

LDIR#210

ART.III

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**ADMINISTRA-
TION**

AND EXECUTORS

Part 2. Administrators and Executors

Sec. 4.01. ISSUANCE OF LETTERS. ^(and revocation) ~~The court~~ shall issue ~~the court~~ letters to ^(the appointed) ~~an~~ ^{an} otherwise qualified personal representative ^(when) when he has given ^(the required) ~~the required~~ bond, ^(the letters) as provided in Sec. ~~_____~~ ^(when) Letters that are revoked shall ~~be~~ returned ^(them) to the court and the court shall reissue ~~appropriate~~ ^{for cancellation,} appropriate letters.

SOURCE: ^{ACLA 61-3-3, 61-4-1, 61-5-6.} Mod. Sec. 97; Mo. Sec. (31) and 70 ^{Cal § 541}

COMMENT: Added to the rewritten Model Code section is a provision for the return of letters upon their revocation, to prevent any fraudulent use of them. Although there are no provisions in ~~the Code~~ ^(for return of letters) for return of letters to the court other than sec 61-5-6, there are several calling for revocation. It is thought advisable to provide specifically for return in all cases to reduce any opportunity for wrongful use of the letters.

Sec. 4.02. REMOVAL OF THE PERSONAL REPRESENTATIVE. The court may remove the personal representative if he (1) becomes for any reason unsuitable or incapable of discharging his trust, (2) mismanages the estate, (3) fails to perform any duty imposed by law or order of the court, (4) fails to maintain the required bond, or (5) ceases to be a resident of the state without appointing an agent to accept service, ~~as provided by Sec. _____~~. The court ^(on its own motion) may, ~~(at any time)~~ or on petition of any interested person shall