the interests of persons who are not  
13 able to protect themselves, and he may withhold distribution until the  
14 court has acted.

15 (c) No inference of negligence on the part of the personal  
16 representative shall be drawn from his failure to exercise the authority  
17 conferred by (a) and (b) of this section.

18 Sec. 13.16.600. DISPOSITION OF UNCLAIMED ASSETS. (a) If an  
19 heir, devisee or claimant cannot be found, the personal representative  
20 shall distribute the share of the missing person to his conservator, if  
21 any, otherwise to the commissioner of revenue to become a part of the  
22 state escheat fund.

23 (b) The money received by commissioner of revenue shall be paid  
24 to the person entitled on proof of his right thereto or, if the com-  
25 missioner of revenue refuses or fails to pay, the person may petition  
26 the court which appointed the personal representative, whereupon the  
27 court upon notice to the commissioner of revenue may determine the  
28 person entitled to the money and order the commissioner of revenue to  
29 pay it to him. No interest is allowed thereon and the heir, devisee

1 or claimant shall pay all costs and expenses incident to the proceeding.  
2 If no petition is made to the court within eight years after payment  
3 to the commissioner of revenue, the right of recovery is barred.

4 Sec. 13.16.605. DISTRIBUTION TO PERSON UNDER DISABILITY. A  
5 personal representative may discharge his obligation to distribute  
6 to any person under legal disability by distributing to his conserva-  
7 tor, or any other person authorized by this code or otherwise to give  
8 a valid receipt and discharge for the distribution.

9 Sec. 13.16.610. APPORTIONMENT OF ESTATE TAXES. (a) For purposes  
10 of this section:

11 (1) "estate" means the gross estate of a decedent as  
12 determined for the purpose of federal estate tax and the estate tax  
13 payable to this state;

14 (2) "person" means any individual, partnership, association,  
15 joint stock company, corporation, government, political subdivision,  
16 governmental agency, or local governmental agency;

17 (3) "person interested in the estate" means any person  
18 entitled to receive, or who has received, from a decedent or by reason  
19 of the death of a decedent any property or interest therein included  
20 in the decedent's estate; it includes a personal representative,  
21 conservator, and trustee;

22 (4) "state" means any state, territory, or possession of the  
23 United States, the District of Columbia, and the Commonwealth of Puerto  
24 Rico;

25 (5) "tax" means the federal estate tax and the additional  
26 inheritance tax imposed by AS 43.31 and interest and penalties imposed  
27 in addition to the tax;

28 (6) "fiduciary" means personal representative or trustee.

29 (b) Unless the will otherwise provides, the tax shall be apportioned

1 among all persons interested in the estate. The apportionment is to  
2 be made in the proportion that the value of the interest of each person  
3 interested in the estate bears to the total value of the interests  
4 of all persons interested in the estate. The values used in determining  
5 the tax are to be used for that purpose. If the decedent's will directs  
6 a method of apportionment of tax different from the method described  
7 in this code, the method described in the will controls.

8 (c) (1) The court in which venue lies for the administration  
9 of the estate of a decedent, on petition for the purpose may determine  
10 the apportionment of the tax.

11 (2) If the court finds that it is inequitable to apportion  
12 interest and penalties in the manner provided in (b) of this section,  
13 because of special circumstances, it may direct apportionment thereof  
14 in the manner it finds equitable.

15 (3) If the court finds that the assessment of penalties  
16 and interest assessed in relation to the tax is due to delay caused  
17 by the negligence of the fiduciary, the court may charge him with the  
18 amount of the assessed penalties and interest.

19 (4) In any action to recover from any person interested  
20 in the estate the amount of the tax apportioned to the person  
21 in accordance with this code the determination of the court in respect  
22 thereto shall be prima facie correct.

23 (d) (1) The personal representative or other person in posses-  
24 sion of the property of the decedent required to pay the tax may with-  
25 hold from any property distributable to any person interested in the  
26 estate, upon its distribution to him, the amount of tax attributable  
27 to his interest. If the property in possession of the personal repre-  
28 sentative or other person required to pay the tax and distributable  
29 to any person interested in the estate is insufficient to satisfy the

1 proportionate amount of the tax determined to be due from the person,  
2 the personal representative or other person required to pay the tax  
3 may recover the deficiency from the person interested in the estate.  
4 If the property is not in the possession of the personal representa-  
5 tive or the other person required to pay the tax, the personal repre-  
6 sentative or the other person required to pay the tax may recover from  
7 any person interested in the estate the amount of the tax apportioned  
8 to the person in accordance with this chapter.

9 (2) If property held by the personal representative is  
10 distributed before final apportionment of the tax, the distributee  
11 shall provide a bond or other security for the apportionment liability  
12 in the form and amount prescribed by the personal representative.

13 (e) (1) In making an apportionment, allowances shall be made  
14 for any exemptions granted, any classification made of persons inter-  
15 ested in the estate and for any deductions and credits allowed by the  
16 law imposing the tax.

17 (2) Any exemption or deduction allowed by reason of the re-  
18 lationship of any person to the decedent or by reason of the purposes  
19 of the gift inures to the benefit of the person bearing such relation-  
20 ship or receiving the gift; but if an interest is subject to a prior  
21 present interest which is not allowable as a deduction, the tax ap-  
22 portionable against the present interest shall be paid from principal.

23 (3) Any deduction for property previously taxed and any  
24 credit for gift taxes or death taxes of a foreign country paid by the  
25 decedent or his estate inures to the proportionate benefit of all  
26 persons liable to apportionment.

27 (4) Any credit for inheritance, succession or estate taxes  
28 or taxes in the nature thereof applicable to property or interests  
29 includable in the estate, inures to the benefit of the persons or

1 interests chargeable with the payment thereof to the extent propor-  
2 tionately that the credit reduces the tax.

3 (5) To the extent that property passing to or in trust for  
4 a surviving spouse or any charitable, public or similar gift or  
5 devisee is not an allowable deduction for purposes of the tax solely  
6 by reason of an inheritance tax or other death tax imposed upon and  
7 deductible from the property, the property is not included in the  
8 computation provided for in (b) of this section, and to that extent  
9 no apportionment is made against the property. The sentence immedi-  
10 ately preceding does not apply to any case if the result would be to  
11 deprive the estate of a deduction otherwise allowable under Section  
12 2053(d) of the Internal Revenue Code of 1954, as amended, of the United  
13 States, relating to deduction for state death taxes on transfers for  
14 public, charitable, or religious uses.

15 (f) No interest in income and no estate for years or for life  
16 or other temporary interest in any property or fund is subject to ap-  
17 portionment as between the temporary interest and the remainder. The  
18 tax on the temporary interest and the tax, if any, on the remainder is  
19 chargeable against the corpus of the property or funds subject to the  
20 temporary interest and remainder.

21 (g) Neither the personal representative nor other person  
22 required to pay the tax is under any duty to institute any action to  
23 recover from any person interested in the estate the amount of the tax  
24 apportioned to the person until the expiration of the three months next  
25 following final determination of the tax. A personal representative  
26 or other person required to pay the tax who institutes the action within  
27 a reasonable time after the three months' period is not subject to any  
28 liability or surcharge because any portion of the tax apportioned to any  
29 person interested in the state was collectable at a time following the

1 death of the decedent but thereafter became uncollectable. If the  
2 personal representative or other person required to pay the tax cannot  
3 collect from any person interested in the estate the amount of the tax  
4 apportioned to the person, the amount not recoverable shall be equitably  
5 apportioned among the other persons interested in the estate who are  
6 subject to apportionment.

7 (h) A personal representative acting in another state or a person  
8 required to pay the tax domiciled in another state may institute an  
9 action in the courts of this state and may recover a proportionate  
10 amount of the federal estate tax, of an estate tax payable to another  
11 state or of a death duty due by a decedent's estate to another state,  
12 from a person interested in the estate who is either domiciled in this  
13 state or who owns property in this state subject to attachment or  
14 execution. For the purposes of the action the determination of appor-  
15 tionment by the court having jurisdiction of the administration of the  
16 decedent's estate in the other state is prima facie correct.

17 ARTICLE 10. CLOSING ESTATES.

18 Sec. 13.16.620. FORMAL PROCEEDINGS TERMINATING ADMINISTRATION;  
19 TESTATE OR INTESTATE; ORDER OF GENERAL PROTECTION. (a) A personal  
20 representative or any interested person may petition for an order of  
21 complete settlement of the estate. The personal representative may  
22 petition at any time, and any other interested person may petition  
23 after one year from the appointment of the original personal repre-  
24 sentative except that no petition under this section may be entertained  
25 until the time for presenting claims which arose before the death of  
26 the decedent has expired. The petition may request the court to  
27 determine testacy, if not previously determined, to consider the final  
28 account or compel or approve an accounting and distribution, to construe  
29 any will or determine heirs and adjudicate the final settlement and

1 distribution of the estate. After notice to all interested persons and  
2 hearing the court may enter an order or orders, on appropriate conditions,  
3 determining the persons entitled to distribution of the estate, and,  
4 as circumstances require, approving settlement and directing or approv-  
5 ing distribution of the estate and discharging the personal representa-  
6 tive from further claim or demand of any interested person.

7 (b) If one or more heirs or devisees were omitted as parties in,  
8 or were not given notice of, a previous formal testacy proceeding, the  
9 court, on proper petition for an order of complete settlement of the  
10 estate under this section, and after notice to the omitted or un-  
11 notified persons and other interested parties determined to be inter-  
12 ested on the assumption that the previous order concerning testacy  
13 is conclusive as to those given notice of the earlier proceeding, may  
14 determine testacy as it affects the omitted persons and confirm or  
15 alter the previous order of testacy as it affects all interested persons  
16 as appropriate in the light of the new proofs. In the absence of  
17 objection by an omitted or unnotified person, evidence received in the  
18 original testacy proceeding shall constitute prima facie proof of due  
19 execution of any will previously admitted to probate, or of the fact  
20 that the decedent left no valid will if the prior proceedings determined  
21 this fact.

22 Sec. 13.16.625. FORMAL PROCEEDINGS TERMINATING TESTATE ADMINIS-  
23 TRATION; ORDER CONSTRUING WILL WITHOUT ADJUDICATING TESTACY. A personal  
24 representative administering an estate under an informally probated  
25 will or any devisee under an informally probated will may petition  
26 for an order of settlement of the estate which will not adjudicate the  
27 testacy status of the decedent. The personal representative may  
28 petition at any time, and a devisee may petition after one year, from  
29 the appointment of the original personal representative, except that

1 no petition under this section may be entertained until the time for  
2 presenting claims which arose before the death of the decedent has  
3 expired. The petition may request the court to consider the final  
4 account or compel or approve an accounting and distribution, to construe  
5 the will and adjudicate final settlement and distribution of the estate.  
6 After notice to all devisees and the personal representative and hearing,  
7 the court may enter an order or orders, on appropriate conditions,  
8 determining the persons entitled to distribution of the estate under  
9 the will, and, as circumstances require, approving settlement and  
10 directing or approving distribution of the estate and discharging the  
11 personal representative from further claim or demand of any devisee  
12 who is a party to the proceeding and those he represents. If it  
13 appears that a part of the estate is intestate, the proceedings shall  
14 be dismissed or amendments made to meet the provisions of sec. 620 of  
15 this chapter.

16 Sec. 13.16.630. CLOSING ESTATES; BY SWORN STATEMENT OF PERSONAL  
17 REPRESENTATIVE. (a) Unless prohibited by order of the court and except  
18 for estates being administered in supervised administration proceedings,  
19 a personal representative may close an estate by filing with the  
20 court no earlier than six months after the date of original appoint-  
21 ment of a general personal representative for the estate, a verified  
22 statement stating that he, or a prior personal representative whom he  
23 has succeeded, has or have:

24 (1) published notice to creditors as provided by sec. 450  
25 of this chapter and that the first publication occurred more than six  
26 months before the date of the statement;

27 (2) fully administered the estate of the decedent by making  
28 payment, settlement or other disposition of all claims which were  
29 presented, expenses of administration and estate, inheritance and other

1 death taxes, except as specified in the statement, and that the assets  
2 of the estate have been distributed to the persons entitled. If any  
3 claims remain undischarged, the statement shall state whether the  
4 personal representative has distributed the estate subject to possible  
5 liability with the agreement of the distributees or it shall state in  
6 detail other arrangements which have been made to accommodate out-  
7 standing liabilities; and

8 (3) sent a copy thereof to all distributees of the estate  
9 and to all creditors or other claimants of whom he is aware whose  
10 claims are neither paid nor barred and has furnished a full account in  
11 writing of his administration to the distributees whose interests are  
12 affected thereby.

13 (b) If no proceedings involving the personal representative are  
14 pending in the court one year after the closing statement is filed,  
15 the appointment of the personal representative terminates.

16 Sec. 13.16.635. LIABILITY OF DISTRIBUTEES TO CLAIMANTS. After  
17 assets of an estate have been distributed and subject to sec. 645 of  
18 this chapter, an undischarged claim not barred may be prosecuted in a  
19 proceeding against one or more distributees. No distributee shall be  
20 liable to claimants for amounts in excess of the value of his distri-  
21 bution as of the time of distribution. As between distributees, each  
22 shall bear the cost of satisfaction of unbarred claims as if the claim  
23 had been satisfied in the course of administration. Any distributee  
24 who shall have failed to notify other distributees of the demand made  
25 upon him by the claimant in sufficient time to permit them to join in  
26 any proceeding in which the claim was asserted against him loses his  
27 right of contribution against other distributees.

28 Sec. 13.16.640. LIMITATIONS ON PROCEEDINGS AGAINST PERSONAL  
29 REPRESENTATIVE. Unless previously barred by adjudication and except

1 as provided in the closing statement, the rights of successors and of  
2 creditors whose claims have not otherwise been barred against the  
3 personal representative for breach of fiduciary duty are barred unless  
4 a proceeding to assert the same is commenced within six months after  
5 the filing of the closing statement. The rights thus barred do not  
6 include rights to recover from a personal representative for fraud,  
7 misrepresentation, or inadequate disclosure related to the settlement  
8 of the decedent's estate.

9 Sec. 13.16.645. LIMITATIONS ON ACTIONS AND PROCEEDINGS AGAINST  
10 DISTRIBUTEES. Unless previously adjudicated in a formal testacy pro-  
11 ceeding or in a proceeding settling the accounts of a personal repre-  
12 sentative or otherwise barred, the claim of any claimant to recover  
13 from a distributee who is liable to pay the claim, and the right of  
14 any heir or devisee, or of a successor personal representative acting  
15 in their behalf, to recover property improperly distributed or the value  
16 thereof from any distributee is forever barred at the later of (1) three  
17 years after the decedent's death; or (2) one year after the time of  
18 distribution thereof. This section does not bar an action to recover  
19 property or value received as the result of fraud.

20 Sec. 13.16.650. CERTIFICATE DISCHARGING LIENS SECURING FIDUCIARY  
21 PERFORMANCE. After his appointment has terminated, the personal rep-  
22 resentative, his sureties, or any successor of either, upon the filing  
23 of a verified application showing, so far as is known by the applicant,  
24 that no action concerning the estate is pending in any court, is  
25 entitled to receive a certificate from the registrar that the personal  
26 representative appears to have fully administered the estate in question.  
27 The certificate evidences discharge of any lien on any property given  
28 to secure the obligation of the personal representative in lieu of bond  
29 or any surety, but does not preclude action against the personal

1 representative or the surety.

2 Sec. 13.16.655. SUBSEQUENT ADMINISTRATION. If other property of  
3 the estate is discovered after an estate has been settled and the  
4 personal representative discharged or after one year after a closing  
5 statement has been filed, the court upon petition of any interested  
6 person and upon notice as it directs may appoint the same or a successor  
7 personal representative to administer the subsequently discovered  
8 estate. If a new appointment is made, unless the court orders otherwise,  
9 the provisions of this code apply as appropriate; but no claim previ-  
10 ously barred may be asserted in the subsequent administration.

11 ARTICLE 11. COMPROMISE OF CONTROVERSIES.

12 Sec. 13.16.665. EFFECT OF APPROVAL OF AGREEMENTS INVOLVING TRUSTS,  
13 INALIENABLE INTERESTS, OR INTERESTS OF THIRD PERSONS. A compromise  
14 of any controversy as to admission to probate of any instrument offered  
15 for formal probate as the will of a decedent, the construction, validity,  
16 or effect of any probated will, the rights or interests in the estate  
17 of the decedent, of any successor, or the administration of the estate,  
18 if approved in a formal proceeding in the court for that purpose, is  
19 binding on all the parties thereto including those unborn, unascertained  
20 or who could not be located. An approved compromise is binding even  
21 though it may affect a trust or an inalienable interest. A compromise  
22 does not impair the rights of creditors or of taxing authorities who  
23 are not parties to it.

24 Sec. 13.16.670. PROCEDURE FOR SECURING COURT APPROVAL OF COMPROMISE.  
25 The procedure for securing court approval of a compromise is as  
26 follows:

- 27 (1) The terms of the compromise shall be set out in an  
28 agreement in writing which shall be executed by all competent persons  
29 and parents acting for any minor child having beneficial interests or

1 having claims which will or may be affected by the compromise. Exe-  
2 cution is not required by any person whose identity cannot be as-  
3 certained or whose whereabouts is unknown and cannot reasonably be  
4 ascertained.

5 (2) Any interested person, including the personal representa-  
6 tive or a trustee, then may submit the agreement to the court for its  
7 approval and for execution by the personal representative, the trustee  
8 of every affected testamentary trust, and other fiduciaries and  
9 representatives.

10 (3) After notice to all interested persons or their  
11 representatives, including the personal representative of the estate  
12 and all affected trustees of trusts, the court, if it finds that the  
13 contest or controversy is in good faith and that the effect of the  
14 agreement upon the interests of persons represented by fiduciaries  
15 or other representatives is just and reasonable, shall make an order  
16 approving the agreement and directing all fiduciaries under its super-  
17 vision to execute the agreement. Minor children represented only by  
18 their parents may be bound only if their parents join with other compe-  
19 tent persons in execution of the compromise. Upon the making of the  
20 order and the execution of the agreement, all further disposition of  
21 the estate is in accordance with the terms of the agreement.

22 ARTICLE 12. COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT AND  
23 SUMMARY ADMINISTRATION PROCEDURE FOR SMALL ESTATES.

24 Sec. 13.16.680. COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT.

25 (a) Thirty days after the death of a decedent, any person indebted  
26 to the decedent or having possession of tangible personal property or  
27 an instrument evidencing a debt, obligation, stock or chose in action  
28 belonging to the decedent shall make payment of the indebtedness or  
29 deliver the tangible personal property or an instrument evidencing a

1 debt, obligation, stock or chose in action to a person claiming to be  
2 the successor of the decedent upon being presented an affidavit made  
3 by or on behalf of the successor stating that:

4 (1) the value of the entire estate, wherever located, less  
5 liens and encumbrances, does not exceed \$5,000;

6 (2) 30 days have elapsed since the death of the decedent;

7 (3) no application or petition for the appointment of a  
8 personal representative is pending or has been granted in any jurisdic-  
9 tion; and

10 (4) the claiming successor is entitled to payment or delivery  
11 of the property.

12 (b) A transfer agent of any security shall change the registered  
13 ownership on the books of a corporation from the decedent to the  
14 successor or successors upon the presentation of an affidavit as  
15 provided in (a) of this section.

16 Sec. 13.16.685. EFFECT OF AFFIDAVIT. The person paying, deliver-  
17 ing, transferring, or issuing personal property or the evidence thereof  
18 under affidavit is discharged and released to the same extent as if  
19 he dealt with a personal representative of the decedent. He is not  
20 required to see to the application of the personal property or evidence  
21 thereof or to inquire into the truth of any statement in the affidavit.  
22 If any person to whom an affidavit is delivered refuses to pay, deliver,  
23 transfer, or issue any personal property or evidence thereof, it may be  
24 recovered or its payment, delivery, transfer, or issuance compelled  
25 upon proof of their right in a proceeding brought for the purpose by  
26 or on behalf of the persons entitled thereto. Any person to whom pay-  
27 ment, delivery, transfer or issuance is made is answerable and ac-  
28 countable therefor to any personal representative of the estate or to  
29 any other person having a superior right.

1           Sec. 13.16.690. SMALL ESTATES; SUMMARY ADMINISTRATIVE PROCEDURE.

2           If it appears from the inventory and appraisal that the value of the  
3           entire estate, less liens and encumbrances, does not exceed homestead  
4           allowance, exempt property, family allowance, costs and expenses of  
5           administration, reasonable funeral expenses, and reasonable and neces-  
6           sary medical and hospital expenses of the last illness of the decedent,  
7           the personal representative, without giving notice to creditors, may  
8           immediately disburse and distribute the estate to the persons entitled  
9           thereto and file a closing statement as provided in sec. 695 of this  
10          chapter.

11           Sec. 13.16.695. SMALL ESTATES; CLOSING BY SWORN STATEMENT OF  
12          PERSONAL REPRESENTATIVE. (a) Unless prohibited by order of the court  
13          and except for estates being administered by supervised personal  
14          representatives, a personal representative may close an estate ad-  
15          ministered under the summary procedures of sec. 690 of this chapter by  
16          filing with the court, at any time after disbursement and distribution  
17          of the estate, a verified statement stating that:

18                   (1) to the best knowledge of the personal representative, the  
19                   value of the entire estate, less liens and encumbrances, did not exceed  
20                   homestead allowance, exempt property, family allowance, costs and ex-  
21                   penses of administration, reasonable funeral expenses, and reasonable,  
22                   necessary medical and hospital expenses of the last illness of the  
23                   decedent;

24                   (2) the personal representative has fully administered the  
25                   estate by disbursing and distributing it to the persons entitled  
26                   thereto; and

27                   (3) the personal representative has sent a copy of the  
28                   closing statement to all distributees of the estate and to all creditors  
29                   or other claimants of whom he is aware whose claims are neither paid

1 nor barred and has furnished a full account in writing of his adminis-  
2 tration to the distributees whose interests are affected.

3 (b) If no actions or proceedings involving the personal repre-  
4 sentative are pending in the court one year after the closing statement  
5 is filed, the appointment of the personal representative terminates.

6 (c) A closing statement filed under this section has the same  
7 effect as one filed under sec. 635 of this chapter.

8 CHAPTER 21. FOREIGN PERSONAL REPRESENTATIVES;

9 ANCILLARY ADMINISTRATION.

10 ARTICLE 1. DEFINITIONS.

11 Sec. 13.21.005. DEFINITIONS. In this chapter

12 (1) "local administration" means administration by a  
13 personal representative appointed in this state under appointment pro-  
14 ceedings described in AS 13.16;

15 (2) "local personal representative" includes any personal  
16 representative appointed in this state under appointment proceedings  
17 described in AS 13.16 of this chapter and excludes foreign personal  
18 representatives who acquire the power of a local personal representa-  
19 tive under sec. 35 of this chapter;

20 (3) "resident creditor" means a person domiciled in, or doing  
21 business in this state, who is, or could be, a claimant against an  
22 estate of a nonresident decedent.

23 ARTICLE 2. POWERS OF FOREIGN PERSONAL REPRESENTATIVES.

24 Sec. 13.21.015. PAYMENT OF DEBT AND DELIVERY OF PROPERTY TO  
25 DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE WITHOUT LOCAL ADMINISTRA-  
26 TION. At any time after the expiration of 60 days from the death of  
27 a nonresident decedent, any person indebted to the estate of the non-  
28 resident decedent or having possession or control of personal property,  
29 or of an instrument evidencing a debt, obligation, stock or chose in

1 action belonging to the estate of the nonresident decedent may pay the  
2 debt, deliver the personal property, or the instrument evidencing the  
3 debt, obligation, stock or chose in action, to the domiciliary foreign  
4 personal representative of the nonresident decedent upon being presented  
5 with proof of his appointment and an affidavit made by or on behalf of  
6 the representative stating:

7 (1) the date of the death of the nonresident decedent,

8 (2) that no local administration, or application or petition  
9 therefor, is pending in this state,

10 (3) that the domiciliary foreign personal representative is  
11 entitled to payment or delivery.

12 Sec. 13.21.020. PAYMENT OR DELIVERY DISCHARGES. Payment or  
13 delivery made in good faith on the basis of the proof of authority  
14 and affidavit releases the debtor or person having possession of the  
15 personal property to the same extent as if payment or delivery had been  
16 made to a local personal representative.

17 Sec. 13.21.025. RESIDENT CREDITOR NOTICE. Payment or delivery  
18 under sec. 15 of this chapter may not be made if a resident creditor  
19 of the nonresident decedent has notified the debtor of the nonresident  
20 decedent or the person having possession of the personal property  
21 belonging to the nonresident decedent that the debt should not be paid  
22 nor the property delivered to the domiciliary foreign personal rep-  
23 resentative.

24 Sec. 13.21.030. PROOF OF AUTHORITY-BOND. If no local adminis-  
25 tration or application or petition therefor is pending in this state,  
26 a domiciliary foreign personal representative may file with a court in  
27 this state in a judicial district in which property belonging to the  
28 decedent is located, authenticated copies of his appointment and of any  
29 official bond he has given.

1           Sec. 13.21.035. POWERS. A domiciliary foreign personal repre-  
2           sentative who has complied with sec. 30 of this chapter may exercise  
3           as to assets in this state all powers of a local personal representative  
4           and may maintain actions and proceedings in this state subject to any  
5           conditions imposed upon nonresident parties generally.

6           Sec. 13.21.040. POWER OF REPRESENTATIVES IN TRANSITION. The  
7           power of a domiciliary foreign personal representative under secs. 15 -  
8           35 of this chapter shall be exercised only if there is no administration  
9           or application therefor pending in this state. An application or petition  
10          for local administration of the estate terminates the power of the  
11          foreign personal representative to act under sec. 35 of this chapter  
12          but the local court may allow the foreign personal representative to  
13          exercise limited powers to preserve the estate. No person who, before  
14          receiving actual notice of a pending local administration, has changed  
15          his position in reliance upon the powers of a foreign personal  
16          representative shall be prejudiced by reason of the application or  
17          petition for, or grant of, local administration. The local personal  
18          representative is subject to all duties and obligations which have  
19          accrued by virtue of the exercise of the powers by the foreign personal  
20          representative and may be substituted for him in any action or pro-  
21          ceedings in this state.

22          Sec. 13.21.045. ANCILLARY AND OTHER LOCAL ADMINISTRATIONS;  
23          PROVISIONS GOVERNING. In respect to a nonresident decedent, the pro-  
24          visions of AS 13.16 govern

25                 (1) proceedings, if any, in a court of this state for probate  
26                 of the will, appointment, removal, supervision, and discharge of the local  
27                 personal representative, and any other order concerning the estate;  
28                 and

29                 (2) the status, powers, duties and liabilities of any local

1 personal representative and the rights of claimants, purchasers,  
2 distributees and others in regard to a local administration.

3 ARTICLE 3. JURISDICTION OVER FOREIGN REPRESENTATIVES.

4 Sec. 13.21.055. JURISDICTION BY ACT OF FOREIGN PERSONAL REPRESENTATIVE. A foreign personal representative submits himself to the  
5 jurisdiction of the courts of this state by (1) filing authenticated  
6 copies of his appointment as provided in sec. 30 of this chapter,  
7 (2) receiving payment of money or taking delivery of personal  
8 property under sec. 15 of this chapter, or (3) doing any act as a  
9 personal representative in this state which would have given the state  
10 jurisdiction over him as an individual. Jurisdiction under (2) of this  
11 section is limited to the money or value of personal property col-  
12 lected.  
13

14 Sec. 13.21.060. JURISDICTION BY ACT OF DECEDENT. In addition to  
15 jurisdiction conferred by sec. 55 of this chapter, a foreign personal  
16 representative is subject to the jurisdiction of the courts of this  
17 state to the same extent that his decedent was subject to jurisdiction  
18 immediately before death.

19 Sec. 13.21.065. SERVICE ON FOREIGN PERSONAL REPRESENTATIVE.

20 (a) Service of process may be made upon the foreign personal repre-  
21 sentative by registered or certified mail, addressed to his last  
22 reasonably ascertainable address, requesting a return receipt signed  
23 by addressee only. Notice by ordinary first class mail is sufficient  
24 if registered or certified mail service to the addressee is unavailable.  
25 Service may be made upon a foreign personal representative in the manner  
26 in which service could have been made under other laws of this state  
27 on either the foreign personal representative or his decedent immedi-  
28 ately before death.

29 (b) If service is made upon a foreign personal representative as

1 provided in (a) of this section, he shall be allowed at least 30  
2 days within which to appear or respond.

3 ARTICLE 4. JUDGMENTS AND PERSONAL REPRESENTATIVE.

4 Sec. 13.21.075. EFFECT OF ADJUDICATION FOR OR AGAINST PERSONAL  
5 REPRESENTATIVE. An adjudication rendered in any jurisdiction in favor  
6 of or against any personal representative of the estate is as binding  
7 on the local personal representative as if he were a party to the ad-  
8 judication.

9 CHAPTER 26. PROTECTION OF PERSONS UNDER DISABILITY AND  
10 THEIR PROPERTY.

11 ARTICLE 1. GENERAL PROVISIONS.

12 Sec. 13.26.005. DEFINITIONS AND USE OF TERMS. Unless otherwise  
13 apparent from the context, in this code:

14 (1) "incapacitated person" means any person who is impaired  
15 by reason of mental illness, mental deficiency, physical illness or  
16 disability, advanced age, chronic use of drugs, chronic intoxication,  
17 or other cause (except minority) to the extent that he lacks sufficient  
18 understanding or capacity to make or communicate responsible decisions  
19 concerning his person;

20 (2) a "protective proceeding" is a proceeding under the  
21 provisions of sec. 165 of this chapter to determine that a person  
22 cannot effectively manage or apply his estate to necessary ends, either  
23 because he lacks the ability or is otherwise inconvenienced, or because  
24 he is a minor, and to secure administration of his estate by a con-  
25 servator or other appropriate relief;

26 (3) a "protected person" is a minor or other person for whom  
27 a conservator has been appointed or other protective order has been  
28 made;

29 (4) a "ward" is a person for whom a guardian has been

1 appointed; a "minor ward" is a minor for whom a guardian has been  
2 appointed solely because of minority.

3 Sec. 13.26.010. JURISDICTION OF SUBJECT MATTER; CONSOLIDATION OF  
4 PROCEEDINGS. (a) The court has jurisdiction over protective pro-  
5 ceedings and guardianship proceedings.

6 (b) When both guardianship and protective proceedings as to the  
7 same person are commenced or pending in the same court, the proceedings  
8 may be consolidated.

9 Sec. 13.26.015. FACILITY OF PAYMENT OR DELIVERY. Any person  
10 under a duty to pay or deliver money or personal property to a minor  
11 may perform this duty, in amounts not exceeding \$5,000 a year, by  
12 paying or delivering the money or property to, (1) the minor, if he has  
13 attained the age of 18 years or is married; (2) any person having the  
14 care and custody of the minor with whom the minor resides; (3) a  
15 guardian of the minor; or (4) a financial institution incident to a  
16 deposit in a federally insured savings account in the sole name of the  
17 minor and giving notice of the deposit to the minor. This section  
18 does not apply if the person making payment or delivery has actual  
19 knowledge that a conservator has been appointed or proceedings for  
20 appointment of a conservator of the estate of the minor are pending.  
21 The persons, other than the minor or any financial institution under  
22 (4) of this section, receiving money or property for a minor, are  
23 obligated to apply the money to the support and education of the minor,  
24 but may not pay themselves except by way of reimbursement for out-of-  
25 pocket expenses for goods and services necessary for the minor's sup-  
26 port. Any excess sums shall be preserved for future support of the  
27 minor and any balance not so used and any property received for the  
28 minor must be turned over to the minor when he attains majority.  
29 Persons who pay or deliver in accordance with provisions of this

1 section are not responsible for the proper application thereof.

2 Sec. 13.26.020. DELEGATION OF POWERS BY PARENT OR GUARDIAN. A  
3 parent or a guardian of a minor or incapacitated person, by a properly  
4 executed power of attorney, may delegate to another person, for a period  
5 not exceeding six months, any of his powers regarding care, custody,  
6 or property of the minor child or ward, except his power to consent to  
7 marriage or adoption of a minor ward.

8 ARTICLE 2. GUARDIANS OF MINORS.

9 Sec. 13.26.030. STATUS OF GUARDIAN OF MINOR; GENERAL. A person  
10 becomes a guardian of a minor by acceptance of a testamentary appoint-  
11 ment or upon appointment by the court. The guardianship status continues  
12 until terminated, without regard to the location from time to time of  
13 the guardian and minor ward.

14 Sec. 13.26.035. TESTAMENTARY APPOINTMENT OF GUARDIAN OF MINOR.  
15 The parent of a minor may appoint by will a guardian of an unmarried  
16 minor. Subject to the right of the minor under sec. 40 of this chapter  
17 a testamentary appointment becomes effective upon filing the guardian's  
18 acceptance in the court in which the will is probated, if before  
19 acceptance, both parents are dead or the surviving parent is adjudged  
20 incapacitated. If both parents are dead, an effective appointment by  
21 the parent who died later has priority. This state recognizes a testa-  
22 mentary appointment effected by filing the guardian's acceptance under  
23 a will probated in another state which is the testator's domicile.

24 Sec. 13.26.040. OBJECTION BY MINOR OF FOURTEEN OR OLDER TO  
25 TESTAMENTARY APPOINTMENT. A minor of 14 or more years may prevent an  
26 appointment of his testamentary guardian from becoming effective, or may  
27 cause a previously accepted appointment to terminate, by filing with  
28 the court in which the will is probated a written objection to the  
29 appointment before it is accepted or within 30 days after its acceptance.

1 An objection may be withdrawn. An objection does not preclude ap-  
2 pointment by the court in a proper proceeding of the testamentary  
3 nominee, or any other suitable person.

4 Sec. 13.26.045. COURT APPOINTMENT OF GUARDIAN OF MINOR; CONDI-  
5 TIONS FOR APPOINTMENT. The court may appoint a guardian for an un-  
6 married minor if all parental rights of custody have been terminated  
7 or suspended by circumstances or prior court order. A guardian appointed  
8 by will as provided in sec. 35 of this chapter whose appointment has  
9 not been prevented or nullified under sec. 40 of this chapter has  
10 priority over any guardian who may be appointed by the court but the  
11 court may proceed with an appointment upon a finding that the testa-  
12 mentary guardian has failed to accept the testamentary appointment within  
13 30 days after notice of the guardianship proceeding.

14 Sec. 13.26.050. COURT APPOINTMENT OF GUARDIAN OF MINOR; VENUE.  
15 The venue for guardianship proceedings for a minor is in the place  
16 where the minor resides or is present.

17 Sec. 13.26.055. COURT APPOINTMENT OF GUARDIAN OF MINOR; QUALIFI-  
18 CATIONS; PRIORITY OF MINOR'S NOMINEE. The court may appoint as guardian  
19 any person whose appointment would be in the best interests of the  
20 minor. The court shall appoint a person nominated by the minor, if the  
21 minor is 14 years of age or older, unless the court finds the appoint-  
22 ment contrary to the best interests of the minor.

23 Sec. 13.26.060. COURT APPOINTMENT OF GUARDIAN OF MINOR; PROCEDURE.  
24 (a) Notice of the time and place of hearing of a petition for the  
25 appointment of a guardian of a minor is to be given by the petitioner  
26 in the manner prescribed by AS 13.06.110 to:

- 27 (1) the minor, if he is 14 or more years of age;  
28 (2) the person who has had the principal care and custody  
29 of the minor during the 60 days preceding the date of the petition; and

1 (3) any living parent of the minor.

2 (b) Upon hearing, if the court finds that a qualified person  
3 seeks appointment, venue is proper, the required notices have been  
4 given, the requirements of sec. 45 of this chapter have been met, and  
5 the welfare and best interests of the minor will be served by the  
6 requested appointment, it shall make the appointment. In other cases  
7 the court may dismiss the proceedings, or make any other disposition  
8 of the matter that will best serve the interest of the minor.

9 (c) If necessary, the court may appoint a temporary guardian,  
10 with the status of an ordinary guardian of a minor, but the authority  
11 of a temporary guardian shall not last longer than six months.

12 (d) If, at any time in the proceeding, the court determines that  
13 the interests of the minor are or may be inadequately represented, it  
14 may appoint an attorney to represent the minor, giving consideration to  
15 the preference of the minor if the minor is 14 years of age or older.

16 Sec. 13.26.065. CONSENT TO SERVICE BY ACCEPTANCE OF APPOINTMENT;  
17 NOTICE. By accepting a testamentary or court appointment as guardian,  
18 a guardian submits personally to the jurisdiction of the court in  
19 any proceeding relating to the guardianship that may be instituted by  
20 any interested person. Notice of any proceeding shall be delivered to  
21 the guardian, or mailed to him by ordinary mail at his address as listed  
22 in the court records and to his address as then known to the petitioner.  
23 Letters of guardianship must indicate whether the guardian was appointed  
24 by will or by court order.

25 Sec. 13.26.070. POWERS AND DUTIES OF GUARDIAN OF MINOR. A  
26 guardian of a minor has the powers and responsibilities of a parent  
27 who has not been deprived of custody of his minor and unemancipated  
28 child, except that a guardian is not legally obligated to provide  
29 from his own funds for the ward and is not liable to third persons by

1 reason of the parental relationship for acts of the ward. In particular,  
2 and without qualifying the foregoing, a guardian has the following  
3 powers and duties:

4 (1) He must take reasonable care of his ward's personal  
5 effects and commence protective proceedings if necessary to protect  
6 other property of the ward.

7 (2) He may receive money payable for the support of the  
8 ward to the ward's parent, guardian or custodian under the terms of  
9 any statutory benefit or insurance system, or any private contract,  
10 devise, trust, conservatorship or custodianship. He also may receive  
11 money or property of the ward paid or delivered by virtue of sec. 15  
12 of this chapter. Any sums so received shall be applied to the ward's  
13 current needs for support, care and education. He must exercise due  
14 care to conserve any excess for the ward's future needs unless a con-  
15 servator has been appointed for the estate of the ward, in which case  
16 excess shall be paid over at least annually to the conservator. Sums  
17 so received by the guardian are not to be used for compensation for his  
18 services except as approved by order of court or as determined by a  
19 duly appointed conservator other than the guardian. A guardian may  
20 institute proceedings to compel the performance by any person of a  
21 duty to support the ward or to pay sums for the welfare of the ward.

22 (3) The guardian is empowered to facilitate the ward's  
23 education, social, or other activities and to authorize medical or  
24 other professional care, treatment, or advice. A guardian is not liable  
25 by reason of this consent for injury to the ward resulting from the  
26 negligence or acts of third persons unless it would have been illegal  
27 for a parent to have consented. A guardian may consent to the marriage  
28 or adoption of his ward.

29 (4) A guardian must report the condition of his ward and of

1 the ward's estate which has been subject to his possession or control,  
2 as ordered by court on petition of any person interested in the minor's  
3 welfare or as required by court rule.

4 Sec. 13.26.075. TERMINATION OF APPOINTMENT OF GUARDIAN; GENERAL.

5 A guardian's authority and responsibility terminates upon the death,  
6 resignation or removal of the guardian or upon the minor's death,  
7 adoption, marriage or attainment of majority, but termination does not  
8 affect his liability for prior acts, nor his obligation to account  
9 for funds and assets of his ward. Resignation of a guardian does not  
10 terminate the guardianship until it has been approved by the court. A  
11 testamentary appointment under an informally probated will terminates  
12 if the will is later denied probate in a formal proceeding.

13 Sec. 13.26.080. PROCEEDINGS SUBSEQUENT TO APPOINTMENT; VENUE. (a)

14 The court where the ward resides has concurrent jurisdiction with the  
15 court which appointed the guardian, or in which acceptance of a testa-  
16 mentary appointment was filed, over resignation, removal, accounting  
17 and other proceedings relating to the guardianship.

18 (b) If the court located where the ward resides is not the court  
19 in which acceptance of appointment is filed, the court in which pro-  
20 ceedings subsequent to appointment are commenced shall in all appropriate  
21 cases notify the other court, in this or another state, and after con-  
22 sultation with that court determine whether to retain jurisdiction or  
23 transfer the proceedings to the other court, whichever is in the best  
24 interest of the ward. A copy of any order accepting a resignation or  
25 removing a guardian shall be sent to the court in which acceptance of  
26 appointment is filed.

27 Sec. 13.26.085. RESIGNATION OR REMOVAL PROCEEDINGS. (a) Any

28 person interested in the welfare of a ward, or the ward, if 14 or more  
29 years of age, may petition for removal of a guardian on the ground that

1 removal would be in the best interest of the ward. A guardian may  
2 petition for permission to resign. A petition for removal or for per-  
3 mission to resign may, but need not, include a request for appointment  
4 of a successor guardian.

5 (b) After notice and hearing on a petition for removal or for  
6 permission to resign, the court may terminate the guardianship and make  
7 any further order that may be appropriate.

8 (c) If, at any time in the proceeding, the court determines  
9 that the interests of the ward are, or may be, inadequately represented,  
10 it may appoint an attorney to represent the minor, giving consideration  
11 to the preference of the minor if the minor is 14 or more years of age.

12 ARTICLE 3. GUARDIANS OF INCAPACITATED PERSONS.

13 Sec. 13.26.095. TESTAMENTARY APPOINTMENT OF GUARDIAN FOR IN-  
14 CAPACITATED PERSON. (a) The parent of an incapacitated person may by  
15 will appoint a guardian of the incapacitated person. A testamentary  
16 appointment by a parent becomes effective when, after having given  
17 seven days prior written notice of his intention to do so to the  
18 incapacitated person and to the person having his care or to his nearest  
19 adult relative, the guardian files acceptance of appointment in the  
20 court in which the will is informally or formally probated, if prior  
21 thereto, both parents are dead or the surviving parent is adjudged  
22 incapacitated. If both parents are dead, an effective appointment by  
23 the parent who died later has priority unless it is terminated by the  
24 denial of probate in formal proceedings.

25 (b) The spouse of a married incapacitated person may by will  
26 appoint a guardian of the incapacitated person. The appointment becomes  
27 effective when, after having given seven days prior written notice of  
28 his intention to do so to the incapacitated person and to the person  
29 having his care or to his nearest adult relative, the guardian files

1 acceptance of appointment in the court in which the will is informally  
2 or formally probated. An effective appointment by a spouse has  
3 priority over an appointment by a parent unless it is terminated by  
4 the denial of probate in formal proceedings.

5 (c) This state shall recognize a testamentary appointment effected  
6 by filing acceptance under a will probated at the testator's domicile  
7 in another state.

8 (d) On the filing with the court in which the will was probated  
9 of written objection to the appointment by the person for whom a  
10 testamentary appointment of guardian has been made, the appointment is  
11 terminated. An objection does not prevent appointment by the court in  
12 a proper proceeding of the testamentary nominee or any other suitable  
13 person upon an adjudication of incapacity in proceedings under secs.  
14 100 - 155 of this chapter.

15 Sec. 13.26.100. VENUE. The venue for guardianship proceedings  
16 for an incapacitated person is in the place where the incapacitated  
17 person resides or is present. If the incapacitated person is admitted  
18 to an institution under order of a court of competent jurisdiction,  
19 venue is also in the judicial district in which that court sits.

20 Sec. 13.26.105. PROCEDURE FOR COURT APPOINTMENT OF A GUARDIAN  
21 OF AN INCAPACITATED PERSON. (a) The incapacitated person or any person  
22 interested in his welfare may petition for a finding of incapacity and  
23 appointment of a guardian.

24 (b) Upon the filing of a petition, the court shall set a date  
25 for hearing on the issues of incapacity and unless the allegedly  
26 incapacitated person has counsel of his own choice, it shall appoint  
27 an appropriate official or attorney to represent him in the proceed-  
28 ing, who shall have the powers and duties of a guardian ad litem. The  
29 person alleged to be incapacitated shall be examined by a physician

1 appointed by the court who shall submit his report in writing to the  
2 court and be interviewed by a visitor sent by the court. The visitor  
3 also shall interview the person seeking appointment as guardian, and  
4 visit the present place of abode of the person alleged to be incapa-  
5 citated and the place it is proposed that he will be detained or reside  
6 if the requested appointment is made and submit his report in writing  
7 to the court. The person alleged to be incapacitated is entitled to  
8 be present at the hearing in person, and to see or hear all evidence  
9 bearing upon his condition. He is entitled to be present by counsel,  
10 to present evidence, to cross-examine witnesses, including the court-  
11 appointed physician and the visitor, and to trial by jury. The  
12 issue may be determined at a closed hearing without a jury if the  
13 person alleged to be incapacitated or his counsel so requests.

14 Sec. 13.26.110. FINDINGS; ORDER OF APPOINTMENT. The court may  
15 appoint a guardian as requested if it is satisfied that the person for  
16 whom a guardian is sought is incapacitated and that the appointment is  
17 necessary or desirable as a means of providing continuing care and super-  
18 vision of the person of the incapacitated person. Alternatively, the  
19 court may dismiss the proceeding or enter any other appropriate order.

20 Sec. 13.26.115. ACCEPTANCE OF APPOINTMENT; CONSENT TO JURISDICTION.  
21 By accepting appointment, a guardian submits personally to the juris-  
22 diction of the court in any proceeding relating to the guardianship  
23 that may be instituted by any interested person. Notice of any  
24 proceeding shall be delivered to the guardian or mailed to him by  
25 ordinary mail at his address as listed in the court records and to his  
26 address as then known to the petitioner.

27 Sec. 13.26.120. TERMINATION OF GUARDIANSHIP FOR INCAPACITATED  
28 PERSON. The authority and responsibility of a guardian for an  
29 incapacitated person terminates upon the death of the guardian or ward,

1 the determination of incapacity of the guardian, or upon removal or  
2 resignation as provided in sec. 125 of this chapter. Testamentary  
3 appointment under an informally probated will terminates if the will is  
4 later denied probate in a formal proceeding.

5 Sec. 13.26.125. REMOVAL OR RESIGNATION OF GUARDIAN; TERMINATION OF  
6 INCAPACITY. (a) On petition of the ward or any person interested in his  
7 welfare, the court may remove a guardian and appoint a successor if in the  
8 best interests of the ward. On petition of the guardian, the court may  
9 accept his resignation and make any other order which may be appropriate.

10 (b) An order adjudicating incapacity may specify a minimum period,  
11 not exceeding one year, during which no petition for an adjudication  
12 that the ward is no longer incapacitated may be filed without special  
13 leave. Subject to this restriction, the ward or any person interested in  
14 his welfare may petition for an order that he is no longer incapacitated,  
15 and for removal or resignation of the guardian. A request for this order  
16 may be made by informal letter to the court or judge and any person who  
17 knowingly interferes with transmission of this kind of request to the  
18 court or judge may be adjudged guilty of contempt of court.

19 (c) Before removing a guardian, accepting the resignation of a guard-  
20 ian, or ordering that a ward's incapacity has terminated, the court, fol-  
21 lowing the same procedures to safeguard the rights of the ward as apply  
22 to a petition for appointment of a guardian, may send a visitor to the res-  
23 idence of the present guardian and to the place where the ward resides or  
24 is detained, to observe conditions and report in writing to the court.

25 Sec. 13.26.130. VISITOR IN GUARDIANSHIP PROCEEDING. A visitor  
26 is, with respect to guardianship proceedings, a person who is trained  
27 in law, nursing or social work and is an officer, employee or special  
28 appointee of the court with no personal interest in the proceedings.

29 Sec. 13.26.135. NOTICES IN GUARDIANSHIP PROCEEDINGS. (a) In a

1 proceeding for the appointment or removal of a guardian of an incapa-  
2 citated person other than the appointment of a temporary guardian or  
3 temporary suspension of a guardian, notice of hearing shall be given to  
4 each of the following:

5 (1) the ward or the person alleged to be incapacitated and  
6 his spouse, parents and adult children;

7 (2) any person who is serving as his guardian, conservator  
8 or who has his care and custody; and

9 (3) in case no other person is notified under (1) of this sub-  
10 section, at least one of his closest adult relatives, if any can be found.

11 (b) Notice shall be served personally on the alleged incapaci-  
12 tated person, and his spouse and parents if they can be found within  
13 the state. Notice to the spouse and parents, if they cannot be found  
14 within the state, and to all other persons except the alleged incapaci-  
15 tated person shall be given as provided in AS 13.06.110. Waiver of  
16 notice by the person alleged to be incapacitated is not effective unless  
17 he attends the hearing or his waiver of notice is confirmed in an  
18 interview with the visitor. Representation of the alleged incapacitated  
19 person by a guardian ad litem is not necessary.

20 Sec. 13.26.140. TEMPORARY GUARDIANS. If an incapacitated person  
21 has no guardian and an emergency exists, the court may exercise the  
22 power of a guardian pending notice and hearing. If an appointed guardian  
23 is not effectively performing his duties and the court further finds  
24 that the welfare of the incapacitated person requires immediate action,  
25 it may, with or without notice, appoint a temporary guardian for the  
26 incapacitated person for a specified period not to exceed six months.  
27 A temporary guardian is entitled to the care and custody of the ward  
28 and the authority of any permanent guardian previously appointed by the  
29 court is suspended so long as a temporary guardian has authority. A

1 temporary guardian may be removed at any time. A temporary guardian  
2 shall make any report the court requires. In other respects the  
3 provisions of this code concerning guardians apply to temporary guardians.

4 Sec. 13.26.145. WHO MAY BE GUARDIAN; PRIORITIES. (a) Any  
5 competent person or a suitable institution may be appointed guardian  
6 of an incapacitated person.

7 (b) Persons who are not disqualified have priority for appoint-  
8 ment as guardian in the following order:

9 (1) the spouse of the incapacitated person;

10 (2) an adult child of the incapacitated person;

11 (3) a parent of the incapacitated person, including a person  
12 nominated by will or other writing signed by a deceased parent;

13 (4) any relative of the incapacitated person with whom he has  
14 resided for more than six months before the filing of the petition;

15 (5) a person nominated by the person who is caring for him  
16 or paying benefits to him.

17 Sec. 13.26.150. GENERAL POWERS AND DUTIES OF GUARDIAN.

18 (a) A guardian of an incapacitated person has the same powers, rights  
19 and duties respecting his ward that a parent has respecting his un-  
20 emancipated minor child except that a guardian is not liable to third  
21 persons for acts of the ward solely by reason of the parental relation-  
22 ship. In particular, and without qualifying the foregoing, a guardian  
23 has the following powers and duties, except as modified by order of the  
24 court:

25 (1) to the extent that it is consistent with the terms of  
26 any order by a court of competent jurisdiction relating to detention  
27 or commitment of the ward, he is entitled to custody of the person  
28 of his ward and may establish the ward's place of abode inside or  
29 outside this state;

1 (2) if entitled to custody of his ward he shall make  
2 provision for the care, comfort and maintenance of his ward and,  
3 whenever appropriate, arrange for his training and education; without  
4 regard to custodial rights of the ward's person, he shall take  
5 reasonable care of his ward's clothing, furniture, vehicles and other  
6 personal effects and commence protective proceedings if other property  
7 of his ward is in need of protection;

8 (3) a guardian may give any consents or approvals that may  
9 be necessary to enable the ward to receive medical or other profes-  
10 sional care, counsel, treatment or service;

11 (4) if no conservator for the estate of the ward has been  
12 appointed, he may:

13 (A) institute proceedings to compel any person under a  
14 duty to support the ward or to pay sums for the welfare of the  
15 ward to perform his duty;

16 (B) receive money and tangible property deliverable  
17 to the ward and apply the money and property for support, care and  
18 education of the ward; but, he may not use funds from his ward's  
19 estate for room and board which he, his spouse, parent, or child  
20 have furnished the ward unless a charge for the service is  
21 approved by order of the court made upon notice to at least one  
22 of the next of kin of the incompetent ward, if notice is possible;  
23 he must exercise care to conserve any excess for the ward's needs;

24 (5) a guardian is required to report the condition of his  
25 ward and of the estate which has been subject to his possession or con-  
26 trol, as required by the court or court rule;

27 (6) if a conservator has been appointed, all of the ward's  
28 estate received by the guardian in excess of those funds expended to  
29 meet current expenses for support, care, and education of the ward

1 must be paid to the conservator for management as provided in this code,  
2 and the guardian must account to the conservator for funds expended.

3 (b) Any guardian of one for whom a conservator also has been  
4 appointed shall control the custody and care of the ward, and is en-  
5 titled to receive reasonable sums for his services and for room and  
6 board furnished to the ward as agreed upon between him and the con-  
7 servator, provided the amounts agreed upon are reasonable under the  
8 circumstances. The guardian may request the conservator to expend the  
9 ward's estate by payment to third persons or institutions for the ward's  
10 care and maintenance.

11 Sec. 13.26.155. PROCEEDINGS SUBSEQUENT TO APPOINTMENT; VENUE.

12 (a) The court where the ward resides has concurrent jurisdiction with  
13 the court which appointed the guardian, or in which acceptance of a  
14 testamentary appointment was filed, over resignation, removal, account-  
15 ing and other proceedings relating to the guardianship.

16 (b) If the court located where the ward resides is not the court  
17 in which acceptance of appointment is filed, the court in which pro-  
18 ceedings subsequent to appointment are commenced shall in all appropri-  
19 ate cases notify the other court, in this or another state, and after  
20 consultation with that court determine whether to retain jurisdiction  
21 or transfer the proceedings to the other court, whichever may be in the  
22 best interest of the ward. A copy of any order accepting a resignation  
23 or removing a guardian shall be sent to the court in which acceptance  
24 of appointment is filed.

25 ARTICLE 4. PROTECTION OF PROPERTY OF PERSONS UNDER  
26 DISABILITY AND MINORS.

27 Sec. 13.26.165. PROTECTIVE PROCEEDINGS. Upon petition and after  
28 notice and hearing in accordance with the provisions of secs. 165 - 315  
29 of this chapter, the court may appoint a conservator or make other

1 protective order for cause as follows:

2 (1) appointment of a conservator or other protective order  
3 may be made in relation to the estate and affairs of a minor if the  
4 court determines that a minor owns money or property that requires  
5 management or protection which cannot otherwise be provided, has or  
6 may have business affairs which may be jeopardized or prevented by his  
7 minority, or that funds are needed for his support and education and  
8 that protection is necessary or desirable to obtain or provide funds;

9 (2) appointment of a conservator or other protective order  
10 may be made in relation to the estate and affairs of a person if the  
11 court determines that

12 (A) the person is unable to manage his property and  
13 affairs effectively for reasons such as mental illness, mental  
14 deficiency, physical illness or disability, advanced age, chronic  
15 use of drugs, chronic intoxication, confinement, detention by a  
16 foreign power, or disappearance; and

17 (B) the person has property which will be wasted or  
18 dissipated unless proper management is provided, or that funds are  
19 needed for the support, care and welfare of the person or those  
20 entitled to be supported by him and that protection is necessary  
21 or desirable to obtain or provide funds.

22 Sec. 13.26.170. PROTECTIVE PROCEEDINGS; JURISDICTION OF AFFAIRS  
23 OF PROTECTED PERSONS. After the service of notice in a proceeding  
24 seeking the appointment of a conservator or other protective order and  
25 until termination of the proceeding, the court in which the petition  
26 is filed has:

27 (1) exclusive jurisdiction to determine the need for a con-  
28 servator or other protective order until the proceedings are terminated;

29 (2) exclusive jurisdiction to determine how the estate of the

1 protected person which is subject to the laws of this state shall be  
2 managed, expended or distributed to or for the use of the protected  
3 person or any of his dependents;

4 (3) concurrent jurisdiction to determine the validity of  
5 claims against the person or estate of the protected person and his  
6 title to any property or claim.

7 Sec. 13.26.175. VENUE. Venue for proceedings under secs. 165 -  
8 315 of this chapter is:

9 (1) in the place in this state where the person to be pro-  
10 tected resides whether or not a guardian has been appointed in another  
11 place; or

12 (2) if the person to be protected does not reside in this  
13 state, in any place where he has property.

14 Sec. 13.26.180. ORIGINAL PETITION FOR APPOINTMENT OR PROTECTIVE  
15 ORDER. (a) The person to be protected, any person who is interested  
16 in his estate, affairs or welfare including his parent, guardian, or  
17 custodian, or any person who would be adversely affected by lack of  
18 effective management of his property and affairs may petition for the  
19 appointment of a conservator or for other appropriate protective order.

20 (b) The petition shall set out to the extent known, the interest  
21 of the petitioner; the name, age, residence and address of the person to  
22 be protected; the name and address of his guardian, if any; the name and  
23 address of his nearest relative known to the petitioner; a general state-  
24 ment of his property with an estimate of the value thereof, including  
25 any compensation, insurance, pension or allowance to which he is  
26 entitled; and the reason why appointment of a conservator or other  
27 protective order is necessary. If the appointment of a conservator is  
28 requested, the petition also shall set out the name and address of the  
29 person whose appointment is sought and the basis of his priority for

1 appointment.

2 Sec. 13.26.185. NOTICE. (a) On a petition for appointment of a  
3 conservator or other protective order, the person to be protected and  
4 his spouse or, if none, his parents, must be served personally with  
5 notice of the proceeding at least 14 days before the date of hearing if  
6 they can be found within the state, or, if they cannot be found within  
7 the state, they must be given notice in accordance with AS 13.06.110.  
8 Waiver by the person to be protected is not effective unless he attends  
9 the hearing or, unless minority is the reason for the proceeding, waiver  
10 is confirmed in an interview with the visitor.

11 (b) Notice of a petition for appointment of a conservator or  
12 other initial protective order, and of any subsequent hearing, must be  
13 given to any person who has filed a request for notice under sec. 190  
14 of this chapter and to interested persons and other persons as the  
15 court may direct. Except as otherwise provided in (a) of this section,  
16 notice shall be given in accordance with AS 13.06.110.

17 Sec. 13.26.190. PROTECTIVE PROCEEDINGS; REQUEST FOR NOTICE:  
18 INTERESTED PERSON. Any interested person who desires to be notified  
19 before any order is made in a protective proceeding may file with the  
20 registrar a request for notice subsequent to payment of any fee  
21 required by statute or court rule. The clerk shall mail a copy of the  
22 demand to the conservator if one has been appointed. A request is not  
23 effective unless it contains a statement showing the interest of the  
24 person making it and his address, or that of his attorney, and is effec-  
25 tive only as to matters occurring after the filing. Any governmental  
26 agency paying or planning to pay benefits to the person to be protected  
27 is an interested person in protective proceedings.

28 Sec. 13.26.195. PROCEDURE CONCERNING HEARING AND ORDER ON  
29 ORIGINAL PETITION. (a) Upon receipt of a petition for appointment of

1 a conservator or other protective order because of minority, the court  
2 shall set a date for hearing on the matters alleged in the  
3 petition. If, at any time in the proceeding, the court determines that  
4 the interests of the minor are or may be inadequately represented, it  
5 may appoint an attorney to represent the minor, giving consideration  
6 to the choice of the minor if 14 years of age or older. A lawyer  
7 appointed by the court to represent a minor has the powers and duties  
8 of a guardian ad litem. After hearing, upon finding that a basis for  
9 the appointment of a conservator or other protective order has been  
10 established, the court shall make an appointment or other appropriate  
11 protective order.

12 (b) Upon receipt of a petition for appointment of a conservator  
13 or other protective order for reasons other than minority, the court shall  
14 set a date for hearing.

15 (c) Unless the person to be protected has counsel of his own  
16 choice, the court must appoint a lawyer to represent him who then has  
17 the powers and duties of a guardian ad litem. If the alleged  
18 disability is mental illness, mental deficiency, physical illness or  
19 disability, advanced age, chronic use of drugs, or chronic intoxica-  
20 tion, the court may direct that the person to be protected be examined  
21 by a physician designated by the court, preferably a physician who is  
22 not connected with any institution in which the person is a patient  
23 or is detained. The court may send a visitor to interview the person  
24 to be protected. The visitor may be a guardian ad litem or an officer  
25 or employee of the court.

26 Sec. 13.26.200. PERMISSIBLE COURT ORDERS. The court has the fol-  
27 lowing powers which may be exercised directly or through a conservator  
28 in respect to the estate and affairs of protected persons;

29 (1) while a petition for appointment of a conservator or

1 other protective order is pending and after preliminary hearing and  
2 without notice to others, the court has power to preserve and apply  
3 the property of the person to be protected as may be required for his  
4 benefit or the benefit of his dependents;

5 (2) after hearing and upon determining that a basis for an  
6 appointment or other protective order exists with respect to a minor  
7 without other disability, the court has all those powers over the estate  
8 and affairs of the minor which are or might be necessary for the best  
9 interests of the minor, his family and members of his household;

10 (3) after hearing and upon determining that a basis for an  
11 appointment or other protective order exists with respect to a person  
12 for reasons other than minority, the court has, for the benefit of the  
13 person and members of his household, all the powers over his estate and  
14 affairs which he could exercise if present and not under disability,  
15 except the power to make a will; these powers include, but are not  
16 limited to power to make gifts, to convey or release his contingent  
17 and expectant interests in property including marital property rights  
18 and any right of survivorship incident to joint tenancy or tenancy  
19 by the entirety, to exercise or release his powers as trustee, personal  
20 representative, custodian for minors, conservator, or donee of a power  
21 of appointment, to enter into contracts, to create revocable or ir-  
22 revocable trusts of property of the estate which may extend beyond  
23 his disability or life, to exercise options of the disabled person to  
24 purchase securities or other property, to exercise his rights to elect  
25 options and change beneficiaries under insurance and annuity policies  
26 and to surrender the policies for their cash value, to exercise his  
27 right to an elective share in the estate of his deceased spouse and to  
28 renounce any interest by testate or intestate succession or by inter  
29 vivos transfer;

1 (4) the court may exercise or direct the exercise of, its  
2 authority to exercise or release powers of appointment of which the pro-  
3 tected person is donee, to renounce interests, to make gifts in trust  
4 or otherwise exceeding 20 per cent of any year's income of the estate  
5 or to change beneficiaries under insurance and annuity policies, only  
6 if satisfied, after notice and hearing, that it is in the best interests  
7 of the protected person, and that he either is incapable of consenting  
8 or has consented to the proposed exercise of power;

9 (5) an order made pursuant to this section determining a  
10 basis for appointment of a conservator or other protective order exists,  
11 has no effect on the capacity of the protected person.

12 Sec. 13.26.205. PROTECTIVE ARRANGEMENTS AND SINGLE TRANSACTIONS  
13 AUTHORIZED. (a) If it is established in a proper proceeding that a  
14 basis exists as described in sec. 165 of this chapter for affecting  
15 the property and affairs of a person the court, without appointing a  
16 conservator, may authorize, direct or ratify any transaction necessary  
17 or desirable to achieve any security, service or care arrangement meet-  
18 ing the foreseeable needs of the protected person. Protective arrange-  
19 ments include, but are not limited to, payment, delivery, deposit or  
20 retention of funds or property, sale, mortgage, lease or other transfer  
21 of property, entry into an annuity contract, a contract for life care,  
22 a deposit contract, a contract for training and education, or addition  
23 to or establishment of a suitable trust.

24 (b) When it has been established in a proper proceeding that a  
25 basis exists as described in sec. 165 of this chapter for affecting the  
26 property and affairs of a person the court, without appointing a con-  
27 servator, may authorize, direct or ratify any contract, trust or other  
28 transaction relating to the protected person's financial affairs or  
29 involving his estate if the court determines that the transaction is

1 in the best interests of the protected person.

2 (c) Before approving a protective arrangement or other transaction  
3 under this section, the court shall consider the interests of creditors  
4 and dependents of the protected person and, in view of his disability,  
5 whether the protected person needs the continuing protection of a con-  
6 servator. The court may appoint a special conservator to assist in the  
7 accomplishment of any protective arrangement or other transaction  
8 authorized under this section who shall have the authority conferred  
9 by the order and serve until discharged by order after report to the  
10 court of all matters done pursuant to the order of appointment.

11 Sec. 13.26.210. WHO MAY BE APPOINTED CONSERVATOR; PRIORITIES.

12 (a) The court may appoint an individual, or a corporation with general  
13 power to serve as trustee, as conservator of the estate of a protected  
14 person. The following are entitled to consideration for appointment  
15 in the order listed:

16 (1) a conservator, guardian of property or other like fidu-  
17 ciary appointed or recognized by the appropriate court of any other  
18 jurisdiction in which the protected person resides;

19 (2) an individual or corporation nominated by the protected  
20 person if he is 14 or more years of age and has, in the opinion of  
21 the court, sufficient mental capacity to make an intelligent choice;

22 (3) the spouse of the protected person;

23 (4) an adult child of the protected person;

24 (5) a parent of the protected person, or a person nominated  
25 by the will of a deceased parent;

26 (6) any relative of the protected person with whom he has  
27 resided for more than six months prior to the filing of the petition;

28 (7) a person nominated by the person who is caring for him  
29 or paying benefits to him.

1 (b) A person in priorities (a)(1), (3), (4), (5), or (6) of  
2 this section may nominate in writing a person to serve in his stead.  
3 With respect to persons having equal priority, the court is to select  
4 the one who is best qualified of those willing to serve. The court,  
5 for good cause, may pass over a person having priority and appoint a  
6 person having less priority or no priority.

7 Sec. 13.26.215. BOND. The court may require a conservator to  
8 furnish a bond conditioned upon faithful discharge of all duties of  
9 the trust according to law, with sureties as it shall specify. Unless  
10 otherwise directed, the bond shall be in the amount of the aggregate  
11 capital value of the property of the estate in his control plus one  
12 year's estimated income minus the value of securities deposited under  
13 arrangements requiring an order of the court for their removal and the  
14 value of any land which the fiduciary, by express limitation of power,  
15 lacks power to sell or convey without court authorization. The court  
16 in lieu of sureties on a bond, may accept other security for the per-  
17 formance of the bond, including a pledge of securities or a mortgage  
18 of land.

19 Sec. 13.26.220. TERMS AND REQUIREMENTS OF BONDS. (a) The follow-  
20 ing requirements and provisions apply to any bond required under sec.  
21 215 of this chapter:

22 (1) unless otherwise provided by the terms of the approved  
23 bond, sureties are jointly and severally liable with the conservator  
24 and with each other;

25 (2) by executing an approved bond of a conservator, the  
26 surety consents to the jurisdiction of the court which issued letters  
27 to the primary obligor in any proceeding pertaining to the fiduciary  
28 duties of the conservator and naming the surety as a party defendant;  
29 notice of any proceeding shall be delivered to the surety or mailed to

1 him by registered or certified mail at his address as listed with the  
2 court where the bond is filed and to his address as then known to the  
3 petitioner;

4 (3) on petition of a successor conservator or any interested  
5 person, a proceeding may be initiated against a surety for breach of the  
6 obligation of the bond of the conservator;

7 (4) the bond of the conservator is not void after the first  
8 recovery but may be proceeded against from time to time until the whole  
9 penalty is exhausted.

10 (b) No proceeding may be commenced against the surety on any  
11 matter as to which an action or proceeding against the primary obligor  
12 is barred by adjudication or limitation.

13 Sec. 13.26.225. ACCEPTANCE OF APPOINTMENT; CONSENT TO JURISDIC-  
14 TION. By accepting appointment, a conservator submits personally to  
15 the jurisdiction of the court in any proceeding relating to the estate  
16 that may be instituted by any interested person. Notice of any pro-  
17 ceeding shall be delivered to the conservator, or mailed to him by  
18 registered or certified mail at his address as listed in the petition  
19 for appointment or as thereafter reported to the court and to his  
20 address as then known to the petitioner.

21 Sec. 13.26.230. COMPENSATION AND EXPENSES. If not otherwise  
22 compensated for services rendered, any visitor, lawyer, physician,  
23 conservator or special conservator appointed in a protective proceeding  
24 is entitled to reasonable compensation from the estate.

25 Sec. 13.26.235. DEATH, RESIGNATION OR REMOVAL OF CONSERVATOR. The  
26 court may remove a conservator for good cause, upon notice and hearing,  
27 or accept the resignation of a conservator. After his death, resigna-  
28 tion or removal, the court may appoint another conservator. A conser-  
29 vator so appointed succeeds to the title and powers of his predecessor.

1           Sec. 13.26.240. PETITIONS FOR ORDERS SUBSEQUENT TO APPOINTMENT.

2           (a) Any person interested in the welfare of a person for whom a con-  
3           servator has been appointed may file a petition in the appointing  
4           court for an order

5                   (1) requiring bond or security or additional bond or secur-  
6           ity, or reducing bond,

7                   (2) requiring an accounting for the administration of the trust ,

8                   (3) directing distribution,

9                   (4) removing the conservator and appointing a temporary or  
10          successor conservator, or

11                   (5) granting other appropriate relief.

12          (b) A conservator may petition the appointing court for instruc-  
13          tions concerning his fiduciary responsibility.

14          (c) Upon notice and hearing, the court may give appropriate in-  
15          structions or make any appropriate order.

16          Sec. 13.26.245. GENERAL DUTY OF CONSERVATOR. In the exercise of  
17          his powers, a conservator is to act as fiduciary and shall observe the  
18          standards of care applicable to trustees as described by AS 13.36.075.

19          Sec. 13.26.250. INVENTORY AND RECORDS. Within 90 days after his  
20          appointment, every conservator shall prepare and file with the appoint-  
21          ing court a complete inventory of the estate of the protected person  
22          together with his oath or affirmation that it is complete and accurate  
23          so far as he is informed. The conservator shall provide a copy thereof  
24          to the protected person if he can be located, has attained the age of  
25          14 years, and has sufficient mental capacity to understand these mat-  
26          ters, and to any parent or guardian with whom the protected person  
27          resides. The conservator shall keep suitable records of his administra-  
28          tion and exhibit the same on request of any interested person.

29          Sec. 13.26.255. ACCOUNTS. Every conservator must account to the

1 court for his administration of the trust upon his resignation or  
2 removal, and at other times as the court may direct. On termination  
3 of the protected person's minority or disability, a conservator may  
4 account to the court, or he may account to the former protected person  
5 or his personal representative. Subject to appeal or vacation within  
6 the time permitted, an order, made upon notice and hearing, allowing  
7 an intermediate account of a conservator, adjudicates as to his liabil-  
8 ities concerning the matters considered in connection therewith; and  
9 an order, made upon notice and hearing; allowing a final account  
10 adjudicates as to all previously unsettled liabilities of the conserva-  
11 tor to the protected person or his successors relating to the conserva-  
12 torship. In connection with any account, the court may require a  
13 conservator to submit to a physical check of the estate in his control,  
14 to be made in any manner the court may specify.

15 Sec. 13.26.260. CONSERVATORS; TITLE BY APPOINTMENT. The appoint-  
16 ment of a conservator vests in him title as trustee to all property  
17 of the protected person, presently held or thereafter acquired, includ-  
18 ing title to any property theretofore held for the protected person by  
19 custodians or attorneys in fact. The appointment of a conservator is  
20 not a transfer or alienation within the meaning of general provisions of  
21 any federal or state statute or regulation, insurance policy, pension  
22 plan, contract, will or trust instrument, imposing restrictions upon or  
23 penalties for transfer or alienation by the protected person of his rights  
24 or interest, but this section does not restrict the ability of persons  
25 to make specific provision by contract or dispositive instrument relat-  
26 ing to a conservator.

27 Sec. 13.26.265. RECORDING OF CONSERVATOR'S LETTERS. Letters of  
28 conservatorship are evidence of transfer of all assets of a protected  
29 person to the conservator. An order terminating a conservatorship is

1 evidence of transfer of all assets of the estate from the conservator  
2 to the protected person, or his successors. Subject to the requirements  
3 of general statutes governing the filing or recordation of documents of  
4 title to land or other property, letters of conservatorship, and orders  
5 terminating conservatorships, may be filed or recorded to give record  
6 notice of title as between the conservator and the protected person.

7 Sec. 13.26.270. SALE, ENCUMBRANCE OR TRANSACTION INVOLVING CON-  
8 FFLICT OF INTEREST; VOIDABLE; EXCEPTIONS. Any sale or encumbrance to a  
9 conservator, his spouse, agent or attorney, or any corporation or trust  
10 in which he has a substantial beneficial interest, or any transaction  
11 which is affected by a substantial conflict of interest is voidable  
12 unless the transaction is approved by the court after notice to inter-  
13 ested persons and others as directed by the court.

14 Sec. 13.26.275. PERSONS DEALING WITH CONSERVATORS; PROTECTION. A  
15 person who in good faith either assists a conservator or deals with him  
16 for value in any transaction other than those requiring a court order  
17 as provided in sec. 200 of this chapter, is protected as if the conser-  
18 vator properly exercised the power. The fact that a person knowingly  
19 deals with a conservator does not alone require the person to inquire  
20 into the existence of a power or the propriety of its exercise, except  
21 that restrictions on powers of conservators which are endorsed on letters  
22 as provided in sec. 290 of this chapter are effective as to third persons  
23 A person is not bound to see to the proper application of estate assets  
24 paid or delivered to a conservator. The protection here expressed ex-  
25 tends to instances in which some procedural irregularity or jurisdictional  
26 defect occurred in proceedings leading to the issuance of letters. The  
27 protection here expressed is not by substitution for that provided by  
28 comparable provisions of the laws relating to commercial transactions and  
29 laws simplifying transfers of securities by fiduciaries.

1           Sec. 13.26.280. POWERS OF CONSERVATOR IN ADMINISTRATION. (a) A  
2 conservator has all of the powers conferred herein and any additional  
3 powers conferred by law on trustees in this state. In addition, a  
4 conservator of the estate of an unmarried minor under the age of  
5 18 years, as to whom no one has parental rights, has the duties and  
6 powers of a guardian of a minor described in sec. 70 of this chapter  
7 until the minor attains the age of 18 or marries, but the parental  
8 rights so conferred on a conservator do not preclude appointment of a  
9 guardian as provided by secs. 30 - 85 of this chapter.

10           (b) A conservator has power without court authorization or con-  
11 firmation, to invest and reinvest funds of the estate as would a trus-  
12 tee.

13           (c) A conservator, acting reasonably in efforts to accomplish  
14 the purpose for which he was appointed, may act without court authori-  
15 zation or confirmation, to

16           (1) collect, hold and retain assets of the estate including  
17 land in another state, until, in his judgment, disposition of the  
18 assets should be made, and the assets may be retained even though they  
19 include an asset in which he is personally interested;

20           (2) receive additions to the estate;

21           (3) continue or participate in the operation of any business  
22 or other enterprise;

23           (4) acquire an undivided interest in an estate asset in  
24 which the conservator, in any fiduciary capacity, holds an undivided  
25 interest;

26           (5) invest and reinvest estate assets in accordance with  
27 (b) of this section;

28           (6) deposit estate funds in a bank including a bank operated  
29 by the conservator;

1 (7) acquire or dispose of an estate asset including land in  
2 another state for cash or on credit, at public or private sale; and  
3 to manage, develop, improve, exchange, partition, change the character  
4 of, or abandon an estate asset for a term within or extending beyond  
5 the term of the conservatorship in connection with the exercise of any  
6 power vested in the conservator;

7 (8) make ordinary or extraordinary repairs or alterations in  
8 buildings or other structures, to demolish any improvements, to raze  
9 existing or erect new party walls or buildings;

10 (9) subdivide, develop, or dedicate land to public use; to  
11 make or obtain the vacation of plats and adjust boundaries; to adjust  
12 differences in valuation on exchange or to partition by giving or re-  
13 ceiving considerations; and to dedicate easements to public use with-  
14 out consideration;

15 (10) enter for any purpose into a lease as lessor or lessee  
16 with or without option to purchase or renew for a term within or extend-  
17 ing beyond the term of the conservatorship;

18 (11) enter into a lease or arrangement for exploration and  
19 removal of minerals or other natural resources or enter into a pooling  
20 or unitilization agreement;

21 (12) grant an option involving disposition of an estate  
22 asset, to take an option for the acquisition of any asset;

23 (13) vote a security, in person or by general or limited  
24 proxy;

25 (14) pay calls, assessments, and any other sums chargeable  
26 or accruing against or on account of securities;

27 (15) sell or exercise stock subscription or conversion  
28 rights; to consent, directly or through a committee or other agent, to  
29 the reorganization, consolidation, merger, dissolution, or liquidation

1 of a corporation or other business enterprise;

2 (16) hold a security in the name of a nominee or in other  
3 form without disclosure of the conservatorship so that title to the  
4 security may pass by delivery, but the conservator is liable for any  
5 act of the nominee in connection with the stock so held;

6 (17) insure the assets of the estate against damage or loss,  
7 and the conservator against liability with respect to third persons;

8 (18) borrow money to be repaid from estate assets or other-  
9 wise; to advance money for the protection of the estate or the pro-  
10 tected person, and for all expenses, losses, and liability sustained  
11 in the administration of the estate or because of the holding or owner-  
12 ship of any estate assets and the conservator has a lien on the estate  
13 as against the protected person for advances so made;

14 (19) pay or contest any claim; to settle a claim by or  
15 against the estate or the protected person by compromise, arbitration,  
16 or otherwise; and to release, in whole or in part, any claim belonging  
17 to the estate to the extent that the claim is uncollectible;

18 (20) pay taxes, assessments, compensation of the conservator,  
19 and other expenses incurred in the collection, care, administration and  
20 protection of the estate;

21 (21) allocate items of income or expense to either estate  
22 income or principal, as provided by law, including creation of reserves  
23 out of income for depreciation, obsolescence, or amortization, or for  
24 depletion in mineral or timber properties;

25 (22) pay any sum distributable to a protected person or a  
26 dependent of the person who is a minor or incompetent, without liability  
27 to the conservator, by paying the sum to the distributee or by paying  
28 the sum for the use of the distributee either to his guardian or if  
29 none, to a relative or other person with custody of his person;

1  
2 (23) employ persons, including attorneys, auditors, invest-  
3 ment advisors, or agents, even though they are associated with the con-  
4 servator to advise or assist him in the performance of his administra-  
5 tive duties; to act upon their recommendation without independent in-  
6 vestigation; and instead of acting personally, to employ one or more  
7 agents to perform any act of administration, whether or not discretion-  
8 ary;

9 (24) prosecute or defend actions, claims or proceedings in  
10 any jurisdiction for the protection of estate assets and of the conser-  
11 vator in the performance of his duties; and

12 (25) execute and deliver all instruments which will accom-  
13 plish or facilitate the exercise of the powers vested in the conserva-  
14 tor.

15 Sec. 13.26.285. DISTRIBUTIVE DUTIES AND POWERS OF CONSERVATOR.

16 (a) A conservator may expend or distribute income or principal of the  
17 estate without court authorization or confirmation for the support,  
18 education, care or benefit of the protected person and his dependents  
19 in accordance with the following principles:

20 (1) the conservator is to consider recommendations relating  
21 to the appropriate standard of support, education and benefit for the  
22 protected person made by a parent or guardian, if any; he may not be  
23 surcharged for sums paid to persons or organizations actually furnishing  
24 support, education or care to the protected person pursuant to the  
25 recommendations of a parent or guardian of the protected person unless  
26 he knows that the parent or guardian is deriving personal financial  
27 benefit therefrom, including relief from any personal duty of support,  
28 or unless the recommendations are clearly not in the best interests  
29 of the protected person;

(2) the conservator is to expend or distribute sums reason-

1 ably necessary for the support, education, care or benefit of the  
2 protected person with due regard to

3 (A) the size of the estate, the probable duration of  
4 the conservatorship and the likelihood that the protected person,  
5 at some future time, may be fully able to manage his affairs  
6 and the estate which has been conserved for him;

7 (B) the accustomed standard of living of the protected  
8 person and members of his household;

9 (C) other funds or sources used for the support of the  
10 protected person;

11 (3) the conservator may expend funds of the estate for the  
12 support of persons legally dependent on the protected person and others  
13 who are members of the protected person's household who are unable to  
14 support themselves and who are in need of support;

15 (4) funds expended under this subsection may be paid by the  
16 conservator to any person, including the protected person to reimburse  
17 for expenditures which the conservator might have made, or in advance  
18 for services to be rendered to the protected person when it is reason-  
19 able to expect that they will be performed and where advance payments  
20 are customary or reasonably necessary under the circumstances.

21 (b) If the estate is ample to provide for the purposes implicit  
22 in the distributions authorized by the preceding subsections, a conser-  
23 vator for a protected person other than a minor has power to make gifts  
24 to charity and other objects as the protected person might have been  
25 expected to make, in amounts which do not exceed in total for any year  
26 20 percent of the income from the estate.

27 (c) When a minor who has not been adjudged disabled under sec.  
28 165(2) of this chapter attains his majority, his conservator, after  
29 meeting all prior claims and expenses of administration, shall pay over

1 and distribute all funds and properties to the former protected person  
2 as soon as possible.

3 (d) When the conservator is satisfied that a protected person's  
4 disability (other than minority) has ceased, the conservator, after  
5 meeting all prior claims and expenses of administration, shall pay over  
6 and distribute all funds and properties to the former protected person  
7 as soon as possible.

8 (e) If a protected person dies, the conservator shall deliver to  
9 the court for safekeeping any will of the deceased protected person  
10 which may have come into his possession, inform the executor or a  
11 beneficiary named therein that he has done so, and retain the estate  
12 for delivery to a duly appointed personal representative of the decedent  
13 or other persons entitled thereto. If after 40 days from the death  
14 of the protected person no other person has been appointed personal  
15 representative and no application or petition for appointment is before  
16 the court, the conservator may apply to exercise the powers and duties  
17 of a personal representative so that he may proceed to administer and  
18 distribute the decedent's estate without additional or further appoint-  
19 ment. Upon application for an order granting the powers of a personal  
20 representative to a conservator, after notice to any person demanding  
21 notice under AS 13.16.070 and to any person nominated executor in any  
22 will of which the applicant is aware, the court may order the conferral  
23 of the power upon determining that there is no objection, and endorse  
24 the letters of the conservator to note that the formerly protected per-  
25 son is deceased and that the conservator has acquired all of the powers  
26 and duties of a personal representative. The making and entry of an  
27 order under this section shall have the effect of an order of appoint-  
28 ment of a personal representative as provided in AS 13.16.115 and AS  
29 13.16.245 - AS 13.16.655 except that estate in the name of the conser-

1 vator, after administration, may be distributed to the decedent's  
2 successors without prior re-transfer to the conservator as personal  
3 representative.

4 Sec. 13.26.290. ENLARGEMENT OR LIMITATION OF POWERS OF CONSERVATOR.  
5 Subject to the restrictions in sec. 200(4) of this chapter, the court  
6 may confer on a conservator at the time of appointment or later, in ad-  
7 dition to the powers conferred on him by secs. 280 and 285 of this  
8 chapter, any power which the court itself could exercise under secs.  
9 200(2) and (3) of this chapter. The court may, at the time of appointment  
10 or later, limit the powers of a conservator otherwise conferred by secs.  
11 280 and 285 of this chapter or previously conferred by the court, and  
12 may at any time relieve him of any limitation. If the court limits any  
13 power conferred on the conservator by secs. 280 and 285 of this chapter  
14 the limitation shall be endorsed upon his letters of appointment.

15 Sec. 13.26.295. PRESERVATION OF ESTATE PLAN. In investing the  
16 estate, and in selecting assets of the estate for distribution under  
17 sec. 285(a) and (b) of this chapter, in utilizing powers of revocation  
18 or withdrawal available for the support of the protected person, and  
19 exercisable by the conservator or the court, the conservator and the  
20 court should take into account any known estate plan of the protected  
21 person, including his will, any revocable trust of which he is settlor,  
22 and any contract, transfer or joint ownership arrangement with pro-  
23 visions for payment or transfer of benefits or interests at his death  
24 to another or others which he may have originated. The conservator  
25 may examine the will of the protected person.

26 Sec. 13.26.300. CLAIMS AGAINST PROTECTED PERSON; ENFORCEMENT.  
27 (a) A conservator must pay from the estate all just claims against  
28 the estate and against the protected person arising before or after  
29 the conservatorship upon their presentation and allowance. A claim

1 may be presented by either of the following methods:

2 (1) the claimant may deliver or mail to the conservator a  
3 written statement of the claim indicating its basis, the name and  
4 address of the claimant and the amount claimed;

5 (2) the claimant may file a written statement of the claim,  
6 in the form prescribed by rule, with the clerk of the court and deliver  
7 or mail a copy of the statement to the conservator. A presented claim  
8 is allowed if it is not disallowed by written statement mailed by the  
9 conservator to the claimant within 60 days after its presentation. The  
10 presentation of a claim tolls any statute of limitations relating to  
11 the claim until 30 days after its disallowance.

12 (b) A claimant whose claim has not been paid may petition the  
13 court for determination of his claim at any time before it is barred  
14 by the applicable statute of limitation, and, upon due proof, procure  
15 an order for its allowance and payment from the estate. If a proceed-  
16 ing is pending against a protected person at the time of appointment of  
17 a conservator or is initiated against the protected person thereafter,  
18 the moving party must give notice of the proceeding in the conservator  
19 if the outcome is to constitute a claim against the estate.

20 (c) If it appears that the estate in a conservatorship is likely  
21 to be exhausted before all existing claims are paid, preference is to  
22 be given to prior claims for the care, maintenance and education of the  
23 protected person or his dependents and existing claims for expenses of  
24 administration.

25 Sec. 13.26.305. INDIVIDUAL LIABILITY OF CONSERVATOR. (a) Unless  
26 otherwise provided in the contract, a conservator is not individually  
27 liable on a contract properly entered into in his fiduciary capacity  
28 in the course of administration of the estate unless he fails to reveal  
29 his representative capacity and identify the estate in the contract.

1 competent and not disabled. If a conservator thereafter is appointed  
2 for the principal, the attorney in fact or agent, during the contin-  
3 uance of the appointment, shall account to the conservator rather than  
4 the principal. The conservator has the same power the principal would  
5 have had if he were not disabled or the principal would have had if he  
6 were not protected or the power of attorney or agency.

7 Sec. 13.26.330. OTHER POWERS OF ATTORNEY NOT REVOKED UNTIL NOTICE  
8 OF DEATH OR DISABILITY. (a) The death, disability or incompetence of  
9 any principal who has executed a power of attorney in writing other than  
10 a power as described by sec. 325 of this chapter, does not revoke or  
11 terminate the agency as to the attorney in fact, agent or other person,  
12 who, without actual knowledge of the death, disability, or incompetence  
13 of the principal, acts in good faith under the power of attorney or  
14 agency. Any action so taken, unless otherwise invalid or unenforceable,  
15 binds the principal and his heirs, devisees, and personal representa-  
16 tives.

17 (b) An affidavit executed by the attorney in fact or agent stat-  
18 ing that he did not have, at the time of doing an act pursuant to the  
19 power of attorney, actual knowledge of the revocation or termination of  
20 the power of attorney by death, disability or incompetence, is, in the  
21 absence of fraud, conclusive proof of the nonrevocation or nontermina-  
22 tion of the power at that time. If the exercise of the power requires  
23 execution and delivery of any instrument which is recordable, the  
24 affidavit when authenticated for record is likewise recordable.

25 (c) This section shall not be construed to alter or affect any  
26 provision for revocation or termination contained in the power of  
27 attorney.

28 CHAPTER 31. NON-PROBATE TRANSFERS.  
29 ARTICLE 1. MULTIPLE-PARTY ACCOUNTS.

1           Sec. 13.31.005. DEFINITIONS. In secs. 5-60 of this chapter,  
2 unless context otherwise requires:

3           (1) "account" means a contract of deposit of funds between  
4 a depositor and a financial institution, and includes a checking  
5 account, savings account, certificate of deposit, share account and  
6 other like arrangement;

7           (2) "beneficiary" means a person named in a trust account as  
8 one for whom a party to the account is named as trustee;

9           (3) "financial institution" means any organization authorized  
10 to do business under state or federal laws relating to financial insti-  
11 tutions, including, without limitation, banks and trust companies,  
12 savings banks, building and loan associations, savings and loan com-  
13 panies or associations, and credit unions;

14           (4) "joint account" means an account payable on request to  
15 one or more of two or more parties whether or not mention is made of  
16 any right of survivorship;

17           (5) a "multiple-party account" is any of the following types  
18 of account: a joint account, a P.O.D. account, or a trust account. It  
19 does not include accounts established for deposit of funds of a partner-  
20 ship, joint venture, or other association for business purposes, or  
21 accounts controlled by one or more persons as the duly authorized agent  
22 or trustee for a corporation, unincorporated association, charitable  
23 or civic organization or a regular fiduciary or trust account where the  
24 relationship is established other than by deposit agreement;

25           (6) "net contribution" of a party to a joint account as of  
26 any given time is the sum of all deposits thereto made by or for him,  
27 less all withdrawals made by or for him which have not been paid to  
28 or applied to the use of any other party, plus a pro rata share of any  
29 interest or dividends included in the current balance; the term in-

1 (b) The conservator is individually liable for obligations arising from ownership or control of property of the estate or for torts  
2 committed in the course of administration of the estate only if he is  
3 personally at fault.  
4

5 (c) Claims based on contracts entered into by a conservator in  
6 his fiduciary capacity, on obligations arising from ownership or control  
7 of the estate, or on torts committed in the course of administration of  
8 the estate may be asserted against the estate by proceeding against the  
9 conservator in his fiduciary capacity, whether or not the conservator  
10 is individually liable therefor.

11 (d) Any question of liability between the estate and the conser-  
12 vator individually may be determined in a proceeding for accounting,  
13 surcharge, or indemnification, or other appropriate proceeding or  
14 action.

15 Sec. 13.26.310. TERMINATION OF PROCEEDING. The protected person,  
16 his personal representative, the conservator or any other interested  
17 person may petition the court to terminate the conservatorship. A  
18 protected person seeking termination is entitled to the same rights and  
19 procedures as in an original proceeding for a protective order. The  
20 court, upon determining after notice and hearing that the minority  
21 or disability of the protected person has ceased, may terminate the  
22 conservatorship. Upon termination, title to assets of the estate  
23 passes to the former protected person or to his successors subject to  
24 provision in the order for expenses of administration or to conveyances  
25 from the conservator to the former protected persons or his successors,  
26 to evidence the transfer.

27 Sec. 13.26.315. PAYMENT OF DEBT AND DELIVERY OF PROPERTY TO  
28 FOREIGN CONSERVATOR WITHOUT LOCAL PROCEEDINGS. (a) Any person indebted  
29 to a protected person, or having possession of property or of an instru-

1 ment evidencing a debt, stock, or chose in action belonging to a  
2 protected person may pay or deliver to a conservator, guardian of the  
3 estate or other like fiduciary appointed by a court of the state or  
4 residence of the protected person, upon being presented with proof of  
5 his appointment and an affidavit made by him or on his behalf stating:

6 (1) that no protective proceeding relating to the protected  
7 person is pending in this state; and

8 (2) that the foreign conservator is entitled to payment or  
9 to receive delivery.

10 (b) If the person to whom the affidavit is presented is not aware of  
11 any protective proceeding pending in this state, payment or delivery in  
12 response to the demand and affidavit discharges the debtor or possessor.

13 ARTICLE 5. POWERS OF ATTORNEY.

14 Sec. 13.26.325. WHEN POWER OF ATTORNEY NOT AFFECTED BY DIS-  
15 ABILITY. Whenever a principal designates another his attorney in fact  
16 or agent by a power of attorney in writing and the writing contains  
17 the words "This power of attorney shall not be affected by disability  
18 of the principal," or "This power of attorney shall become effective  
19 upon the disability of the principal," or similar words showing the  
20 intent of the principal that the authority conferred shall be exercis-  
21 able notwithstanding his disability, the authority of the attorney in  
22 fact or agent is exercisable by him as provided in the power on behalf  
23 of the principal notwithstanding later disability or incapacity of the  
24 principal at law or later uncertainty as to whether the principal  
25 is dead or alive. All acts done by the attorney in fact or agent pur-  
26 suant to the power during any period of disability or incompetence or  
27 uncertainty as to whether the principal is dead or alive have the same  
28 effect and inure to the benefit of and bind the principal or his heirs,  
29 devisees and personal representative as if the principal were alive,

1 cludes, in addition, any proceeds of deposit life insurance added to  
2 the account by reason of the death of the party whose net contribution  
3 is in question;

4 (7) "party" means a person who, by the terms of the account,  
5 has a present right, subject to request, to payment from a multiple-  
6 party account; a P.O.D. payee or beneficiary of a trust account is a  
7 party only after the account becomes payable to him by reason of his  
8 surviving the original payee or trustee; unless the context otherwise  
9 requires, it includes a guardian, conservator, personal representative,  
10 or assignee, including an attaching creditor, of a party; it also in-  
11 cludes a person identified as a trustee of an account for another  
12 whether or not a beneficiary is named, but it does not include any  
13 named beneficiary unless he has a present right of withdrawal;

14 (8) "payment" of sums on deposit includes withdrawal, pay-  
15 ment on check or other directive of a party, and any pledge of sums on  
16 deposit by a party and any set-off, or reduction or other disposition  
17 of all or part of an account pursuant to a pledge;

18 (9) "proof of death" includes a death certificate or record  
19 or report which is prima facie proof of death under AS 13.06.035;

20 (10) "P.O.D. account" means an account payable on request to  
21 one person during lifetime and on his death to one or more P.O.D.  
22 payees, or to one or more persons during their lifetimes and on the  
23 death of all of them to one or more P.O.D. payees;

24 (11) "P.O.D. payee" means a person designated on a P.O.D.  
25 account as one to whom the account is payable on request after the  
26 death of one or more persons;

27 (12) "request" means a proper request for withdrawal, or a  
28 check or order for payment, which complies with all conditions of the  
29 account, including special requirements concerning necessary signatures

1 and regulations of the financial institution; but if the financial  
2 institution conditions withdrawal or payment on advance notice, for  
3 purposes of this part the request for withdrawal or payment is treated  
4 as immediately effective and a notice of intent to withdraw is treated  
5 as a request for withdrawal;

6 (13) "sums on deposit" means the balance payable on a  
7 multiple-party account including interest, dividends, and in addition  
8 any deposit life insurance proceeds added to the account by reason of  
9 the death of a party;

10 (14) "trust account" means an account in the name of one or  
11 more parties as trustee for one or more beneficiaries where the rela-  
12 tionship is established by the form of the account and the deposit  
13 agreement with the financial institution and there is no subject of the  
14 trust other than the sums on deposit in the account; it is not essen-  
15 tial that payment to the beneficiary be mentioned in the deposit agree-  
16 ment; a trust account does not include a regular trust account under a  
17 testamentary trust or a trust agreement which has significance apart  
18 from the account, or a fiduciary account arising from a fiduciary rela-  
19 tion such as attorney-client;

20 (15) "withdrawal" includes payment to a third person pur-  
21 suant to check or other directive of a party.

22 Sec. 13.31.010. OWNERSHIP AS BETWEEN PARTIES AND OTHERS; PRO-  
23 TECTION OF FINANCIAL INSTITUTIONS. The provisions of secs. 15 - 25 of  
24 this chapter concerning beneficial ownership as between parties, or  
25 as between parties and P.O.D. payees or beneficiaries of multiple-  
26 party accounts, are relevant only to controversies between these persons  
27 and their creditors and other successors, and have no bearing on the  
28 power of withdrawal of these persons as determined by the terms of  
29 account contracts. The provisions of secs. 40 - 60 of this chapter

1 govern the liability of financial institutions who make payments  
2 pursuant thereto, and their set-off rights.

3 Sec. 13.31.015. OWNERSHIP DURING LIFETIME. (a) A joint account  
4 belongs, during the lifetime of all parties, to the parties in propor-  
5 tion to the net contributions by each to the sums on deposit, unless  
6 there is clear and convincing evidence of a different intent.

7 (b) A P.O.D. account belongs to the original payee during his  
8 lifetime and not to the P.O.D. payee or payees; if two or more parties  
9 are named as original payees, during their lifetimes rights as between  
10 them are governed by (a) of this section.

11 (c) Unless a contrary intent is manifested by the terms of the  
12 account or the deposit agreement or there is other clear and convincing  
13 evidence of an irrevocable trust, a trust account belongs beneficially  
14 to the trustee during his lifetime, and if two or more parties are  
15 named as trustee on the account, during their lifetimes beneficial  
16 rights as between them are governed by (a) of this section. If there  
17 is an irrevocable trust, the account belongs beneficially to the  
18 beneficiary.

19 Sec. 13.31.020. RIGHT OF SURVIVORSHIP. (a) Sums remaining on  
20 deposit at the death of a party to a joint account belong to the sur-  
21 viving party or parties as against the estate of the decedent unless  
22 there is clear and convincing evidence of a different intention at the  
23 time the account is created. If there are two or more surviving par-  
24 ties, their respective ownerships during lifetime shall be in propor-  
25 tion to their previous ownership interests under sec. 15 of this  
26 chapter augmented by an equal share for each survivor of any interest  
27 the decedent may have owned in the account immediately before his  
28 death; and the right of survivorship continues between the surviving  
29 parties.

1 (b) If the account is a P.O.D. account, on death of the original  
2 payee or of the survivor of two or more original payees, any sums re-  
3 maining on deposit belong to the P.O.D. payee or payees if surviving,  
4 or to the survivor of them if one or more die before the original  
5 payee; if two or more P.O.D. payees survive, there is no right of sur-  
6 vivorship in event of death of a P.O.D. payee thereafter unless the  
7 terms of the account or deposit agreement expressly provide for sur-  
8 vivorship between them.

9 (c) If the account is a trust account, on death of the trustee  
10 or the survivor of two or more trustees, any sums remaining on deposit  
11 belong to the person or persons named as beneficiaries, if surviving,  
12 or to the survivor of them if one or more die before the trustee, unless  
13 there is clear and convincing evidence of a contrary intent; if two  
14 or more beneficiaries survive, there is no right of survivorship in  
15 event of death of any beneficiary thereafter unless the terms of the  
16 account or deposit agreement expressly provide for survivorship between  
17 them.

18 (d) In other cases, the death of any party to a multiple-party  
19 account has no effect on beneficial ownership of the account other than  
20 to transfer the rights of the decedent as part of his estate.

21 (e) A right of survivorship arising from the express terms of the  
22 account or under this section, a beneficiary designation in a trust  
23 account, or a P.O.D. payee designation, cannot be changed by will.

24 Sec. 13.31.025. EFFECT OF WRITTEN NOTICE TO FINANCIAL INSTITUTION.  
25 The provisions of sec. 20 of this chapter as to rights of survivorship  
26 are determined by the form of the account at the death of a party.  
27 This form may be altered by written order given by a party to the finan-  
28 cial institution to change the form of the account or to stop or vary  
29 payment under the terms of the account. The order or request must be

1 signed by a party, received by the financial institution during the  
2 party's lifetime, and not countermanded by other written order of the  
3 same party during his lifetime.

4 Sec. 13.31.030. ACCOUNTS AND TRANSFERS NONTESTAMENTARY. Any  
5 transfers resulting from the application of sec. 20 of this chapter  
6 are effective by reason of the account contracts involved and this  
7 statute and are not to be considered as testamentary or subject to  
8 AS 13.06.005 - AS 13.21.075.

9 Sec. 13.31.035. RIGHTS OF CREDITORS. No multiple-party account  
10 will be effective against an estate of a deceased party to transfer  
11 to a survivor sums needed to pay debts, taxes, and expenses of admin-  
12 istration, including statutory allowances to the surviving spouse,  
13 minor children and dependent children, if other assets of the estate  
14 are insufficient. A surviving party, P.O.D. payee, or beneficiary  
15 who receives payment from a multiple-party account after the death of  
16 a deceased party shall be liable to account to his personal representa-  
17 tive for amounts the decedent owned beneficially immediately before  
18 his death to the extent necessary to discharge the claims and charges  
19 mentioned above remaining unpaid after application of the decedent's  
20 estate. No proceeding to assert this liability shall be commenced  
21 unless the personal representative has received a written demand by a  
22 surviving spouse, a creditor or one acting for a minor or dependent  
23 child of the decedent, and no proceeding shall be commenced later than  
24 two years following the death of the decedent. Sums recovered by the  
25 personal representative shall be administered as part of the decedent's  
26 estate. This section shall not affect the right of a financial insti-  
27 tution to make payment on multiple-party accounts according to the terms  
28 thereof, or make it liable to the estate of a deceased party unless  
29 before payment the institution has been served with process in a

1 proceeding by the personal representative.

2           Sec. 13.31.040. FINANCIAL INSTITUTION PROTECTION; PAYMENT ON  
3 SIGNATURE OF ONE PARTY. Financial institutions may enter into multiple-  
4 party accounts to the same extent that they may enter into single-party  
5 accounts. Any multiple-party account may be paid, on request, to any  
6 one or more of the parties. A financial institution shall not be  
7 required to inquire as to the source of funds received for deposit to  
8 a multiple-party account, or to inquire as to the proposed application  
9 of any sum withdrawn from an account, for purposes of establishing  
10 net contributions.

11           Sec. 13.31.045. FINANCIAL INSTITUTION PROTECTION; PAYMENT AFTER  
12 DEATH OR DISABILITY; JOINT ACCOUNT. Any sums in a joint account may be  
13 paid, on request, to any party without regard to whether any other party  
14 is incapacitated or deceased at the time the payment is demanded; but  
15 payment may not be made to the personal representative or heirs of a  
16 deceased party unless proofs of death are presented to the financial  
17 institution showing that the decedent was the last surviving party or  
18 unless there is no right of survivorship under sec. 20 of this chapter.

19           Sec. 13.31.050. FINANCIAL INSTITUTION PROTECTION; PAYMENT OF  
20 P.O.D. ACCOUNT. Any P.O.D. account may be paid, on request, to any  
21 original party to the account. Payment may be made, on request, to  
22 the P.O.D. payee or to the personal representative or heirs of a de-  
23 ceased P.O.D. payee upon presentation to the financial institution of  
24 proof of death showing that the P.O.D. payee survived all persons  
25 named as original payees. Payment may be made to the personal repre-  
26 sentative or heirs of a deceased original payee if proof of death is  
27 presented to the financial institution showing that his decedent was the  
28 survivor of all other persons named on the account either as an original  
29 payee or as P.O.D. payee.

1           Sec. 13.31.055. FINANCIAL INSTITUTION PROTECTION; PAYMENT OF  
2 TRUST ACCOUNT. Any trust account may be paid, on request, to any  
3 trustee. Unless the financial institution has received written notice  
4 that the beneficiary has a vested interest not dependent upon his sur-  
5 viving the trustee, payment may be made to the personal representative  
6 or heirs of a deceased trustee if proof of death is presented to the  
7 financial institution showing that his decedent was the survivor of  
8 all other persons named on the account either as trustee or beneficiary.  
9 Payment may be made, on request, to the beneficiary upon presentation to  
10 the financial institution of proof of death showing that the beneficiary  
11 or beneficiaries survived all persons named as trustees.

12           Sec. 13.31.060. FINANCIAL INSTITUTION PROTECTION; DISCHARGE. Payment  
13 made under secs. 40 - 55 of this chapter discharges the financial  
14 institution from all claims for amounts so paid whether or not the pay-  
15 ment is consistent with the beneficial ownership of the account as be-  
16 tween parties, P.O.D. payees, or beneficiaries, or their successors.  
17 The protection here given does not extend to payments made after a  
18 financial institution has received written notice from any party able  
19 to request present payment to the effect that withdrawals in accordance  
20 with the terms of the account should not be permitted. Unless the  
21 notice is withdrawn by the person giving it, the successor of any  
22 deceased party must concur in any demand for withdrawal if the financial  
23 institution is to be protected under this section. No other notice or  
24 any other information shown to have been available to a financial in-  
25 stitution shall affect its right to the protection provided here. The  
26 protection here provided shall have no bearing on the rights of parties  
27 in disputes between themselves or their successors concerning the benefi-  
28 cial ownership of funds in, or withdrawn from multiple-party accounts.

29           Sec. 13.31.065. FINANCIAL INSTITUTION PROTECTION; SET-OFF. With-

1 out qualifying any other statutory right to set-off or lien and subject  
2 to any contractual provision, if a party to a multiple-party account is  
3 indebted to a financial institution, the financial institution has a  
4 right to set-off against the account in which the party has or had  
5 immediately before his death a present right of withdrawal. The amount  
6 of the account subject to set-off is that proportion to which the  
7 debtor is, or was immediately before his death, beneficially entitled,  
8 and in the absence of proof of net contributions, to an equal share with  
9 all parties having present rights of withdrawal.

10 ARTICLE 2. PROVISIONS RELATING TO EFFECT OF DEATH.

11 Sec. 13.31.070. PROVISIONS FOR PAYMENT OR TRANSFER AT DEATH.

12 (a) Any of the following provisions in an insurance policy, contract of  
13 employment, bond, mortgage, promissory note, deposit agreement, pension  
14 plan, trust agreement, conveyance or any other written instrument effec-  
15 tive as a contract, gift, conveyance, or trust is deemed to be nontesta-  
16 mentary, and this code does not invalidate the instrument or any provisions

17 (1) that money or other benefits theretofore due to, control-  
18 led or owned by a decedent shall be paid after his death to a person  
19 designated by the decedent in either the instrument or a separate  
20 writing, including a will, executed at the same time as the instrument  
21 or subsequently;

22 (2) that any money due or to become due under the instrument  
23 shall cease to be payable in event of the death of the promisee or  
24 the promissor before payment or demand; or

25 (3) that any property which is the subject of the instrument  
26 shall pass to a person designated by the decedent in either the instrument  
27 or a separate writing, including a will, executed at the same time as  
28 the instrument or subsequently.

29 (b) Nothing in this section limits the rights of creditors under

1 other laws of this state.

2 CHAPTER 36. TRUST ADMINISTRATION.

3 Sec. 13.36.005. DUTY TO REGISTER TRUSTS.(a)The trustee of a trust  
4 having its principal place of administration in this state shall regis-  
5 ter the trust in the court of this state at the principal place of  
6 administration. Unless otherwise designated in the trust instrument,  
7 the principal place of administration of a trust is the trustee's  
8 usual place of business where the records pertaining to the trust are  
9 kept, or at the trustee's residence if he has no such place of business.  
10 In the case of co-trustees, the principal place of administration, if  
11 not otherwise designated in the trust instrument, is

12 (1) the usual place of business of the corporate trustee if  
13 there is but one corporate co-trustee, or

14 (2) the usual place of business or residence of the indivi-  
15 dual trustee who is a professional fiduciary if there is but one such  
16 person and no corporate co-trustee, and otherwise

17 (3) the usual place of business or residence of any of the  
18 co-trustees as agreed upon by them.

19 (b) The duty to register under secs. 5 - 25 of this chapter does  
20 not apply to the trustee of a trust if registration would be inconsis-  
21 tent with the retained jurisdiction of a foreign court from which the  
22 trustee cannot obtain release.

23 Sec. 13.36.010. REGISTRATION PROCEDURES. Registration shall be  
24 accomplished by filing a statement indicating the name and address of  
25 the trustee in which it acknowledges the trusteeship. The statement  
26 shall indicate whether the trust has been registered elsewhere. The  
27 statement shall identify the trust:(1)in the case of a testamentary trust,  
28 by the name of the testator and the date and place of domiciliary probate;  
29 (2) in the case of a written inter vivos trust, by the name of each set-

1 tlor and the original trustee and the date of the trust instrument; or  
2 (3) in the case of an oral trust, by information identifying the settlor  
3 or other source of funds and describing the time and manner of the  
4 trust's creation and the terms of the trust, including the subject  
5 matter, beneficiaries and time of performance. If a trust has been  
6 registered elsewhere, registration in this state is ineffective until  
7 the earlier registration is released by order of the court where prior  
8 registration occurred, or an instrument executed by the trustee and all  
9 beneficiaries, filed with the registration in this state.

10 Sec. 13.36.015. EFFECT OF REGISTRATION. (a) By registering a  
11 trust, or accepting the trusteeship of a registered trust, the trustee  
12 submits personally to the jurisdiction of the court in any proceeding  
13 under sec. 35 of this chapter relating to the trust that may be  
14 initiated by any interested person while the trust remains registered.  
15 Notice of any proceeding shall be delivered to the trustee, or mailed  
16 to him by ordinary first class mail at his address as listed in the  
17 registration or as thereafter reported to the court and to his address  
18 as then known to the petitioner.

19 (b) To the extent of their interests in the trust, all benefi-  
20 ciaries of a trust properly registered in this state are subject to  
21 the jurisdiction of the court of registration for the purposes of  
22 proceedings under sec. 35 of this chapter, provided notice is given  
23 pursuant to AS 13.06.110.

24 Sec. 13.36.020. EFFECT OF FAILURE TO REGISTER. A trustee who  
25 fails to register a trust in a proper place as required by secs. 5 -  
26 25 of this chapter, for purposes of any proceedings initiated by a  
27 beneficiary of the trust prior to registration is subject to the per-  
28 sonal jurisdiction of any court in which the trust could have been  
29 registered. In addition, any trustee who, within 30 days after receipt

1 of a written demand by a settlor or beneficiary of the trust, fails to  
2 register a trust as required by secs. 5 - 25 of this chapter is subject  
3 to removal and denial of compensation or to surcharge as the court may  
4 direct. A provision in the terms of the trust purporting to excuse the  
5 trustee from the duty to register, or directing that the trust or trustee  
6 shall not be subject to the jurisdiction of the court, is ineffective.

7 Sec. 13.36.025. REGISTRATION, QUALIFICATION OF FOREIGN TRUSTEE.

8 A foreign corporate trustee is required to qualify as a foreign cor-  
9 poration doing business in this state if it maintains the principal  
10 place of administration of any trust within the state. A foreign co-  
11 trustee is not required to qualify in this state solely because its  
12 co-trustee maintains the principal place of administration in this  
13 state. Unless otherwise doing business in this state, local qualifica-  
14 tion by a foreign trustee, corporate or individual, is not required in  
15 order for the trustee to receive distribution from a local estate or to  
16 hold, invest in, manage or acquire property located in this state, or  
17 maintain litigation. Nothing in this section affects a determination of  
18 what other acts require qualification as doing business in this state.

19 ARTICLE 2. JURISDICTION OF COURT CONCERNING TRUSTS.

20 Sec. 13.36.035. COURT; EXCLUSIVE JURISDICTION OF TRUSTS. (a) The  
21 court has exclusive jurisdiction of proceedings initiated by interested  
22 parties concerning the internal affairs of trusts. Proceedings which  
23 may be maintained under this section are those concerning the adminis-  
24 tration and distribution of trusts, the declaration of rights and the  
25 determination of other matters involving trustees and beneficiaries of  
26 trusts. These include, but are not limited to, proceedings to:

- 27 (1) appoint or remove a trustee;  
28 (2) review trustees' fees and to review and settle interim  
29 or final accounts;

1 (3) ascertain beneficiaries, to determine any question  
2 arising in the administration or distribution of any trust including  
3 questions of construction of trust instruments, to instruct trustees,  
4 and to determine the existence or nonexistence of any immunity, power,  
5 privilege, duty or right; and

6 (4) release registration of a trust.

7 (b) Neither registration of a trust nor a proceeding under this  
8 section result in continuing supervisory proceedings. The management  
9 and distribution of a trust estate, submission of accounts and reports  
10 to beneficiaries, payment of trustee's fees and other obligations of  
11 a trust, acceptance and change of trusteeship, and other aspects of the  
12 administration of a trust shall proceed expeditiously consistent with  
13 the terms of the trust, free of judicial intervention and without  
14 order, approval or other action of any court, subject to the jurisdic-  
15 tion of the court as invoked by interested parties or as otherwise  
16 exercised as provided by law.

17 Sec. 13.36.040. TRUST PROCEEDINGS; VENUE. Venue for proceedings  
18 under sec. 35 of this chapter involving registered trusts is in the  
19 place of registration. Venue for proceedings under sec. 35 of this  
20 chapter involving trusts not registered in this state is in any place  
21 where the trust properly could have been registered, and otherwise  
22 by the rules of civil procedure.

23 Sec. 13.36.045. TRUST PROCEEDINGS; DISMISSAL OF MATTERS RELATING  
24 TO FOREIGN TRUSTS. (a) The court will not, over the objection of a  
25 party, entertain proceedings under sec. 35 of this chapter involving  
26 a trust registered or having its principal place of administration in  
27 another state, unless

28 (1) when all appropriate parties could not be bound by  
29 litigation in the courts of the state where the trust is registered

1 or has its principal place of administration or

2 (2) when the interests of justice otherwise would seriously  
3 be impaired.

4 (b) The court may condition a stay or dismissal of a proceeding  
5 under this section on the consent of any party to jurisdiction of the  
6 state in which the trust is registered or has its principal place of  
7 business, or the court may grant a continuance or enter any other  
8 appropriate order.

9 Sec. 13.36.050. COURT; CONCURRENT JURISDICTION OF LITIGATION  
10 INVOLVING TRUSTS AND THIRD PARTIES. The court of the place in which  
11 the trust is registered has concurrent jurisdiction with other courts  
12 of this state of actions and proceedings to determine the existence  
13 or nonexistence of trusts created other than by will, of actions by or  
14 against creditors or debtors of trusts, and of other actions and pro-  
15 ceedings involving trustees and third parties. Venue is determined by  
16 the rules generally applicable to civil actions.

17 Sec. 13.36.055. PROCEEDINGS FOR REVIEW OF EMPLOYMENT OF AGENTS  
18 AND REVIEW OF COMPENSATION OF TRUSTEE AND EMPLOYEES OF TRUST. On  
19 petition of an interested person, after notice to all interested per-  
20 sons, the court may review the propriety of employment of any person by  
21 a trustee including any attorney, auditor, investment advisor or other  
22 specialized agent or assistant, and the reasonableness of the compensa-  
23 tion of any person so employed, and the reasonableness of the compensa-  
24 tion determined by the trustee for his own services. Any person who  
25 has received excessive compensation from a trust may be ordered to make  
26 appropriate refunds.

27 Sec. 13.36.060. TRUST PROCEEDINGS; INITIATION BY NOTICE; NECESSARY  
28 PARTIES. Proceedings under sec. 35 of this chapter are initiated by  
29 filing a petition in the court and giving notice pursuant to AS

1 13.06.110 to interested parties. The court may order notification of  
2 additional persons. A decree is valid as to all who are given notice  
3 of the proceeding though fewer than all interested parties are notified.

4 ARTICLE 3. DUTIES AND LIABILITIES OF TRUSTEES.

5 Sec. 13.36.070. GENERAL DUTIES NOT LIMITED. Except as specifically  
6 provided, the general duty of the trustee to administer a trust expedi-  
7 tiously for the benefit of the beneficiaries is not altered by this code.

8 Sec. 13.36.075. TRUSTEE'S STANDARD OF CARE AND PERFORMANCE. Ex-  
9 cept as otherwise provided by the terms of the trust, the trustee  
10 shall observe the standards in dealing with the trust assets that would  
11 be observed by a prudent man dealing with the property of another,  
12 and if the trustee has special skills or is named trustee on the basis  
13 of representations of special skills or expertise, he is under a duty  
14 to use those skills.

15 Sec. 13.36.080. DUTY TO INFORM AND ACCOUNT TO BENEFICIARIES. The  
16 trustee shall keep the beneficiaries of the trust reasonably informed  
17 of the trust and its administration. In addition:

18 (1) within 30 days after his acceptance of the trust, the  
19 trustee shall inform in writing the current beneficiaries and if possi-  
20 ble, one or more persons who under AS 13.06.120 may represent benefi-  
21 ciaries with future interests, of the court in which the trust is  
22 registered and of his name and address;

23 (2) upon reasonable request, the trustee shall provide the  
24 beneficiary with a copy of the terms of the trust which describe or  
25 affect his interest and with relevant information about the assets of  
26 the trust and the particulars relating to the administration;

27 (3) upon reasonable request, a beneficiary is entitled to a  
28 statement of the accounts of the trust annually and on termination of  
29 the trust or change of the trustee.

1           Sec. 13.36.085. DUTY TO PROVIDE BOND. A trustee need not provide  
2 bond to secure performance of his duties unless required by the terms  
3 of the trust, reasonably requested by a beneficiary or found by the  
4 court to be necessary to protect the interests of the beneficiaries who  
5 are not able to protect themselves and whose interests otherwise are  
6 not adequately represented. On petition of the trustee or other in-  
7 terested person the court may excuse a requirement of bond, reduce the  
8 amount of the bond, release the surety, or permit the substitution of  
9 another bond with the same or different sureties. If bond is required,  
10 it shall be filed in the court of registration or other appropriate  
11 court in amounts and with sureties and liabilities as provided in  
12 AS 13.16.260 and AS 13.16.270 relating to bonds of personal represen-  
13 tatives.

14           Sec. 13.36.090. TRUSTEE'S DUTIES; APPROPRIATE PLACE OF ADMINIS-  
15 TRATION; DEVIATION. A trustee is under a continuing duty to administer  
16 the trust at a place appropriate to the purposes of the trust and to  
17 its sound, efficient management. If the principal place of administra-  
18 tion becomes inappropriate for any reason, the court may enter any order  
19 furthering efficient administration and the interests of beneficiaries,  
20 including, if appropriate, release of registration, removal of the  
21 trustee and appointment of a trustee in another state. Trust provi-  
22 sions relating to the place of administration and to changes in the  
23 place of administration or of trustee control unless compliance would  
24 be contrary to efficient administration or the purposes of the trust.  
25 Views of adult beneficiaries shall be given weight in determining the  
26 suitability of the trustee and the place of administration.

27           Sec. 13.36.095. PERSONAL LIABILITY OF TRUSTEE TO THIRD PARTIES.  
28 (a) Unless otherwise provided in the contract, a trustee is not per-  
29 sonally liable on contracts properly entered into in his fiduciary

1 capacity in the course of administration of the trust estate unless he  
2 fails to reveal his representative capacity and identify the trust  
3 estate in the contract.

4 (b) A trustee is personally liable for obligations arising from  
5 ownership or control of property of the trust estate or for torts  
6 committed in the course of administration of the trust estate only if  
7 he is personally at fault.

8 (c) Claims based on contracts entered into by a trustee in his  
9 fiduciary capacity, on obligations arising from ownership or control of  
10 the trust estate, or on torts committed in the course of trust adminis-  
11 tration may be asserted against the trust estate by proceeding against  
12 the trustee in his fiduciary capacity, whether or not the trustee is  
13 personally liable therefor.

14  
15 (d) The question of liability as between the trust estate and  
16 the trustee individually may be determined in a proceeding for account-  
17 ing surcharge or indemnification or other appropriate proceeding.

18 Sec. 13.36.100. LIMITATIONS ON PROCEEDINGS AGAINST TRUSTEES  
19 AFTER FINAL ACCOUNT. Unless previously barred by adjudication, consent  
20 or limitation, any claim against a trustee for breach of trust is barred  
21 as to any beneficiary who has received a final account or other state-  
22 ment fully disclosing the matter and showing termination of the trust  
23 relationship between the trustee and the beneficiary unless a proceed-  
24 ing to assert the claim is commenced within six months after receipt of  
25 the final account or statement. In any event and notwithstanding lack  
26 of full disclosure a trustee who has issued a final account or state-  
27 ment received by the beneficiary and has informed the beneficiary of  
28 the location and availability of records for his examination is pro-  
29 tected after three years. A beneficiary is deemed to have received  
a final account or statement if, being an adult, it is received by him

1 personally or if, being a minor or disabled person, it is received by  
2 his representative as described in AS 13.06.120(1) and (2).

3 \* Sec. 2. AS 13 is amended by adding a new chapter to read:

4 CHAPTER 50. UNIFORM ANATOMICAL GIFT ACT.

5 Sec. 13.50.010. PERSONS WHO MAY EXECUTE AN ANATOMICAL GIFT. (a)

6 A person of sound mind who is 19 or more years of age may make a gift  
7 to take effect upon death, of all or a part of his body for a purpose  
8 specified in sec. 20 of this chapter.

9 (b) When persons in prior classes are not available at the time  
10 of death, and in the absence of actual notice of contrary indications  
11 by the decedent or actual notice of opposition by a member of the same  
12 or a prior class, any of the following persons, in order of priority  
13 listed, may give all or a part of the decedent's body for a purpose  
14 specified in sec. 20 of this chapter:

- 15 (1) the spouse,
- 16 (2) an adult son or daughter,
- 17 (3) either parent,
- 18 (4) an adult brother or sister,
- 19 (5) a guardian of the decedent at the time of his death,
- 20 (6) any other person authorized or under obligation to dispose  
21 of the body.

22 (c) The persons authorized by (b) of this section may make the  
23 gift after or immediately before death.

24 (d) If the donee has actual notice of contrary indications by the  
25 decedent or that a gift by a member of a class is opposed by a member  
26 of the same or a prior class, the donee may not accept the gift.

27 (e) A gift of all or a part of a body authorizes any examination  
28 necessary to assure medical acceptability of the gift for the purposes  
29 intended.

1 (f) The rights of the donee created by the gift are superior to  
2 the rights of others except as provided in sec. 60(d) of this chapter.

3 Sec. 13.50.020. POTENTIAL DONEES AND PURPOSES FOR WHICH ANATOMICAL  
4 GIFTS MAY BE MADE. The following persons may become donees of gifts of  
5 a decedent's body or a part of a decedent's body for the purposes  
6 stated:

7 (1) a hospital, surgeon, or physician, for medical or dental  
8 education, research, advancement of medical or dental science, therapy,  
9 or transplantation;

10 (2) an accredited medical or dental school, college or  
11 university for education, research, advancement of medical or dental  
12 science, or therapy;

13 (3) a bank or storage facility, for medical or dental  
14 education, research, advancement of medical or dental science, therapy,  
15 or transplantation; or

16 (4) a specified individual for therapy or transplantation  
17 needed by him.

18 Sec. 13.50.030. MANNER OF EXECUTING ANATOMICAL GIFTS. (a) A  
19 gift of all or a part of the body under sec. 10(a) of this chapter may  
20 be made by will. The gift takes effect upon the death of the testator  
21 before probate. If the will is not probated, or is declared invalid  
22 for testamentary purposes, the gift, to the extent that it has been  
23 acted upon in good faith, is valid and effective.

24 (b) A gift of all or a part of the body under sec. 10(a) of this  
25 chapter may be made by a document other than a will. The gift takes  
26 effect upon the death of the donor. The document, which may be a card  
27 designed to be carried on the person, shall be signed by the donor in  
28 the presence of two witnesses who shall sign the document in his  
29 presence. If the donor cannot sign, the document may be signed for him

1 at his direction and in his presence in the presence of two witnesses  
2 who must sign the document in his presence. Delivery of the document  
3 of gift during the donor's lifetime is not necessary to make the gift  
4 valid.

5 (c) A gift may be made to a specified donee or without specifying  
6 a donee. If a donee is not specified, the gift may be accepted by the  
7 attending physician as donee upon or after death. If the gift is made  
8 to a specified donee who is not available at the time and place of  
9 death, the attending physician upon or following death, in the absence  
10 of any expressed indication that the donor desired otherwise, may accept  
11 the gift as donee.

12 (d) The donor may designate in his will, card, or other document  
13 of gift the surgeon or physician to carry out the appropriate procedure  
14 for removing or transplanting a part of the decedent's body. In the  
15 absence of a designation or if the designee is not available, the  
16 donee or other person authorized to accept the gift may employ or  
17 authorize any surgeon or physician for the purpose of removing or  
18 transplanting a part of the decedent's body.

19 (e) A gift by a person designated in sec. 10(b) of this chapter  
20 shall be made by a document signed by him or made by his telegraphic,  
21 recorded telephonic, or other record message.

22 Sec. 13.50.040. DELIVERY OF DOCUMENT OF GIFT. If the gift is  
23 made by the donor to a specified donee, the will, card, or other  
24 document, or an executed copy of it, may be delivered to the donee to  
25 expedite the appropriate procedure for removing or transplanting a part  
26 of the decedent's body immediately after death. Delivery is not  
27 necessary for a valid gift. The will, card, or other document, or an  
28 executed copy of it, may be deposited in a hospital, bank or storage  
29 facility, or registry office to facilitate the procedure for removing

1 or transplanting a part of the decedent's body after death. On the  
2 request of any interested person upon or after the donor's death, the  
3 person in possession of the document shall produce the document for  
4 examination.

5 Sec. 13.50.050. AMENDMENT OR REVOCATION OF THE GIFT. (a) If the  
6 will, card, or other document or executed copy of it is delivered to  
7 a specified donee, the donor may amend or revoke the gift by:

8 (1) the execution and delivery to the donee of a signed  
9 statement,

10 (2) an oral statement made in the presence of two persons and  
11 communicated to the donee,

12 (3) a statement during a terminal illness or injury addressed  
13 to an attending physician and communicated to the donee, or

14 (4) a signed card or document found on his person or in his  
15 effects.

16 (b) A document of gift which is not delivered to the donee may  
17 be revoked by the donor as provided in (a) of this section or by  
18 destruction, cancellation, or mutilation of the document and all  
19 executed copies of it.

20 (c) A gift made by a will may be amended or revoked in the  
21 manner provided for amendment or revocation of wills or as provided in  
22 (a) of this section.

23 Sec. 13.50.060. RIGHTS AND DUTIES AT DEATH. (a) The donee may  
24 accept or reject the gift. If the donee accepts a gift of the entire  
25 body, he may, subject to the terms of the gift, authorize embalming  
26 and the use of the body in funeral services. If the gift is of a part  
27 of the body, the donee, upon the death of the donor and before embalming,  
28 shall have the part removed without unnecessary mutilation. After  
29 removal of the part of the body, custody of the remainder of the body

1 vests in the surviving spouse, next of kin, or a person other than  
2 the spouse or next of kin who is authorized to dispose of the body.

3 (b) The time of death shall be determined by a physician who  
4 attends the donor at his death, or, if no physician attends, by the  
5 physician who certifies the death. The physician may not participate  
6 in the procedures for removing or transplanting a part of the body,  
7 except as provided in sec. 30(d) of this chapter.

8 (c) A person who acts in good faith in accordance with the terms  
9 of this chapter or the anatomical gift laws of another state is not  
10 liable for damages for his act in any civil action or subject to  
11 prosecution in any criminal proceeding for his act.

12 (d) The provisions of this chapter are subject to the state  
13 autopsy laws under AS 12.65.010 - 12.65.110.

14 Sec. 13.50.070. DEFINITIONS. In this chapter

15 (1) "bank or storage facility" means a facility licensed,  
16 accredited, or approved under the laws of any state for storage of  
17 human bodies or parts of them;

18 (2) "decedent" means a deceased individual, stillborn infant,  
19 or fetus;

20 (3) "donor" means an individual who makes a gift of all or a  
21 part of his body;

22 (4) "hospital" means a hospital licensed, accredited, or  
23 approved under the laws of any state; or a hospital operated by the  
24 United States government, or a subdivision thereof, although not  
25 required to be licensed under state laws;

26 (5) "part" means organs, tissues, eyes, bones, arteries,  
27 blood, other fluids and any other portions of a human body;

28 (6) "physician" or "surgeon" means a physician or surgeon  
29 licensed or authorized to practice under the laws of any state;

1 (7) "state" includes any state, district, commonwealth,  
2 territory, insular possession, and any other area subject to the  
3 legislative authority of the United States.

4 Sec. 13.50.080. UNIFORMITY OF INTERPRETATION. This chapter shall  
5 be construed and interpreted so as to carry out its general purpose  
6 to make uniform the laws in those states which enact it.

7 Sec. 13.50.090. SHORT TITLE. This chapter may be cited as the  
8 Uniform Anatomical Gift Act.

9 \* Sec. 3. AS 09.50.070 is amended to read:

10 Sec. 09.50.070. PROPERTY SUBJECT TO ESCHEAT. When [A PERSON DIES  
11 INTESTATE, WITHOUT HEIRS, LEAVING REAL OR PERSONAL PROPERTY IN THE  
12 STATE, OR WHEN] no claim of ownership has been made to bank deposits,  
13 cash, or personal property for more than seven years, the property  
14 escheats to and becomes the property of the state.

15 \* Sec. 4. AS 09.50.130 is amended to read:

16 Sec. 09.50.130. CLAIMS TO ESCHEATED PROPERTY OF VALUE OF \$1,000  
17 OR LESS. When property or the proceeds from the sale of the property  
18 which has escheated to the state amounts to \$1,000 or less and a  
19 rightful [HEIR OR] owner is discovered and makes a written claim to the  
20 property, supported by convincing proof of his [HEIRSHIP OR] ownership,  
21 the commissioner of revenue, with approval of the attorney general,  
22 shall either return the property if still unliquidated, or issue a  
23 voucher for the amount of the proceeds or for the amount of money which  
24 has escheated in favor of the [HEIR OR] owner.

25 \* Sec. 5. The following sections are repealed: AS 06.05.105 and 06.05.110;  
26 AS 06.50.400 and 06.50.405; AS 09.10.150; AS 09.45.520; AS 09.50.090; and  
27 AS 20.05.010 - 20.05.550.

28 \* Sec. 6. This Act takes effect January 1, 1973.  
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