

LAWS OF ARIZONA

CHAPTER 75

House Bill 2002

AN ACT

RELATING TO DECEDENTS' ESTATES, GUARDIANSHIPS, PROTECTIVE PROCEEDINGS AND TRUSTS; AMENDING SECTION 12-612, ARIZONA REVISED STATUTES; REPEALING TITLE 14, CHAPTER 1, CHAPTER 2 EXCEPT ARTICLE 2, CHAPTER 3, CHAPTER 4 EXCEPT SECTION 14-477, CHAPTER 5 EXCEPT SECTIONS 14-597 AND 14-598, CHAPTER 6 EXCEPT SECTION 14-898, CHAPTER 7 EXCEPT ARTICLES 7, 8 AND 9 AND CHAPTER 8, ARIZONA REVISED STATUTES; AMENDING ARIZONA REVISED STATUTES, BY ADDING A NEW TITLE 14; AMENDING SECTIONS 6-433, 6-508, 12-313, 12-1224, 12-1251, 12-2101, 25-201, 36-514, 36-523 AND 42-1526, ARIZONA REVISED STATUTES; TRANSFERRING TITLE 14, CHAPTER 2,

## LAWS OF ARIZONA

ARTICLE 2, ARIZONA REVISED STATUTES, FOR PLACEMENT IN THE NEW TITLE 14, CHAPTER 2, ARTICLE 8, ARIZONA REVISED STATUTES, AND RENUMBERING; AMENDING NEW SECTION 14-2808, ARIZONA REVISED STATUTES; TRANSFERRING SECTION 14-477, ARIZONA REVISED STATUTES, FOR PLACEMENT IN THE NEW TITLE 14, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, AND RENUMBERING; TRANSFERRING SECTIONS 14-597 AND 14-598, ARIZONA REVISED STATUTES, FOR PLACEMENT IN THE NEW TITLE 14, CHAPTER 3, ARTICLE 5, ARIZONA REVISED STATUTES, AND RENUMBERING; AMENDING NEW SECTIONS 14-3506 AND 14-3507, ARIZONA REVISED STATUTES; TRANSFERRING SECTION 14-898, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 36, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, AND RENUMBERING; TRANSFERRING TITLE 14, CHAPTER 7, ARTICLES 7, 8 AND 9, ARIZONA REVISED STATUTES, FOR PLACEMENT IN THE NEW TITLE 14, CHAPTER 7, ARIZONA REVISED STATUTES, AS ARTICLES 4, 5 AND 6, AND RENUMBERING; AMENDING NEW SECTIONS 14-7408, 14-7412 AND 14-7413, ARIZONA REVISED STATUTES, AND REPEALING SECTIONS 6-268, 6-431 AND 12-504, ARIZONA REVISED STATUTES.

**Be it enacted by the Legislature of the State of Arizona:**

**Section 1. Purpose**

The legislature intends by this act to provide for a substantial revision of the laws relating to decedents' estates, guardianships, protective proceedings and trusts to become effective January 1, 1974.

Sec. 2. Section 12-612, Arizona Revised Statutes is amended to read:

**12-612. Parties plaintiff; recovery; distribution**

A. An action for wrongful death shall be brought by and in the name of the surviving husband or wife or personal representative of the deceased person for and on behalf of the surviving husband or wife, children or parents, or if none of these survive, on behalf of the decedent's estate.

B. The father, or in the case of his death or desertion of his family, the mother, may maintain the action for death of a child, and the guardian for death of his ward.

LAWS OF ARIZONA

C. The amount recovered in an action for wrongful death shall be distributed to the parties provided for in subsection A ~~and in the proportions provided by law for distribution of personal estate left by persons dying intestate~~ IN PROPORTION TO THEIR DAMAGES, AND IF RECOVERY IS ON BEHALF OF THE DECEDENT'S ESTATE THE AMOUNT SHALL BE AN ASSET OF THE ESTATE.

D. The term "personal representative" as used in this section shall include any person to whom letters testamentary or of administration are granted by competent authority under the laws of this or any other state. The action for wrongful death may be maintained by any such personal representative without issuance of further letters, or other requirement or authorization of law.

Sec. 3. **Repeals**

Title 14, chapter 1, chapter 2 except article 2, chapter 3, chapter 4 except section 14-477, chapter 5 except sections 14-597 and 14-598, chapter 6 except section 14-898, chapter 7 except articles 7, 8 and 9 and chapter 8, Arizona Revised Statutes, are repealed.

Sec. 4. Arizona Revised Statutes are amended by adding a new title 14, to read:

TITLE 14.  
DECEDENTS' ESTATES, GUARDIANSHIPS, PROTECTIVE  
PROCEEDINGS AND TRUSTS  
CHAPTER 1.  
GENERAL PROVISIONS, DEFINITIONS AND  
PROBATE JURISDICTION OF COURTS  
ARTICLE 1. GENERAL PROVISIONS

14-1101. (Blank)

14-1102. **Purposes; rule of construction**

A. THIS TITLE SHALL BE LIBERALLY CONSTRUED AND APPLIED TO PROMOTE ITS UNDERLYING PURPOSES AND POLICIES.

B. THE UNDERLYING PURPOSES AND POLICIES OF THIS TITLE ARE:

1. TO SIMPLIFY AND CLARIFY THE LAW CONCERNING THE AFFAIRS OF DECEDENTS, MISSING PERSONS, PROTECTED PERSONS, MINORS AND INCAPACITATED PERSONS.

## LAWS OF ARIZONA

2. TO DISCOVER AND MAKE EFFECTIVE THE INTENT OF A DECEDENT IN DISTRIBUTION OF HIS PROPERTY.
3. TO PROMOTE A SPEEDY AND EFFICIENT SYSTEM FOR LIQUIDATING THE ESTATE OF THE DECEDENT AND MAKING DISTRIBUTION TO HIS SUCCESSORS.
4. TO FACILITATE USE AND ENFORCEMENT OF CERTAIN TRUSTS.
5. TO MAKE UNIFORM THE LAW AMONG THE VARIOUS JURISDICTIONS.

14-1103. **Supplementary general principles of law applicable**

UNLESS DISPLACED BY THE PARTICULAR PROVISIONS OF THIS TITLE, THE PRINCIPLES OF LAW AND EQUITY SUPPLEMENT ITS PROVISIONS.

14-1104. (Blank)

14-1105. (Blank)

14-1106. **Effect of fraud and evasion**

IF FRAUD HAS BEEN PERPETRATED IN CONNECTION WITH ANY PROCEEDING OR IN ANY STATEMENT FILED UNDER THIS TITLE OR IF FRAUD IS USED TO AVOID OR CIRCUMVENT THE PROVISIONS OR PURPOSES OF THIS TITLE, ANY PERSON INJURED THEREBY MAY OBTAIN APPROPRIATE RELIEF AGAINST THE PERPETRATOR OF THE FRAUD OR RESTITUTION FROM ANY PERSON, OTHER THAN A BONA FIDE PURCHASER, BENEFITING FROM THE FRAUD, WHETHER INNOCENT OR NOT. ANY PROCEEDING MUST BE COMMENCED WITHIN TWO YEARS AFTER THE DISCOVERY OF THE FRAUD, BUT NO PROCEEDING MAY BE BROUGHT AGAINST ONE NOT A PERPETRATOR OF THE FRAUD LATER THAN FIVE YEARS AFTER THE TIME OF COMMISSION OF THE FRAUD. THIS SECTION HAS NO BEARING ON REMEDIES RELATING TO FRAUD PRACTICED ON A DECEDENT DURING HIS LIFETIME WHICH AFFECTS THE SUCCESSION OF HIS ESTATE.

14-1107. **Evidence as to death or status**

IN PROCEEDINGS UNDER THIS TITLE THE RULES OF EVIDENCE IN COURTS OF GENERAL JURISDICTION INCLUDING ANY

## LAW OF ARIZONA

RELATING TO SIMULTANEOUS DEATHS, ARE APPLICABLE UNLESS SPECIFICALLY DISPLACED BY THIS TITLE. IN ADDITION, THE FOLLOWING RULES RELATING TO DETERMINATION OF DEATH AND STATUS ARE APPLICABLE:

1. A CERTIFIED OR AUTHENTICATED COPY OF A DEATH CERTIFICATE PURPORTING TO BE ISSUED BY AN OFFICIAL OR AGENCY OF THE PLACE WHERE THE DEATH PURPORTEDLY OCCURRED IS PRIMA FACIE PROOF OF THE FACT, PLACE, DATE AND TIME OF DEATH AND THE IDENTITY OF THE DECEDENT.
2. A CERTIFIED OR AUTHENTICATED COPY OF ANY RECORD OR REPORT OF A GOVERNMENTAL AGENCY, DOMESTIC OR FOREIGN, THAT A PERSON IS MISSING, DETAINED, DEAD OR ALIVE IS PRIMA FACIE EVIDENCE OF THE STATUS AND OF THE DATES, CIRCUMSTANCES AND PLACES DISCLOSED BY THE RECORD OR REPORT.
3. A PERSON WHO IS ABSENT FOR A CONTINUOUS PERIOD OF FIVE YEARS, DURING WHICH HE HAS NOT BEEN HEARD FROM, AND WHOSE ABSENCE IS NOT SATISFACTORILY EXPLAINED AFTER DILIGENT SEARCH OR INQUIRY IS PRESUMED TO BE DEAD. HIS DEATH IS PRESUMED TO HAVE OCCURRED AT THE END OF THE PERIOD UNLESS THERE IS SUFFICIENT EVIDENCE FOR DETERMINING THAT DEATH OCCURRED EARLIER.

**14-1108. Acts by holder of general power**

FOR THE PURPOSE OF GRANTING CONSENT OR APPROVAL WITH REGARD TO THE ACTS OR ACCOUNTS OF A PERSONAL REPRESENTATIVE OR TRUSTEE, INCLUDING RELIEF FROM LIABILITY OR PENALTY FOR FAILURE TO POST BOND OR TO PERFORM OTHER DUTIES, AND FOR PURPOSES OF CONSENTING TO MODIFICATION OR TERMINATION OF A TRUST OR TO DEVIATION FROM ITS TERMS, THE SOLE HOLDER OR ALL CO-HOLDERS OF A PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT, INCLUDING ONE IN THE FORM OF A POWER OF AMENDMENT OR REVOCATION, ARE DEEMED TO ACT FOR BENEFICIARIES TO THE EXTENT THEIR INTERESTS, AS OBJECTS, TAKERS IN DEFAULT OR OTHERWISE, ARE SUBJECT TO THE POWER.

**ARTICLE 2. DEFINITIONS**

**14-1201. General definitions**

## LAWS OF ARIZONA

SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN THE SUBSEQUENT CHAPTERS WHICH ARE APPLICABLE TO SPECIFIC CHAPTERS OR ARTICLES AND UNLESS THE CONTEXT OTHERWISE REQUIRES, IN THIS TITLE:

1. "APPLICATION" MEANS A WRITTEN REQUEST TO THE REGISTRAR FOR AN ORDER OF INFORMAL PROBATE OR APPOINTMENT UNDER ARTICLE 3 OF CHAPTER 3.
2. "BENEFICIARY", AS IT RELATES TO TRUST BENEFICIARIES, INCLUDES A PERSON, WHETHER OR NOT IN BEING, WHO HAS ANY PRESENT OR FUTURE INTEREST, VESTED OR CONTINGENT, AND ALSO INCLUDES THE OWNER OF AN INTEREST BY ASSIGNMENT OR OTHER TRANSFER AND AS IT RELATES TO A CHARITABLE TRUST, INCLUDES ANY PERSON ENTITLED TO ENFORCE THE TRUST.
3. "CHILD" INCLUDES ANY INDIVIDUAL ENTITLED TO TAKE AS A CHILD UNDER THIS TITLE BY INTESTATE SUCCESSION FROM THE PARENT WHOSE RELATIONSHIP IS INVOLVED AND EXCLUDES ANY PERSON WHO IS ONLY A STEPCHILD, A FOSTER CHILD, A GRANDCHILD OR ANY MORE REMOTE DESCENDANT.
4. "CLAIMS", IN RESPECT TO ESTATES OF DECEDENTS AND PROTECTED PERSONS, INCLUDE LIABILITIES OF THE DECEDENT OR PROTECTED PERSON WHETHER ARISING IN CONTRACT, IN TORT OR OTHERWISE, AND LIABILITIES OF THE ESTATE WHICH ARISE AT OR AFTER THE DEATH OF THE DECEDENT OR AFTER THE APPOINTMENT OF A CONSERVATOR, INCLUDING FUNERAL EXPENSES AND EXPENSES OF ADMINISTRATION. THE TERM DOES NOT INCLUDE ESTATE OR INHERITANCE TAXES, DEMANDS OR DISPUTES REGARDING TITLE OF A DECEDENT OR PROTECTED PERSON TO SPECIFIC ASSETS ALLEGED TO BE INCLUDED IN THE ESTATE.
5. "COMMUNITY PROPERTY" IS THAT PROPERTY OF A HUSBAND AND WIFE WHICH IS ACQUIRED DURING MARRIAGE AS COMMUNITY PROPERTY AS DEFINED IN SECTION 25-211.
6. "CONSERVATOR" MEANS A PERSON WHO IS APPOINTED BY A COURT TO MANAGE THE ESTATE OF A PROTECTED PERSON.
7. "COURT" MEANS THE SUPERIOR COURT.

## LAWS OF ARIZONA

8. "DEPENDENT CHILD" MEANS A MINOR CHILD WHOM THE DECEDENT WAS OBLIGATED TO SUPPORT OR AN ADULT CHILD WHO WAS IN FACT BEING SUPPORTED BY HIM AT THE TIME OF HIS DEATH.
9. "DEVISE", WHEN USED AS A NOUN, MEANS A TESTAMENTARY DISPOSITION OF REAL OR PERSONAL PROPERTY AND WHEN USED AS A VERB, MEANS TO DISPOSE OF REAL OR PERSONAL PROPERTY BY WILL.
10. "DEVISEE" MEANS ANY PERSON DESIGNATED IN A WILL TO RECEIVE A DEVISE. IN THE CASE OF A DEVISE TO AN EXISTING TRUST OR TRUSTEE, OR TO A TRUSTEE ON TRUST DESCRIBED BY WILL, THE TRUST OR TRUSTEE IS THE DEVISEE AND THE BENEFICIARIES ARE NOT DEVISEES.
11. "DISABILITY" MEANS CAUSE FOR A PROTECTIVE ORDER AS DESCRIBED BY SECTION 14-5401.
12. "DISTRIBUTE" MEANS ANY PERSON WHO HAS RECEIVED PROPERTY OF A DECEDENT FROM HIS PERSONAL REPRESENTATIVE OTHER THAN AS A CREDITOR OR PURCHASER. A TESTAMENTARY TRUSTEE IS A DISTRIBUTE ONLY TO THE EXTENT OF DISTRIBUTED ASSETS OR INCREMENT THERETO REMAINING IN HIS HANDS. A BENEFICIARY OF A TESTAMENTARY TRUST TO WHOM THE TRUSTEE HAS DISTRIBUTED PROPERTY RECEIVED FROM A PERSONAL REPRESENTATIVE IS A DISTRIBUTE OF THE PERSONAL REPRESENTATIVE. FOR PURPOSES OF THIS PROVISION, "TESTAMENTARY TRUSTEE" INCLUDES A TRUSTEE TO WHOM ASSETS ARE TRANSFERRED BY WILL, TO THE EXTENT OF THE DEVISED ASSETS.
13. "ESTATE" MEANS ALL OF THE PROPERTY OF THE DECEDENT, TRUST OR OTHER PERSON WHOSE AFFAIRS ARE SUBJECT TO THIS TITLE AS ORIGINALLY CONSTITUTED AND AS IT EXISTS FROM TIME TO TIME DURING ADMINISTRATION. IN THE CASE OF A HUSBAND OR WIFE, THE ESTATE INCLUDES ONLY THE SEPARATE PROPERTY AND THE SHARE OF THE COMMUNITY PROPERTY BELONGING TO THE DECEDENT OR PERSON WHOSE AFFAIRS ARE SUBJECT TO THIS TITLE.
14. "EXEMPT PROPERTY" MEANS THAT PROPERTY OF A DECEDENT'S ESTATE WHICH IS DESCRIBED IN SECTION 14-2402.

## LAWS OF ARIZONA

15. "FIDUCIARY" INCLUDES PERSONAL REPRESENTATIVE, GUARDIAN, CONSERVATOR AND TRUSTEE.
16. "FOREIGN PERSONAL REPRESENTATIVE" MEANS A PERSONAL REPRESENTATIVE OF ANOTHER JURISDICTION.
17. "FORMAL PROCEEDINGS" MEAN THOSE CONDUCTED BEFORE A JUDGE WITH NOTICE TO INTERESTED PERSONS.
18. "GUARDIAN" MEANS A PERSON WHO HAS QUALIFIED AS A GUARDIAN OF A MINOR OR INCAPACITATED PERSON PURSUANT TO TESTAMENTARY OR COURT APPOINTMENT, BUT EXCLUDES ONE WHO IS MERELY A GUARDIAN AD LITEM.
19. "HEIRS" MEAN THOSE PERSONS, INCLUDING THE SURVIVING SPOUSE, WHO ARE ENTITLED UNDER THE STATUTES OF INTESTATE SUCCESSION TO THE PROPERTY OF A DECEDENT.
20. "INCAPACITATED PERSON" IS AS DEFINED IN SECTION 14-5101.
21. "INFORMAL PROCEEDINGS" MEAN THOSE CONDUCTED, WITHOUT NOTICE TO INTERESTED PERSONS, BY AN OFFICER OF THE COURT ACTING AS A REGISTRAR FOR PROBATE OF A WILL OR APPOINTMENT OF A PERSONAL REPRESENTATIVE.
22. "INTERESTED PERSON" INCLUDES HEIRS, DEVISEES, CHILDREN, SPOUSES, CREDITORS, BENEFICIARIES AND ANY OTHERS HAVING A PROPERTY RIGHT IN OR CLAIM AGAINST A TRUST ESTATE OR THE ESTATE OF A DECEDENT, WARD OR PROTECTED PERSON WHICH MAY BE AFFECTED BY THE PROCEEDING. IT ALSO INCLUDES PERSONS HAVING PRIORITY FOR APPOINTMENT AS PERSONAL REPRESENTATIVE, AND OTHER FIDUCIARIES REPRESENTING INTERESTED PERSONS. THE MEANING AS IT RELATES TO PARTICULAR PERSONS MAY VARY FROM TIME TO TIME AND MUST BE DETERMINED ACCORDING TO THE PARTICULAR PURPOSES OF, AND MATTER INVOLVED IN, ANY PROCEEDING.
23. "ISSUE" OF A PERSON MEANS ALL HIS LINEAL DESCENDANTS OF ALL GENERATIONS, WITH THE RELATIONSHIP OF PARENT AND CHILD AT EACH GENERATION BEING DETERMINED BY THE DEFINITIONS OF PARENT AND CHILD CONTAINED IN THIS TITLE.

## LAWS OF ARIZONA

24. "LEASE" INCLUDES AN OIL, GAS OR OTHER MINERAL LEASE.
25. "LETTERS" INCLUDE LETTERS TESTAMENTARY, LETTERS OF GUARDIANSHIP, LETTERS OF ADMINISTRATION AND LETTERS OF CONSERVATORSHIP.
26. "MINOR" MEANS A PERSON DEFINED AS SUCH IN SECTION 1-215.
27. "MORTGAGE" MEANS ANY CONVEYANCE, AGREEMENT OR ARRANGEMENT IN WHICH PROPERTY IS USED AS SECURITY.
28. "NONRESIDENT DECEDENT" MEANS A DECEDENT WHO WAS DOMICILED IN ANOTHER JURISDICTION AT THE TIME OF HIS DEATH.
29. "ORGANIZATION" INCLUDES A CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION OR AGENCY, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP OR ASSOCIATION, TWO OR MORE PERSONS HAVING A JOINT OR COMMON INTEREST OR ANY OTHER LEGAL ENTITY.
30. "PARENT" INCLUDES ANY PERSON ENTITLED TO TAKE, OR WHO WOULD BE ENTITLED TO TAKE IF THE CHILD DIED WITHOUT A WILL, AS A PARENT UNDER THIS TITLE BY INTESTATE SUCCESSION FROM THE CHILD WHOSE RELATIONSHIP IS IN QUESTION AND EXCLUDES ANY PERSON WHO IS ONLY A STEPPARENT, FOSTER PARENT OR GRANDPARENT.
31. "PERSON" MEANS AN INDIVIDUAL, A CORPORATION, AN ORGANIZATION OR OTHER LEGAL ENTITY.
32. "PERSONAL REPRESENTATIVE" INCLUDES EXECUTOR, ADMINISTRATOR, SUCCESSOR PERSONAL REPRESENTATIVE, SPECIAL ADMINISTRATOR AND PERSONS WHO PERFORM SUBSTANTIALLY THE SAME FUNCTION UNDER THE LAW GOVERNING THEIR STATUS. "GENERAL PERSONAL REPRESENTATIVE" EXCLUDES SPECIAL ADMINISTRATOR.
33. "PETITION" MEANS A WRITTEN REQUEST TO THE COURT FOR AN ORDER AFTER NOTICE.
34. "PROCEEDING" INCLUDES ACTION AT LAW AND SUIT IN EQUITY.

## LAWS OF ARIZONA

35. "PROPERTY" INCLUDES BOTH REAL AND PERSONAL PROPERTY OR ANY INTEREST THEREIN AND MEANS ANYTHING THAT MAY BE THE SUBJECT OF OWNERSHIP.
36. "PROTECTED PERSON" IS AS DEFINED IN SECTION 14-5101.
37. "PROTECTIVE PROCEEDING" IS AS DEFINED IN SECTION 14-5101.
38. "REGISTRAR" REFERS TO THE OFFICIAL OF THE COURT DESIGNATED TO PERFORM THE FUNCTIONS OF REGISTRAR AS PROVIDED IN SECTION 14-1307.
39. "SECURITY" INCLUDES ANY NOTE, STOCK, TREASURY STOCK, BOND, DEBENTURE, EVIDENCE OF INDEBTEDNESS, CERTIFICATE OF INTEREST OR PARTICIPATION IN AN OIL, GAS OR MINING TITLE OR LEASE OR IN PAYMENTS OUT OF PRODUCTION UNDER SUCH A TITLE OR LEASE, COLLATERAL TRUST CERTIFICATE, TRANSFERABLE SHARE, VOTING TRUST CERTIFICATE OR, IN GENERAL, ANY INTEREST OR INSTRUMENT COMMONLY KNOWN AS A SECURITY, OR ANY CERTIFICATE OF INTEREST OR PARTICIPATION, ANY TEMPORARY OR INTERIM CERTIFICATE, RECEIPT OR CERTIFICATE OF DEPOSIT FOR, OR ANY WARRANT OR RIGHT TO SUBSCRIBE TO OR PURCHASE ANY OF THE FOREGOING.
40. "SEPARATE PROPERTY" IS THAT PROPERTY OF A HUSBAND OR WIFE WHICH IS HIS OR HER SEPARATE PROPERTY AS DEFINED IN SECTION 25-213.
41. "SETTLEMENT", IN REFERENCE TO A DECEDENT'S ESTATE, INCLUDES THE FULL PROCESS OF ADMINISTRATION, DISTRIBUTION AND CLOSING.
42. "SPECIAL ADMINISTRATOR" MEANS A PERSONAL REPRESENTATIVE AS DESCRIBED BY SECTIONS 14-3614 THROUGH 14-3618.
43. "STATE" INCLUDES ANY STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO AND ANY TERRITORY OR POSSESSION SUBJECT TO THE LEGISLATIVE AUTHORITY OF THE UNITED STATES.
44. "SUCCESSOR PERSONAL REPRESENTATIVE" MEANS A PERSONAL REPRESENTATIVE, OTHER THAN A SPECIAL

## LAWS OF ARIZONA

ADMINISTRATOR, WHO IS APPOINTED TO SUCCEED A PREVIOUSLY APPOINTED PERSONAL REPRESENTATIVE.

45. "SUCCESSORS" MEAN THOSE PERSONS, OTHER THAN CREDITORS, WHO ARE ENTITLED TO PROPERTY OF A DECEDENT UNDER HIS WILL OR THIS TITLE.

46. "SUPERVISED ADMINISTRATION" REFERS TO THE PROCEEDINGS DESCRIBED IN CHAPTER 3, ARTICLE 5.

47. "TESTACY PROCEEDING" MEANS A PROCEEDING TO ESTABLISH A WILL OR DETERMINE INTESTACY.

48. "TRUST" INCLUDES ANY EXPRESS TRUST, PRIVATE OR CHARITABLE, WITH ADDITIONS THERETO, WHEREVER AND HOWEVER CREATED. IT ALSO INCLUDES A TRUST CREATED OR DETERMINED BY JUDGMENT OR DECREE UNDER WHICH THE TRUST IS TO BE ADMINISTERED IN THE MANNER OF AN EXPRESS TRUST. "TRUST" EXCLUDES OTHER CONSTRUCTIVE TRUSTS, AND IT EXCLUDES RESULTING TRUSTS, CONSERVATORSHIPS, PERSONAL REPRESENTATIVES, TRUST ACCOUNTS AS DEFINED IN CHAPTER 6, CUSTODIAL ARRANGEMENTS PURSUANT TO TITLE 44, CHAPTER 12.1, BUSINESS TRUSTS PROVIDING FOR CERTIFICATES TO BE ISSUED TO BENEFICIARIES, COMMON TRUST FUNDS, VOTING TRUSTS, SECURITY ARRANGEMENTS, LIQUIDATION TRUSTS AND TRUSTS FOR THE PRIMARY PURPOSE OF PAYING DEBTS, DIVIDENDS, INTEREST, SALARIES, WAGES, PROFITS, PENSIONS OR EMPLOYEE BENEFITS OF ANY KIND, AND ANY ARRANGEMENT UNDER WHICH A PERSON IS NOMINEE OR ESCROWEE FOR ANOTHER.

49. "TRUSTEE" INCLUDES AN ORIGINAL, ADDITIONAL OR SUCCESSOR TRUSTEE, WHETHER OR NOT APPOINTED OR CONFIRMED BY COURT.

50. "WARD" IS AS DEFINED IN SECTION 14-5101.

51. "WILL" INCLUDES CODICIL AND ANY TESTAMENTARY INSTRUMENT WHICH MERELY APPOINTS AN EXECUTOR OR REVOKES OR REVISES ANOTHER WILL.

## ARTICLE 3. SCOPE, JURISDICTION AND COURTS

14-1301. **Territorial application**

## LAWS OF ARIZONA

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE TITLE APPLIES TO:

1. THE AFFAIRS AND ESTATES OF DECEDENTS, MISSING PERSONS AND PERSONS TO BE PROTECTED, DOMICILED IN THIS STATE.
2. THE PROPERTY OF NONRESIDENTS LOCATED IN THIS STATE OR PROPERTY COMING INTO THE CONTROL OF A FIDUCIARY WHO IS SUBJECT TO THE LAWS OF THIS STATE.
3. INCAPACITATED PERSONS AND MINORS IN THIS STATE.
4. MULTIPLE-PARTY ACCOUNTS IN THIS STATE.
5. TRUSTS SUBJECT TO ADMINISTRATION IN THIS STATE.

THIS TITLE DOES NOT APPLY TO PROPERTY OF INDIANS WITHIN THE JURISDICTION OF THEIR TRIBAL COURTS OR TO LANDS HELD IN TRUST BY THE UNITED STATES FOR INDIANS.

14-1302. **Subject matter jurisdiction**

A. TO THE FULL EXTENT PERMITTED BY THE CONSTITUTION, THE COURT HAS JURISDICTION OVER ALL SUBJECT MATTER RELATING TO:

1. ESTATES OF DECEDENTS, INCLUDING CONSTRUCTION OF WILLS AND DETERMINATION OF HEIRS AND SUCCESSORS OF DECEDENTS, AND ESTATES OF PROTECTED PERSONS.
2. PROTECTION OF MINORS AND INCAPACITATED PERSONS.
3. TRUSTS.

B. THE COURT HAS FULL POWER TO MAKE ORDERS, JUDGMENTS AND DECREES AND TAKE ALL OTHER ACTION NECESSARY AND PROPER TO ADMINISTER JUSTICE IN THE MATTERS WHICH COME BEFORE IT INCLUDING POWER TO ENFORCE ORDERS AGAINST A FIDUCIARY BY CONTEMPT PROCEEDINGS AND TO COMPEL ACTION BY A FIDUCIARY BY BODY ATTACHMENT.

14-1303. **Venue; multiple proceedings; transfer**

## LAWS OF ARIZONA

A. WHERE A PROCEEDING UNDER THIS TITLE COULD BE MAINTAINED IN MORE THAN ONE PLACE IN THIS STATE, THE COURT IN WHICH THE PROCEEDING IS FIRST COMMENCED HAS THE EXCLUSIVE RIGHT TO PROCEED.

B. IF PROCEEDINGS CONCERNING THE SAME ESTATE, PROTECTED PERSON, WARD OR TRUST ARE COMMENCED IN MORE THAN ONE COUNTY OF THIS STATE, THE COURT IN THE COUNTY IN WHICH THE PROCEEDING WAS FIRST COMMENCED SHALL CONTINUE TO HEAR THE MATTER, AND THE OTHER COURTS SHALL HOLD THE MATTER IN ABEYANCE UNTIL THE QUESTION OF VENUE IS DECIDED; AND IF THE RULING COURT DETERMINES THAT VENUE IS PROPERLY IN ANOTHER COUNTY, IT SHALL TRANSFER THE PROCEEDING TO THE OTHER COUNTY.

C. IF A COURT FINDS THAT IN THE INTEREST OF JUSTICE A PROCEEDING OR A FILE SHOULD BE LOCATED IN ANOTHER COUNTY OF THIS STATE, THE COURT MAKING THE FINDING MAY TRANSFER THE PROCEEDING OR FILE TO THE OTHER COUNTY.

**14-1304. Practice in court**

UNLESS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS TITLE OR UNLESS INCONSISTENT WITH ITS PROVISIONS, THE RULES OF CIVIL PROCEDURE INCLUDING THE RULES CONCERNING VACATION OF ORDERS AND APPELLATE REVIEW GOVERN FORMAL PROCEEDINGS UNDER THIS TITLE.

**14-1305. Records and certified copies**

THE CLERK OF THE COURT SHALL KEEP A RECORD FOR EACH DECEDENT, WARD, PROTECTED PERSON OR TRUST INVOLVED IN ANY DOCUMENT WHICH MAY BE FILED WITH THE COURT UNDER THIS TITLE INCLUDING PETITIONS AND APPLICATIONS, DEMANDS AND ANY ORDERS OR RESPONSES RELATING THERE-TO BY THE REGISTRAR OR COURT, AND ESTABLISH AND MAINTAIN A SYSTEM FOR INDEXING, FILING OR RECORDING WHICH IS SUFFICIENT TO ENABLE USERS OF THE RECORDS TO OBTAIN ADEQUATE INFORMATION. UPON PAYMENT OF THE FEES REQUIRED BY LAW THE CLERK MUST ISSUE CERTIFIED COPIES OF ANY PROBATED WILLS, LETTERS ISSUED TO PERSONAL REPRESENTATIVES, OR ANY OTHER RECORD OR PAPER FILED OR RECORDED. CERTIFICATES RELATING TO PROBATED WILLS MUST INDICATE WHETHER THE DECEDENT WAS DOMICILED IN THIS STATE AND WHETHER THE PROBATE WAS

## LAW OF ARIZONA

FORMAL OR INFORMAL. CERTIFICATES RELATING TO LETTERS MUST SHOW THE DATE OF APPOINTMENT.

14-1306. **Jury trial**

A. IF DULY DEMANDED, A PARTY IS ENTITLED TO TRIAL BY JURY IN ANY PROCEEDING IN WHICH ANY CONTROVERTED QUESTION OF FACT ARISES AS TO WHICH ANY PARTY HAS A CONSTITUTIONAL RIGHT TO TRIAL BY JURY.

B. IF THERE IS NO RIGHT TO TRIAL BY JURY UNDER SECTION A OR THE RIGHT IS WAIVED, THE COURT IN ITS DISCRETION MAY CALL A JURY TO DECIDE ANY ISSUE OF FACT, IN WHICH CASE THE VERDICT IS ADVISORY ONLY.

14-1307. **Registrar; powers**

THE ACTS AND ORDERS WHICH THIS TITLE SPECIFIES AS PERFORMABLE BY THE REGISTRAR SHALL BE PERFORMED BY A JUDGE, THE CLERK OF THE COURT, A COURT COMMISSIONER OR ANY OF SUCH AT THE SELECTION OF THE PRESIDING JUDGE OF THE COUNTY DESIGNATED BY THE COURT BY A WRITTEN ORDER FILED AND RECORDED IN THE OFFICE OF THE CLERK OF THE COURT.

14-1308. (Blank)

14-1309. (Blank)

14-1310. **Oath or affirmation on filed documents**

EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS TITLE OR BY RULE, EACH DOCUMENT FILED WITH THE COURT UNDER THIS TITLE INCLUDING APPLICATIONS, PETITIONS AND DEMANDS FOR NOTICE, SHALL BE DEEMED TO INCLUDE AN OATH, AFFIRMATION OR STATEMENT TO THE EFFECT THAT ITS REPRESENTATIONS ARE TRUE AS FAR AS THE PERSON EXECUTING OR FILING IT KNOWS OR IS INFORMED. EACH DOCUMENT FILED WITH THE COURT UNDER THIS TITLE IS MATERIAL AND MAY SUBJECT THE PERSON EXECUTING OR FILING SUCH DOCUMENT TO PENALTIES UNDER THE PROVISIONS OF TITLE 13, CHAPTER 2, ARTICLE 30, RELATING TO PERJURY AND SUBORNATION OF PERJURY.

ARTICLE 4. NOTICE, PARTIES AND REPRESENTATION  
IN ESTATE LITIGATION AND OTHER MATTERS

## LAWS OF ARIZONA

## 14-1401. Notice; method and time of giving

A. IF NOTICE OF A HEARING ON ANY PETITION IS REQUIRED AND EXCEPT FOR SPECIFIC NOTICE REQUIREMENTS AS OTHERWISE PROVIDED, THE PETITIONER SHALL CAUSE NOTICE OF THE TIME AND PLACE OF HEARING OF ANY PETITION TO BE GIVEN TO ANY INTERESTED PERSON OR HIS ATTORNEY IF HE HAS APPEARED BY ATTORNEY OR REQUESTED THAT NOTICE BE SENT TO HIS ATTORNEY. NOTICE SHALL BE GIVEN EITHER:

1. BY MAILING A COPY THEREOF AT LEAST FOURTEEN DAYS BEFORE THE TIME SET FOR THE HEARING BY CERTIFIED, REGISTERED OR ORDINARY FIRST CLASS MAIL ADDRESSED TO THE PERSON BEING NOTIFIED AT THE POST OFFICE ADDRESS GIVEN IN HIS DEMAND FOR NOTICE, IF ANY, OR AT HIS OFFICE OR PLACE OF RESIDENCE, IF KNOWN.

2. BY DELIVERING A COPY THEREOF TO THE PERSON BEING NOTIFIED PERSONALLY AT LEAST FOURTEEN DAYS BEFORE THE TIME SET FOR THE HEARING.

3. IF THE ADDRESS, OR IDENTITY OF ANY PERSON IS NOT KNOWN AND CANNOT BE ASCERTAINED WITH REASONABLE DILIGENCE, OR WHEN OTHERWISE REQUIRED UNDER THIS TITLE, BY PUBLISHING AT LEAST THREE TIMES, A COPY THEREOF IN A NEWSPAPER HAVING GENERAL CIRCULATION IN THE COUNTY WHERE THE HEARING IS TO BE HELD, THE FIRST PUBLICATION OF WHICH IS TO BE AT LEAST TEN DAYS BEFORE THE TIME SET FOR THE HEARING.

B. THE COURT FOR GOOD CAUSE SHOWN MAY PROVIDE FOR A DIFFERENT METHOD OR TIME OF GIVING NOTICE FOR ANY HEARING.

C. PROOF OF THE GIVING OF NOTICE SHALL BE MADE AT OR BEFORE THE HEARING AND FILED IN THE PROCEEDING.

## 14-1402. Notice; waiver

A PERSON, INCLUDING A GUARDIAN AD LITEM, CONSERVATOR OR OTHER FIDUCIARY, MAY WAIVE NOTICE BY A WRITING SIGNED BY HIM OR HIS ATTORNEY AND FILED IN THE PROCEEDING.

## LAWS OF ARIZONA

## 14-1403. Pleadings; when parties bound by others; notice

IN FORMAL PROCEEDINGS INVOLVING TRUSTS OR ESTATES OF DECEDENTS, MINORS, PROTECTED PERSONS OR INCAPACITATED PERSONS, AND IN JUDICIALLY SUPERVISED SETTLEMENTS, THE FOLLOWING APPLY:

1. INTERESTS TO BE AFFECTED SHALL BE DESCRIBED IN PLEADINGS WHICH GIVE REASONABLE INFORMATION TO OWNERS BY NAME OR CLASS, BY REFERENCE TO THE INSTRUMENT CREATING THE INTERESTS OR IN OTHER APPROPRIATE MANNER.

2. PERSONS ARE BOUND BY ORDERS BINDING OTHERS IN THE FOLLOWING CASES:

(a) ORDERS BINDING THE SOLE HOLDER OR ALL CO-HOLDERS OF A POWER OF REVOCATION OR A PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT, INCLUDING ONE IN THE FORM OF A POWER OF AMENDMENT, BIND OTHER PERSONS TO THE EXTENT THEIR INTERESTS, AS OBJECTS, TAKERS IN DEFAULT OR OTHERWISE, ARE SUBJECT TO THE POWER.

(b) TO THE EXTENT THERE IS NO CONFLICT OF INTEREST BETWEEN THEM OR AMONG PERSONS REPRESENTED:

(i) ORDERS BINDING A CONSERVATOR BIND THE PERSON WHOSE ESTATE HE CONTROLS.

(ii) ORDERS BINDING A GUARDIAN BIND THE WARD IF NO CONSERVATOR OF HIS ESTATE HAS BEEN APPOINTED.

(iii) ORDERS BINDING A TRUSTEE BIND BENEFICIARIES OF THE TRUST IN PROCEEDINGS TO PROBATE A WILL ESTABLISHING OR ADDING TO A TRUST, TO REVIEW THE ACTS OR ACCOUNTS OF A PRIOR FIDUCIARY AND IN PROCEEDINGS INVOLVING CREDITORS OR OTHER THIRD PARTIES.

(iv) ORDERS BINDING A PERSONAL REPRESENTATIVE BIND PERSONS INTERESTED IN THE UNDISTRIBUTED ASSETS OF A DECEDENT'S ESTATE IN ACTIONS OR PROCEEDINGS BY OR AGAINST THE ESTATE. IF THERE IS NO CONFLICT OF INTEREST AND NO CONSERVATOR OR GUARDIAN HAS BEEN APPOINTED, A PARENT MAY REPRESENT HIS MINOR CHILD.

## LAWS OF ARIZONA

(c) AN UNBORN OR UNASCERTAINED PERSON WHO IS NOT OTHERWISE REPRESENTED IS BOUND BY AN ORDER TO THE EXTENT HIS INTEREST IS ADEQUATELY REPRESENTED BY ANOTHER PARTY HAVING A SUBSTANTIALLY IDENTICAL INTEREST IN THE PROCEEDING.

3. NOTICE IS REQUIRED AS FOLLOWS:

(a) NOTICE AS PRESCRIBED BY SECTION 14-1401 SHALL BE GIVEN TO EVERY INTERESTED PERSON OR TO ONE WHO CAN BIND AN INTERESTED PERSON AS DESCRIBED IN PARAGRAPH 2, SUBDIVISION (a) OR (b) OF THIS SECTION. NOTICE MAY BE GIVEN BOTH TO A PERSON AND TO ANOTHER WHO MAY BIND HIM.

(b) NOTICE IS GIVEN TO UNBORN OR UNASCERTAINED PERSONS WHO ARE NOT REPRESENTED UNDER PARAGRAPH 2, SUBDIVISION (a) OR (b) OF THIS SECTION, BY GIVING NOTICE TO ALL KNOWN PERSONS WHOSE INTERESTS IN THE PROCEEDINGS ARE SUBSTANTIALLY IDENTICAL TO THOSE OF THE UNBORN OR UNASCERTAINED PERSONS.

4. AT ANY POINT IN A PROCEEDING, A COURT MAY APPOINT A GUARDIAN AD LITEM TO REPRESENT THE INTEREST OF A MINOR, AN INCAPACITATED, UNBORN OR UNASCERTAINED PERSON, OR A PERSON WHOSE IDENTITY OR ADDRESS IS UNKNOWN, IF THE COURT DETERMINES THAT REPRESENTATION OF THE INTEREST OTHERWISE WOULD BE INADEQUATE. IF NOT PRECLUDED BY CONFLICT OF INTERESTS, A GUARDIAN AD LITEM MAY BE APPOINTED TO REPRESENT SEVERAL PERSONS OR INTERESTS. THE COURT SHALL SET OUT ITS REASONS FOR APPOINTING A GUARDIAN AD LITEM AS A PART OF THE RECORD OF THE PROCEEDING.

CHAPTER 2  
INTESTATE SUCCESSION AND WILLS  
ARTICLE 1. INTESTATE SUCCESSION

14-2101. **Intestate estate**

ANY PART OF THE ESTATE OF A DECEDENT NOT EFFECTIVELY DISPOSED OF BY HIS WILL PASSES TO HIS HEIRS AS PRESCRIBED IN THE FOLLOWING SECTIONS OF THIS TITLE.

14-2102. **Intestate share of surviving spouse**

## LAWS OF ARIZONA

THE FOLLOWING PART OF THE INTESTATE ESTATE, AS TO BOTH SEPARATE PROPERTY AND THE ONE-HALF OF COMMUNITY PROPERTY WHICH BELONGS TO DECEDENT, PASSES TO THE SURVIVING SPOUSE:

1. IF THERE IS NO SURVIVING ISSUE, OR IF THERE ARE SURVIVING ISSUE ALL OF WHOM ARE ISSUE OF THE SURVIVING SPOUSE ALSO, THE ENTIRE INTESTATE ESTATE.
2. IF THERE ARE SURVIVING ISSUE ONE OR MORE OF WHOM ARE NOT ISSUE OF THE SURVIVING SPOUSE, ONE-HALF OF THE INTESTATE SEPARATE PROPERTY AND NO INTEREST IN THE ONE-HALF OF THE COMMUNITY PROPERTY WHICH BELONGED TO THE DECEDENT.

14-2103. **Share of heirs other than surviving spouse**

A. THE PART OF THE INTESTATE ESTATE NOT PASSING TO THE SURVIVING SPOUSE UNDER SECTION 14-2102, OR THE ENTIRE INTESTATE ESTATE IF THERE IS NO SURVIVING SPOUSE, PASSES AS FOLLOWS:

1. TO THE ISSUE OF THE DECEDENT.
2. IF THERE IS NO SURVIVING ISSUE, TO THE DECEDENT'S PARENT OR PARENTS EQUALLY.
3. IF THERE IS NO SURVIVING ISSUE OR PARENT, TO THE ISSUE OF THE DECEDENT'S PARENTS.
4. IF THERE IS NO SURVIVING ISSUE, PARENT OR ISSUE OF A PARENT, BUT THE DECEDENT IS SURVIVED BY ONE OR MORE GRANDPARENTS OR ISSUE OF GRANDPARENTS, HALF OF THE ESTATE PASSES TO THE PATERNAL GRANDPARENT OR GRANDPARENTS EQUALLY, OR TO THEIR ISSUE IF BOTH GRANDPARENTS ARE DECEASED; THE OTHER HALF PASSES TO MATERNAL GRANDPARENTS OR THEIR ISSUE IN THE SAME MANNER. IF THERE IS NO SURVIVING GRANDPARENT OR ISSUE ON EITHER THE PATERNAL OR MATERNAL SIDE, THE ENTIRE ESTATE PASSES TO THE RELATIVES ON THE OTHER SIDE IN THE SAME MANNER AS THE HALF.

B. WHENEVER THE HEIRS ARE ISSUE OF THE DECEDENT, OR OF HIS PARENTS, OR OF HIS GRANDPARENTS, THE ISSUE TAKE

## LAWS OF ARIZONA

EQUALLY IF THEY ARE ALL OF THE SAME DEGREE OF KINSHIP TO THE DECEDENT; BUT IF THEY ARE OF UNEQUAL DEGREE, THEN THOSE OF MORE REMOTE DEGREE TAKE BY REPRESENTATION AS PROVIDED IN SECTION 14-2106.

**14-2104. Requirement that heir survive decedent for one hundred twenty hours**

FOR PURPOSES OF INTESTATE SUCCESSION, THE ALLOWANCE IN LIEU OF HOMESTEAD AND EXEMPT PROPERTY, ANY PERSON WHO FAILS TO SURVIVE THE DECEDENT BY ONE HUNDRED TWENTY HOURS IS DEEMED TO HAVE PREDECEASED THE DECEDENT AND THE DECEDENT'S HEIRS ARE DETERMINED ACCORDINGLY. IF THE TIME OF DEATH OF THE DECEDENT OR OF THE PERSON WHO WOULD OTHERWISE BE AN HEIR, OR THE TIMES OF DEATH OF BOTH, CANNOT BE DETERMINED, AND IT CANNOT BE ESTABLISHED THAT THE PERSON WHO WOULD OTHERWISE BE AN HEIR HAS SURVIVED THE DECEDENT BY ONE HUNDRED TWENTY HOURS, IT IS DEEMED THAT THE PERSON FAILED TO SURVIVE FOR THE REQUIRED PERIOD. THIS SECTION IS NOT TO BE APPLIED WHERE ITS APPLICATION WOULD RESULT IN A TAKING OF INTESTATE ESTATE BY THE STATE UNDER SECTION 14-2105.

**14-2105. No taker**

IF THERE IS NO TAKER UNDER THE PROVISIONS OF THIS CHAPTER, THE INTESTATE ESTATE PASSES TO THE STATE.

**14-2106. Representation**

IF REPRESENTATION IS CALLED FOR BY THIS TITLE, THE ESTATE IS DIVIDED INTO AS MANY SHARES AS THERE ARE SURVIVING HEIRS IN THE NEAREST DEGREE OF KINSHIP AND DECEASED PERSONS IN THE SAME DEGREE WHO LEFT ISSUE WHO SURVIVE THE DECEDENT, EACH SURVIVING HEIR IN THE NEAREST DEGREE RECEIVING ONE SHARE AND THE SHARE OF EACH DECEASED PERSON IN THE SAME DEGREE BEING DIVIDED AMONG HIS ISSUE IN THE SAME MANNER.

**14-2107. Kindred of half blood**

SECTION 14-2103 INCLUDES ISSUE OF ONE PARENT AND ISSUE OF ONE GRANDPARENT. RELATIVES OF THE HALF BLOOD

## LAWS OF ARIZONA

INHERIT THE SAME SHARE THEY WOULD INHERIT IF THEY WERE OF THE WHOLE BLOOD.

14-2108. **Afterborn heirs**

RELATIVES OF THE DECEDENT CONCEIVED BEFORE HIS DEATH BUT BORN THEREAFTER INHERIT AS IF THEY HAD BEEN BORN IN THE LIFETIME OF THE DECEDENT.

14-2109. **Meaning of child and related terms**

IF, FOR PURPOSES OF INTESTATE SUCCESSION, A RELATIONSHIP OF PARENT AND CHILD MUST BE ESTABLISHED TO DETERMINE SUCCESSION BY, THROUGH OR FROM A PERSON:

1. AN ADOPTED PERSON IS THE CHILD OF AN ADOPTING PARENT AND NOT OF THE NATURAL PARENTS EXCEPT THAT ADOPTION OF A CHILD BY THE SPOUSE OF A NATURAL PARENT HAS NO EFFECT ON THE RELATIONSHIP BETWEEN THE CHILD AND THAT NATURAL PARENT.

2. IN CASES NOT COVERED BY PARAGRAPH 1, A PERSON BORN OUT OF WEDLOCK IS A CHILD OF THE MOTHER. THAT PERSON IS ALSO A CHILD OF THE FATHER, IF EITHER:

(a) THE NATURAL PARENTS PARTICIPATED IN A MARRIAGE CEREMONY BEFORE OR AFTER THE BIRTH OF THE CHILD, EVEN THOUGH THE ATTEMPTED MARRIAGE IS VOID.

(b) THE PATERNITY IS ESTABLISHED BY AN ADJUDICATION BEFORE THE DEATH OF THE FATHER OR IS ESTABLISHED THEREAFTER BY CLEAR AND CONVINCING PROOF, EXCEPT THAT THE PATERNITY ESTABLISHED UNDER THIS SUBDIVISION IS INEFFECTIVE TO QUALIFY THE FATHER OR HIS KINDRED TO INHERIT FROM OR THROUGH THE CHILD UNLESS THE FATHER HAS OPENLY TREATED THE CHILD AS HIS, AND HAS NOT REFUSED TO SUPPORT THE CHILD.

14-2110. **Advancements**

IF A PERSON DIES INTESTATE AS TO ALL HIS ESTATE, PROPERTY WHICH HE GAVE IN HIS LIFETIME TO AN HEIR IS TREATED AS AN ADVANCEMENT AGAINST THE LATTER'S SHARE OF THE ESTATE ONLY IF DECLARED IN A CONTEMPORANEOUS WRITING BY THE

## LAWS OF ARIZONA

DECEDENT OR ACKNOWLEDGED IN WRITING BY THE HEIR TO BE AN ADVANCEMENT. FOR THIS PURPOSE THE PROPERTY ADVANCED IS VALUED AS OF THE TIME THE HEIR CAME INTO POSSESSION OR ENJOYMENT OF THE PROPERTY OR AS OF THE TIME OF DEATH OF THE DECEDENT, WHICHEVER FIRST OCCURS. IF THE RECIPIENT OF THE PROPERTY FAILS TO SURVIVE THE DECEDENT, THE PROPERTY IS NOT TAKEN INTO ACCOUNT IN COMPUTING THE INTESTATE SHARE TO BE RECEIVED BY THE RECIPIENT'S ISSUE, UNLESS THE DECLARATION OR ACKNOWLEDGMENT PROVIDES OTHERWISE.

**14-2111. Debts to decedent**

A DEBT OWED TO THE DECEDENT IS NOT CHARGED AGAINST THE INTESTATE SHARE OF ANY PERSON EXCEPT THE DEBTOR. IF THE DEBTOR FAILS TO SURVIVE THE DECEDENT, THE DEBT IS NOT TAKEN INTO ACCOUNT IN COMPUTING THE INTESTATE SHARE OF THE DEBTOR'S ISSUE.

**14-2112. Alienage**

NO PERSON IS DISQUALIFIED TO TAKE AS AN HEIR BECAUSE HE OR A PERSON THROUGH WHOM HE CLAIMS IS OR HAS BEEN AN ALIEN.

**ARTICLE 2. WAIVER OF RIGHTS  
OF SPOUSE****14-2204. Waiver of rights of spouse; effect of property settlement**

THE RIGHTS OF A SURVIVING SPOUSE UNDER THIS TITLE MAY BE WAIVED, WHOLLY OR PARTIALLY, BEFORE OR AFTER MARRIAGE, BY A WRITTEN CONTRACT, AGREEMENT OR WAIVER SIGNED BY THE PARTY AFTER A FAIR DISCLOSURE. UNLESS THE CONTRACT PROVIDES TO THE CONTRARY, A WAIVER OF ALL RIGHTS IN THE PROPERTY OR ESTATE OF A PRESENT OR PROSPECTIVE SPOUSE, OR A COMPLETE PROPERTY SETTLEMENT ENTERED INTO AFTER OR IN ANTICIPATION OF SEPARATION OR DIVORCE IS A WAIVER OF ALL RIGHTS TO AN ALLOWANCE IN LIEU OF HOMESTEAD, EXEMPT PROPERTY AND FAMILY ALLOWANCE BY EACH SPOUSE IN THE PROPERTY OF THE OTHER AND A RENUNCIATION BY EACH OF ALL BENEFITS WHICH WOULD OTHERWISE PASS TO HIM FROM THE OTHER BY INTESTATE SUCCESSION OR BY VIRTUE OF THE PROVISIONS OF ANY WILL

## LAWS OF ARIZONA

EXECUTED BEFORE THE WAIVER OR PROPERTY SETTLEMENT. A WAIVER OF ALL RIGHTS DOES NOT AFFECT THE RIGHTS OF EACH SPOUSE TO HIS SHARE OF COMMUNITY PROPERTY, IN THE ABSENCE OF CONTRARY PROVISION; BUT A COMPLETE SETTLEMENT TERMINATES RIGHTS TO COMMUNITY PROPERTY IN ASSETS THEN OWNED OR THEREAFTER ACQUIRED, UNLESS THE SETTLEMENT AGREEMENT PROVIDES TO THE CONTRARY.

ARTICLE 3. SPOUSE AND CHILDREN  
UNPROVIDED FOR IN WILLS

14-2301. **Omitted spouse**

A. IF A TESTATOR FAILS TO PROVIDE BY WILL FOR HIS SURVIVING SPOUSE WHO MARRIED THE TESTATOR AFTER THE EXECUTION OF THE WILL, THE OMITTED SPOUSE SHALL RECEIVE THE SAME SHARE OF THE ESTATE HE WOULD HAVE RECEIVED IF THE DECEDENT LEFT NO WILL UNLESS IT APPEARS FROM THE WILL THAT THE OMISSION WAS INTENTIONAL OR THE TESTATOR PROVIDED FOR THE SPOUSE BY TRANSFER OUTSIDE THE WILL AND THE INTENT THAT THE TRANSFER BE IN LIEU OF A TESTAMENTARY PROVISION IS SHOWN BY STATEMENTS OF THE TESTATOR OR FROM THE AMOUNT OF THE TRANSFER OR OTHER EVIDENCE.

B. IN SATISFYING A SHARE PROVIDED BY THIS SECTION, THE DEVICES MADE BY THE WILL ABATE AS PROVIDED IN SECTION 14-3902.

14-2302. **Pretermitted children**

A. IF A TESTATOR FAILS TO PROVIDE IN HIS WILL FOR ANY OF HIS CHILDREN BORN OR ADOPTED AFTER THE EXECUTION OF HIS WILL, THE OMITTED CHILD RECEIVES A SHARE IN THE ESTATE EQUAL IN VALUE TO THAT WHICH HE WOULD HAVE RECEIVED IF THE TESTATOR HAD DIED INTTESTATE UNLESS:

1. IT APPEARS FROM THE WILL THAT THE OMISSION WAS INTENTIONAL.

2. WHEN THE WILL WAS EXECUTED THE TESTATOR HAD ONE OR MORE CHILDREN AND DEvised SUBSTANTIALLY ALL HIS ESTATE TO THE OTHER PARENT OF THE OMITTED CHILD.

## LAWS OF ARIZONA

3. THE TESTATOR PROVIDED FOR THE CHILD BY TRANSFER OUTSIDE THE WILL AND THE INTENT THAT THE TRANSFER BE IN LIEU OF A TESTAMENTARY PROVISION IS SHOWN BY STATEMENTS OF THE TESTATOR OR FROM THE AMOUNT OF THE TRANSFER OR OTHER EVIDENCE.

B. IF AT THE TIME OF EXECUTION OF THE WILL THE TESTATOR FAILS TO PROVIDE IN HIS WILL FOR A LIVING CHILD SOLELY BECAUSE HE BELIEVES THE CHILD TO BE DEAD, THE CHILD RECEIVES A SHARE IN THE ESTATE EQUAL IN VALUE TO THAT WHICH HE WOULD HAVE RECEIVED IF THE TESTATOR HAD DIED INTESTATE.

C. IN SATISFYING A SHARE PROVIDED BY THIS SECTION, THE DEVISES MADE BY THE WILL ABATE AS PROVIDED IN SECTION 14-3902.

## ARTICLE 4. EXEMPT PROPERTY AND ALLOWANCES

## 14-2401. Allowance in lieu of homestead

A SURVIVING SPOUSE OF A DECEDENT WHO WAS DOMICILED IN THIS STATE IS ENTITLED TO AN ALLOWANCE OF SIX THOUSAND DOLLARS. IF THERE IS NO SURVIVING SPOUSE, EACH DEPENDENT CHILD OF THE DECEDENT IS ENTITLED TO AN ALLOWANCE OF SIX THOUSAND DOLLARS DIVIDED BY THE NUMBER OF DEPENDENT CHILDREN OF THE DECEDENT. THE ALLOWANCE PROVIDED IN THIS SECTION IS IN LIEU OF ANY HOMESTEAD EXEMPTION THE DECEDENT MAY HAVE HAD DURING LIFETIME UNDER SECTION 33-1101. THE ALLOWANCE PROVIDED IN THIS SECTION IS EXEMPT FROM AND HAS PRIORITY OVER ALL CLAIMS AGAINST THE ESTATE EXCEPT EXPENSES OF ADMINISTRATION. THE ALLOWANCE IS IN ADDITION TO ANY SHARE PASSING TO THE SURVIVING SPOUSE OR CHILD EITHER BY INTESTATE SUCCESSION, OR BY THE WILL OF THE DECEDENT UNLESS THE WILL PROVIDES OTHERWISE.

## 14-2402. Exempt property

IN ADDITION TO THE ALLOWANCE IN LIEU OF HOMESTEAD THE SURVIVING SPOUSE OF A DECEDENT WHO WAS DOMICILED IN THIS STATE IS ENTITLED FROM THE ESTATE TO VALUE NOT EXCEEDING THREE THOUSAND FIVE HUNDRED DOLLARS IN EXCESS OF ANY SECURITY INTERESTS THEREIN IN HOUSEHOLD

## LAWS OF ARIZONA

FURNITURE, AUTOMOBILES, FURNISHINGS, APPLIANCES AND PERSONAL EFFECTS. IF THERE IS NO SURVIVING SPOUSE, DEPENDENT CHILDREN OF THE DECEDENT ARE ENTITLED JOINTLY TO THE SAME VALUE. IF ENCUMBERED CHATTELS ARE SELECTED AND IF THE VALUE IN EXCESS OF SECURITY INTERESTS, PLUS THAT OF OTHER EXEMPT PROPERTY, IS LESS THAN THREE THOUSAND FIVE HUNDRED DOLLARS, OR IF THERE IS NOT THREE THOUSAND FIVE HUNDRED DOLLARS WORTH OF EXEMPT PROPERTY IN THE ESTATE, THE SPOUSE OR CHILDREN ARE ENTITLED TO OTHER ASSETS OF THE ESTATE, IF ANY, TO THE EXTENT NECESSARY TO MAKE UP THE THREE THOUSAND FIVE HUNDRED DOLLAR VALUE. RIGHTS TO EXEMPT PROPERTY AND ASSETS NEEDED TO MAKE UP A DEFICIENCY OF EXEMPT PROPERTY HAVE PRIORITY OVER ALL CLAIMS AGAINST THE ESTATE, EXCEPT THE EXPENSES OF ADMINISTRATION, BUT THE RIGHT TO ANY ASSETS TO MAKE UP A DEFICIENCY OF EXEMPT PROPERTY SHALL ABATE AS NECESSARY TO PERMIT PRIOR PAYMENT OF ALLOWANCE IN LIEU OF HOMESTEAD AND FAMILY ALLOWANCE. THESE RIGHTS ARE IN ADDITION TO ANY BENEFIT OR SHARE PASSING TO THE SURVIVING SPOUSE OR CHILDREN BY INTTESTATE SUCCESSION, OR BY THE WILL OF THE DECEDENT UNLESS THE WILL PROVIDES OTHERWISE.

**14-2403. Family allowance**

A. IN ADDITION TO THE RIGHT TO THE ALLOWANCE IN LIEU OF HOMESTEAD AND EXEMPT PROPERTY, IF THE DECEDENT WAS DOMICILED IN THIS STATE, THE SURVIVING SPOUSE AND DEPENDENT CHILDREN ARE ENTITLED TO A REASONABLE ALLOWANCE IN MONEY OUT OF THE ESTATE FOR THEIR MAINTENANCE DURING THE PERIOD OF ADMINISTRATION, WHICH ALLOWANCE MAY NOT CONTINUE FOR LONGER THAN ONE YEAR IF THE ESTATE IS INADEQUATE TO DISCHARGE ALLOWED CLAIMS. THE ALLOWANCE MAY BE PAID AS A LUMP SUM OR IN PERIODIC INSTALLMENTS. IT IS PAYABLE TO THE SURVIVING SPOUSE, FOR THE USE OF THE SURVIVING SPOUSE AND DEPENDENT CHILDREN. IF THE SPOUSE IS NOT LIVING THE ALLOWANCE IS PAYABLE TO THE CHILDREN OR PERSONS HAVING THEIR CARE AND CUSTODY. IN CASE ANY DEPENDENT CHILD IS NOT LIVING WITH THE SURVIVING SPOUSE, THE ALLOWANCE MAY BE MADE PARTIALLY TO THE CHILD OR HIS GUARDIAN OR OTHER PERSON HAVING HIS CARE AND CUSTODY, AND PARTIALLY TO THE SPOUSE, AS THEIR NEEDS MAY APPEAR. THE FAMILY ALLOWANCE IS EXEMPT FROM AND

## LAWS OF ARIZONA

HAS PRIORITY OVER ALL CLAIMS EXCEPT EXPENSES OF ADMINISTRATION, BUT NOT OVER THE ALLOWANCE IN LIEU OF HOMESTEAD.

B. THE FAMILY ALLOWANCE IS NOT CHARGEABLE AGAINST ANY BENEFIT OR SHARE PASSING TO THE SURVIVING SPOUSE OR CHILDREN EITHER BY INTESTATE SUCCESSION, OR BY THE WILL OF THE DECEDENT UNLESS THE WILL PROVIDES OTHERWISE. THE DEATH OF ANY PERSON ENTITLED TO FAMILY ALLOWANCE TERMINATES HIS RIGHT TO ALLOWANCES NOT PAID.

14-2404. **Source, determination and documentation**

IF THE ESTATE IS OTHERWISE SUFFICIENT, PROPERTY SPECIFICALLY DEVISED SHALL NOT BE USED TO SATISFY RIGHTS TO THE ALLOWANCE IN LIEU OF HOMESTEAD AND EXEMPT PROPERTY. SUBJECT TO THIS RESTRICTION, THE SURVIVING SPOUSE, THE GUARDIANS OF THE MINOR CHILDREN OR CHILDREN WHO ARE ADULTS MAY SELECT PROPERTY OF THE ESTATE AS THE ALLOWANCE IN LIEU OF HOMESTEAD AND EXEMPT PROPERTY. THE PERSONAL REPRESENTATIVE MAY MAKE THESE SELECTIONS IF THE SURVIVING SPOUSE, THE CHILDREN OR THE GUARDIANS OF THE MINOR CHILDREN ARE UNABLE OR FAIL TO DO SO WITHIN A REASONABLE TIME OR IF THERE ARE NO GUARDIANS OF THE MINOR CHILDREN. THE ALLOWANCE IN LIEU OF HOMESTEAD, THE EXEMPT PROPERTY, AND THE FAMILY ALLOWANCE MAY BE TAKEN OUT OF SEPARATE PROPERTY OR THE DECEDENT'S SHARE OF COMMUNITY PROPERTY. THE PERSONAL REPRESENTATIVE MAY EXECUTE AN INSTRUMENT OR DEED OF DISTRIBUTION TO ESTABLISH THE OWNERSHIP OF PROPERTY TAKEN AS THE ALLOWANCE IN LIEU OF HOMESTEAD OR EXEMPT PROPERTY. HE MAY DETERMINE THE FAMILY ALLOWANCE IN A LUMP SUM NOT EXCEEDING SIX THOUSAND DOLLARS OR PERIODIC INSTALLMENTS NOT EXCEEDING FIVE HUNDRED DOLLARS PER MONTH FOR ONE YEAR, AND MAY DISBURSE FUNDS OF THE ESTATE IN PAYMENT OF THE FAMILY ALLOWANCE AND ANY PART OF THE ALLOWANCE IN LIEU OF HOMESTEAD PAYABLE IN CASH. THE PERSONAL REPRESENTATIVE OR ANY INTERESTED PERSON AGGRIEVED BY ANY SELECTION, DETERMINATION, PAYMENT, PROPOSED PAYMENT OR FAILURE TO ACT UNDER THIS SECTION MAY PETITION THE COURT FOR APPROPRIATE RELIEF, WHICH RELIEF MAY PROVIDE A FAMILY ALLOWANCE LARGER OR SMALLER THAN THAT WHICH THE PERSONAL REPRESENTATIVE DETERMINED OR COULD HAVE DETERMINED.

## LAWS OF ARIZONA

## ARTICLE 5. WILLS

14-2501. **Who may make a will**

ANY PERSON EIGHTEEN OR MORE YEARS OF AGE WHO IS OF SOUND MIND MAY MAKE A WILL.

14-2502. **Execution**

EXCEPT AS PROVIDED FOR HOLOGRAPHIC WILLS, WRITINGS WITHIN SECTION 14-2513 AND WILLS WITHIN SECTION 14-2506, EVERY WILL SHALL BE IN WRITING SIGNED BY THE TESTATOR OR IN THE TESTATOR'S NAME BY SOME OTHER PERSON IN THE TESTATOR'S PRESENCE AND BY HIS DIRECTION, AND SHALL BE SIGNED BY AT LEAST TWO PERSONS EACH OF WHOM WITNESSED EITHER THE SIGNING OR THE TESTATOR'S ACKNOWLEDGMENT OF THE SIGNATURE OR OF THE WILL.

14-2503. **Holographic will**

A WILL WHICH DOES NOT COMPLY WITH SECTION 14-2502 IS VALID AS A HOLOGRAPHIC WILL, WHETHER OR NOT WITNESSED, IF THE SIGNATURE AND THE MATERIAL PROVISIONS ARE IN THE HANDWRITING OF THE TESTATOR.

14-2504. **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 THE 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 \_\_\_\_\_

COUNTY 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

LAWS OF ARIZONA

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 OF THE TESTATOR, SIGNED THE WILL AS WITNESS AND THAT TO THE BEST OF HIS KNOWLEDGE THE TESTATOR WAS AT THAT TIME EIGHTEEN 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)

14-2505. 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.

14-2506. Choice of law as to execution

A WRITTEN WILL IS VALID IF EXECUTED IN COMPLIANCE WITH SECTION 14-2502 OR SECTION 14-2503 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.

14-2507. Revocation by writing or by act

A WILL OR ANY PART THEREOF IS REVOKED BY EITHER:

## LAWS OF ARIZONA

1. A SUBSEQUENT WILL WHICH REVOKES THE PRIOR WILL OR PART EXPRESSLY OR BY INCONSISTENCY.

2. BEING BURNED, TORN, CANCELED, OBLITERATED OR DESTROYED, WITH THE INTENT AND FOR THE PURPOSE OF REVOKING IT BY THE TESTATOR OR BY ANOTHER PERSON IN HIS PRESENCE AND BY HIS DIRECTION.

14-2508. **Revocation by divorce or annulment; 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 FORMER SPOUSE OR TO ANY ISSUE OF THE FORMER SPOUSE WHO ARE NOT ALSO ISSUE OF THE TESTATOR, ANY PROVISION CONFERRING A GENERAL OR SPECIAL POWER OF APPOINTMENT ON THE FORMER SPOUSE OR SUCH ISSUE, AND ANY NOMINATION OF THE FORMER SPOUSE OR SUCH ISSUE AS EXECUTOR, TRUSTEE, CONSERVATOR OR GUARDIAN, UNLESS THE WILL EXPRESSLY PROVIDES OTHERWISE. PROPERTY PREVENTED FROM PASSING TO A PERSON BECAUSE OF REVOCATION UNDER THIS SECTION PASSES AS IF THE PERSON FAILED TO SURVIVE THE DECEDENT; AND OTHER PROVISIONS CONFERRING SOME POWER OR OFFICE ON THE FORMER SPOUSE, OR ISSUE OF THE FORMER SPOUSE WHO ARE NOT ALSO ISSUE OF THE TESTATOR, ARE INTERPRETED AS IF THE SPOUSE OR ISSUE FAILED TO SURVIVE THE DECEDENT. IF PROVISIONS ARE REVOKED SOLELY BY THIS SECTION, THEY ARE REVIVED BY TESTATOR'S REMARRIAGE TO THE FORMER SPOUSE. FOR PURPOSES OF THIS SECTION, DIVORCE OR ANNULMENT MEANS ANY DIVORCE OR ANNULMENT WHICH WOULD EXCLUDE THE SPOUSE AS A SURVIVING SPOUSE WITHIN THE MEANING OF SECTION 14-2802, SUBSECTION B. A DECREE OF SEPARATION WHICH DOES NOT TERMINATE THE STATUS OF HUSBAND AND WIFE IS NOT A DIVORCE FOR PURPOSES OF THIS SECTION. NO CHANGE OF CIRCUMSTANCES OTHER THAN AS DESCRIBED IN THIS SECTION REVOKES A WILL OR ANY PART THEREOF.

14-2509. **Revival of revoked will**

A. IF A SECOND WILL WHICH, HAD IT REMAINED EFFECTIVE AT DEATH, WOULD HAVE REVOKED THE FIRST WILL IN WHOLE OR

## LAWS OF ARIZONA

IN PART, IS THEREAFTER REVOKED BY ACTS UNDER SECTION 14-2507, THE FIRST WILL IS REVOKED IN WHOLE OR IN PART UNLESS IT IS EVIDENT FROM THE CIRCUMSTANCES OF THE REVOCATION OF THE SECOND WILL OR FROM TESTATOR'S CONTEMPORARY OR SUBSEQUENT DECLARATIONS THAT HE INTENDED THE FIRST WILL TO TAKE EFFECT AS EXECUTED.

B. IF A SECOND WILL WHICH, HAD IT REMAINED EFFECTIVE AT DEATH, WOULD HAVE REVOKED THE FIRST WILL IN WHOLE OR IN PART, IS THEREAFTER REVOKED BY A THIRD WILL, THE FIRST WILL IS REVOKED IN WHOLE OR IN PART, EXCEPT TO THE EXTENT IT APPEARS FROM THE TERMS OF THE THIRD WILL THAT THE TESTATOR INTENDED THE FIRST WILL TO TAKE EFFECT.

14-2510. **Incorporation by reference**

ANY WRITING IN EXISTENCE WHEN A WILL IS EXECUTED MAY BE INCORPORATED BY REFERENCE IF THE LANGUAGE OF THE WILL MANIFESTS THIS INTENT AND DESCRIBES THE WRITING SUFFICIENTLY TO PERMIT ITS IDENTIFICATION.

14-2511. **Testamentary additions to trusts**

A DEVISE, THE VALIDITY OF WHICH IS DETERMINABLE BY THE LAW OF THIS STATE, MAY BE MADE BY A WILL TO THE TRUSTEE OF A TRUST, REGARDLESS OF THE EXISTENCE, SIZE OR CHARACTER OF THE CORPUS OF THE TRUST AND INCLUDING A FUNDED OR UNFUNDED LIFE INSURANCE TRUST, ALTHOUGH THE TRUSTOR HAS RESERVED ANY OR ALL RIGHTS OF OWNERSHIP OF THE INSURANCE CONTRACTS, ESTABLISHED OR TO BE ESTABLISHED BY THE TESTATOR, THE TESTATOR AND SOME OTHER PERSON OR BY SOME OTHER PERSON IF THE TRUST IS IDENTIFIED IN THE TESTATOR'S WILL AND ITS TERMS ARE SET FORTH IN A WRITTEN INSTRUMENT, OTHER THAN A WILL, EXECUTED BEFORE OR CONCURRENTLY WITH THE EXECUTION OF THE TESTATOR'S WILL OR IN THE VALID LAST WILL OF A PERSON WHO HAS PREDECEASED THE TESTATOR. THE DEVISE IS NOT INVALID BECAUSE THE TRUST IS AMENDABLE OR REVOCABLE, OR BECAUSE THE TRUST WAS AMENDED AFTER THE EXECUTION OF THE WILL OR AFTER THE DEATH OF THE TESTATOR. UNLESS THE TESTATOR'S WILL PROVIDES OTHERWISE, THE PROPERTY SO DEVISED:

## LAWS OF ARIZONA

1. IS NOT DEEMED TO BE HELD UNDER A TESTAMENTARY TRUST OF THE TESTATOR BUT BECOMES A PART OF THE TRUST TO WHICH IT IS GIVEN.

2. SHALL BE ADMINISTERED AND DISPOSED OF IN ACCORDANCE WITH THE PROVISIONS OF THE INSTRUMENT OR WILL SETTING FORTH THE TERMS OF THE TRUST, INCLUDING ANY AMENDMENTS THERETO MADE BEFORE THE DEATH OF THE TESTATOR, REGARDLESS OF WHETHER MADE BEFORE OR AFTER THE EXECUTION OF THE TESTATOR'S WILL, AND, IF THE TESTATOR'S WILL SO PROVIDES, INCLUDING ANY AMENDMENTS TO THE TRUST MADE AFTER THE DEATH OF THE TESTATOR. A REVOCATION OR TERMINATION OF THE TRUST BEFORE THE DEATH OF THE TESTATOR CAUSES THE DEVISE TO LAPSE.

14-2512. **Events of independent significance**

A WILL MAY DISPOSE OF PROPERTY BY REFERENCE TO ACTS AND EVENTS WHICH HAVE SIGNIFICANCE APART FROM THEIR EFFECT UPON THE DISPOSITIONS MADE BY THE WILL, WHETHER THEY OCCUR BEFORE OR AFTER THE EXECUTION OF THE WILL OR BEFORE OR AFTER THE TESTATOR'S DEATH. THE EXECUTION OR REVOCATION OF A WILL OF ANOTHER PERSON IS SUCH AN EVENT.

14-2513. **Separate writing identifying devise of tangible property**

WHETHER OR NOT THE PROVISIONS RELATING TO HOLOGRAPHIC WILLS APPLY, A WILL MAY REFER TO A WRITTEN STATEMENT OR LIST TO DISPOSE OF ITEMS OF TANGIBLE PERSONAL PROPERTY NOT OTHERWISE SPECIFICALLY DISPOSED OF BY THE WILL, OTHER THAN MONEY, EVIDENCES OF INDEBTEDNESS, DOCUMENTS OF TITLE, AND SECURITIES, AND PROPERTY USED IN TRADE OR BUSINESS. TO BE ADMISSIBLE UNDER THIS SECTION AS EVIDENCE OF THE INTENDED DISPOSITION, THE WRITING MUST EITHER BE IN THE HANDWRITING OF THE TESTATOR OR BE SIGNED BY HIM AND MUST DESCRIBE THE ITEMS AND THE DEVISEES WITH REASONABLE CERTAINTY. THE WRITING MAY BE REFERRED TO AS ONE TO BE IN EXISTENCE AT THE TIME OF THE TESTATOR'S DEATH; IT MAY BE PREPARED BEFORE OR AFTER THE EXECUTION OF THE WILL; IT MAY BE ALTERED BY THE TESTATOR AFTER ITS PREPARATION; AND IT MAY BE A WRITING WHICH HAS NO SIGNIFICANCE APART FROM ITS EFFECT UPON THE DISPOSITIONS MADE BY THE WILL.

## LAWS OF ARIZONA

## ARTICLE 6. RULES OF CONSTRUCTION

**14-2601. Requirement that devisee survive testator by one hundred twenty hours**

A. A DEVISEE WHO DOES NOT SURVIVE THE TESTATOR BY ONE HUNDRED TWENTY HOURS IS TREATED AS IF HE PREDECEASED THE TESTATOR, UNLESS THE WILL OF DECEDENT CONTAINS SOME LANGUAGE DEALING EXPLICITLY WITH SIMULTANEOUS DEATHS OR DEATHS IN A COMMON DISASTER, OR REQUIRING THAT THE DEVISEE SURVIVE THE TESTATOR OR SURVIVE THE TESTATOR FOR A STATED PERIOD IN ORDER TO TAKE UNDER THE WILL.

B. IF THE TIME OF DEATH OF THE TESTATOR, THE DEVISEE OR BOTH CANNOT BE DETERMINED AND IT CANNOT BE ESTABLISHED THAT THE DEVISEE HAS SURVIVED THE TESTATOR BY ONE HUNDRED TWENTY HOURS, IT IS DEEMED THAT THE DEVISEE HAS FAILED TO SURVIVE FOR THE REQUIRED PERIOD.

**14-2602. Choice of law as to meaning and effect of wills**

THE MEANING AND LEGAL EFFECT OF A DISPOSITION IN A WILL SHALL BE DETERMINED BY THE LOCAL LAW OF A PARTICULAR STATE SELECTED BY THE TESTATOR IN HIS INSTRUMENT UNLESS THE APPLICATION OF THAT LAW IS CONTRARY TO THE PUBLIC POLICY OF THIS STATE OTHERWISE APPLICABLE TO THE DISPOSITION.

**14-2603. Rules of construction and intention**

THE INTENTION OF A TESTATOR AS EXPRESSED IN HIS WILL CONTROLS THE LEGAL EFFECT OF HIS DISPOSITIONS. THE RULES OF CONSTRUCTION EXPRESSED IN THE SUCCEEDING SECTIONS OF THIS ARTICLE APPLY UNLESS A CONTRARY INTENTION IS INDICATED BY THE WILL.

**14-2604. Construction that will passes all property; after-acquired property**

A WILL IS CONSTRUED TO PASS ALL PROPERTY WHICH THE TESTATOR OWNS AT HIS DEATH INCLUDING PROPERTY ACQUIRED AFTER THE EXECUTION OF THE WILL.

## LAWS OF ARIZONA

## 14-2605. Anti-lapse; deceased devisee; class gifts

IF A DEVISEE WHO IS A GRANDPARENT OR A LINEAL DESCENDANT OF A GRANDPARENT OF THE TESTATOR IS DEAD AT THE TIME OF EXECUTION OF THE WILL, FAILS TO SURVIVE THE TESTATOR, OR IS TREATED AS IF HE PREDECEASED THE TESTATOR, THE ISSUE OF THE DECEASED DEVISEE WHO SURVIVE THE TESTATOR BY ONE HUNDRED TWENTY HOURS TAKE IN PLACE OF THE DECEASED DEVISEE AND IF THEY ARE ALL OF THE SAME DEGREE OF KINSHIP TO THE DEVISEE THEY TAKE EQUALLY, BUT IF OF UNEQUAL DEGREE THEN THOSE OF MORE REMOTE DEGREE TAKE BY REPRESENTATION. ONE WHO WOULD HAVE BEEN A DEVISEE UNDER A CLASS GIFT IF HE HAD SURVIVED THE TESTATOR IS TREATED AS A DEVISEE FOR PURPOSES OF THIS SECTION WHETHER HIS DEATH OCCURRED BEFORE OR AFTER THE EXECUTION OF THE WILL.

## 14-2606. Failure of testamentary provision

A. EXCEPT AS PROVIDED IN SECTION 14-2605, IF A DEVISEE OTHER THAN A RESIDUARY DEVISEE FAILS FOR ANY REASON, IT BECOMES A PART OF THE RESIDUE.

B. EXCEPT AS PROVIDED IN SECTION 14-2605, IF THE RESIDUE IS DEVISED TO TWO OR MORE PERSONS AND THE SHARE OF ONE OF THE RESIDUARY DEVISEES FAILS FOR ANY REASON, HIS SHARE PASSES TO THE OTHER RESIDUARY DEVISEE, OR TO OTHER RESIDUARY DEVISEES IN PROPORTION TO THEIR INTERESTS IN THE RESIDUE.

## 14-2607. Change in securities; accessions; nonademption

A. IF THE TESTATOR INTENDED A SPECIFIC DEVISE OF CERTAIN SECURITIES RATHER THAN THE EQUIVALENT VALUE THEREOF, THE SPECIFIC DEVISEE IS ENTITLED ONLY TO:

1. AS MUCH OF THE DEVISED SECURITIES AS IS A PART OF THE ESTATE AT TIME OF THE TESTATOR'S DEATH.

2. ANY ADDITIONAL OR OTHER SECURITIES OF THE SAME ENTITY OWNED BY THE TESTATOR BY REASON OF ACTION INITIATED BY THE ENTITY EXCLUDING ANY ACQUIRED BY EXERCISE OF PURCHASE OPTIONS.

## LAWS OF ARIZONA

3. SECURITIES OF ANOTHER ENTITY OWNED BY THE TESTATOR AS A RESULT OF A MERGER, CONSOLIDATION, REORGANIZATION OR OTHER SIMILAR ACTION INITIATED BY THE ENTITY.

4. ANY ADDITIONAL SECURITIES OF THE ENTITY OWNED BY THE TESTATOR AS A RESULT OF A PLAN OF REINVESTMENT IF IT IS A REGULATED INVESTMENT COMPANY.

B. DISTRIBUTIONS PRIOR TO DEATH WITH RESPECT TO A SPECIFICALLY DEVISED SECURITY NOT PROVIDED FOR IN SUBSECTION A ARE NOT PART OF THE SPECIFIC DEVISE.

14-2608. **Nonademption of specific devises in certain cases; sale by conservator; unpaid proceeds of sale, condemnation or insurance**

A. IF SPECIFICALLY DEVISED PROPERTY IS SOLD BY A CONSERVATOR, OR IF A CONDEMNATION AWARD OR INSURANCE PROCEEDS ARE PAID TO A CONSERVATOR AS A RESULT OF CONDEMNATION, FIRE OR CASUALTY, THE SPECIFIC DEVISEE HAS THE RIGHT TO A GENERAL PECUNIARY DEVISE EQUAL TO THE NET SALE PRICE, THE CONDEMNATION AWARD OR THE INSURANCE PROCEEDS. THIS SUBSECTION DOES NOT APPLY IF SUBSEQUENT TO THE SALE, CONDEMNATION OR CASUALTY, IT IS ADJUDICATED THAT THE DISABILITY OF THE TESTATOR HAS CEASED AND THE TESTATOR SURVIVES THE ADJUDICATION BY ONE YEAR. THE RIGHT OF THE SPECIFIC DEVISEE UNDER THIS SUBSECTION IS REDUCED BY ANY RIGHT HE HAS UNDER SUBSECTION B.

B. A SPECIFIC DEVISEE HAS THE RIGHT TO THE REMAINING SPECIFICALLY DEVISED PROPERTY AND:

1. ANY BALANCE OF THE PURCHASE PRICE, TOGETHER WITH ANY SECURITY INTEREST, OWING FROM A PURCHASER TO THE TESTATOR AT DEATH BY REASON OF SALE OF THE PROPERTY.

2. ANY AMOUNT OF A CONDEMNATION AWARD FOR THE TAKING OF THE PROPERTY UNPAID AT DEATH.

3. ANY PROCEEDS UNPAID AT DEATH ON FIRE OR CASUALTY INSURANCE ON THE PROPERTY.

4. PROPERTY OWNED BY TESTATOR AT HIS DEATH AS A

## LAWS OF ARIZONA

RESULT OF FORECLOSURE, OR OBTAINED IN LIEU OF FORECLOSURE, OF THE SECURITY FOR A SPECIFICALLY DEVISED OBLIGATION.

14-2609. **Non-exoneration**

A SPECIFIC DEVISE PASSES SUBJECT TO ANY MORTGAGE EXISTING AT THE DATE OF DEATH, WITHOUT RIGHT OF EXONERATION, REGARDLESS OF A GENERAL DIRECTIVE IN THE WILL TO PAY DEBTS.

14-2610. **Exercise of power of appointment**

A GENERAL RESIDUARY CLAUSE IN A WILL, OR A WILL MAKING GENERAL DISPOSITION OF ALL OF THE TESTATOR'S PROPERTY, DOES NOT EXERCISE A POWER OF APPOINTMENT HELD BY THE TESTATOR UNLESS SPECIFIC REFERENCE IS MADE TO THE POWER OR THERE IS SOME OTHER INDICATION OF INTENTION TO INCLUDE THE PROPERTY SUBJECT TO THE POWER.

14-2611. **Construction of generic terms to accord with relationships as defined for intestate succession**

HALFBLOODS, ADOPTED PERSONS AND PERSONS BORN OUT OF WEDLOCK ARE INCLUDED IN CLASS GIFT TERMINOLOGY AND TERMS OF RELATIONSHIP IN ACCORDANCE WITH RULES FOR DETERMINING RELATIONSHIPS FOR PURPOSES OF INTESTATE SUCCESSION.

14-2612. **Ademption by satisfaction**

PROPERTY WHICH A TESTATOR GAVE IN HIS LIFETIME TO A PERSON IS TREATED AS A SATISFACTION OF A DEVISE TO THAT PERSON IN WHOLE OR IN PART, ONLY IF THE WILL PROVIDES FOR DEDUCTION OF THE LIFETIME GIFT, THE TESTATOR DECLARES IN A CONTEMPORANEOUS WRITING THAT THE GIFT IS TO BE DEDUCTED FROM THE DEVISE OR IS IN SATISFACTION OF THE DEVISE, OR THE DEVISEE ACKNOWLEDGES IN WRITING THAT THE GIFT IS IN SATISFACTION. FOR PURPOSE OF PARTIAL SATISFACTION, PROPERTY GIVEN DURING LIFETIME IS VALUED AS OF THE TIME THE DEVISEE CAME INTO POSSESSION OR ENJOYMENT OF THE PROPERTY OR AS OF THE TIME OF DEATH OF THE TESTATOR, WHICHEVER OCCURS FIRST.

## LAWS OF ARIZONA

ARTICLE 7. CONTRACTUAL  
ARRANGEMENTS RELATING TO DEATH14-2701. **Contracts concerning successions**

A CONTRACT TO MAKE A WILL OR DEVISE, OR NOT TO REVOKE A WILL OR DEVISE, OR TO DIE INTTESTATE, IF EXECUTED AFTER THE EFFECTIVE DATE OF THIS TITLE, CAN BE ESTABLISHED ONLY BY ONE OR MORE OF THE FOLLOWING:

1. PROVISIONS OF A WILL STATING MATERIAL PROVISIONS OF THE CONTRACT.
2. AN EXPRESS REFERENCE IN A WILL TO A CONTRACT AND EXTRINSIC EVIDENCE PROVING THE TERMS OF THE CONTRACT.
3. A WRITING SIGNED BY THE DECEDENT EVIDENCING THE CONTRACT. THE EXECUTION OF A JOINT WILL OR MUTUAL WILLS DOES NOT CREATE A PRESUMPTION OF A CONTRACT NOT TO REVOKE THE WILL OR WILLS.

## ARTICLE 8. GENERAL PROVISIONS

14-2801. **Renunciation of succession**

A. A PERSON, OR HIS PERSONAL REPRESENTATIVE, WHO IS AN HEIR, DEVISEE, PERSON SUCCEEDING TO A RENOUNCED INTEREST, BENEFICIARY UNDER A TESTAMENTARY INSTRUMENT OR PERSON DESIGNATED TO TAKE PURSUANT TO A POWER OF APPOINTMENT EXERCISED BY A TESTAMENTARY INSTRUMENT MAY RENOUNCE IN WHOLE OR IN PART THE SUCCESSION TO ANY PROPERTY OR INTEREST THEREIN BY FILING A WRITTEN INSTRUMENT WITHIN THE TIME AND AT THE PLACE HEREINAFTER PROVIDED. THE INSTRUMENT SHALL:

1. DESCRIBE THE PROPERTY OR PART THEREOF OR INTEREST THEREIN RENOUNCED.
2. BE SIGNED BY THE PERSON RENOUNCING.
3. DECLARE THE RENUNCIATION AND THE EXTENT THEREOF.

B. THE WRITING SPECIFIED IN SUBSECTION A MUST BE FILED WITHIN SIX MONTHS AFTER THE DEATH OF THE DECEDENT OR THE DONEE OF THE POWER, OR IF THE TAKER OF THE

## LAWS OF ARIZONA

PROPERTY IS NOT THEN FINALLY ASCERTAINED NOT LATER THAN SIX MONTHS AFTER THE EVENT BY WHICH THE TAKER OR THE INTEREST IS FINALLY ASCERTAINED. THE WRITING MUST BE FILED IN THE COURT OF THE COUNTY WHERE PROCEEDINGS CONCERNING THE DECEDENT'S ESTATE ARE PENDING, OR WHERE THEY WOULD BE PENDING IF COMMENCED. A COPY OF THE WRITING ALSO SHALL BE MAILED TO THE PERSONAL REPRESENTATIVE OF THE DECEDENT.

C. UNLESS THE DECEDENT OR DONEE OF THE POWER HAS OTHERWISE INDICATED BY HIS WILL, THE INTEREST RENOUNCED AND ANY FUTURE INTEREST WHICH IS TO TAKE EFFECT IN POSSESSION OR ENJOYMENT AT OR AFTER THE TERMINATION OF THE INTEREST RENOUNCED, PASSES AS IF THE PERSON RENOUNCING HAD PREDECEASED THE DECEDENT, OR IF THE PERSON RENOUNCING IS ONE DESIGNATED TO TAKE PURSUANT TO A POWER OF APPOINTMENT EXERCISED BY A TESTAMENTARY INSTRUMENT, AS IF THE PERSON RENOUNCING HAD PREDECEASED THE DONEE OF THE POWER. IN EVERY CASE THE RENUNCIATION RELATES BACK FOR ALL PURPOSES TO THE DATE OF DEATH OF THE DECEDENT OR THE DONEE, AS THE CASE MAY BE.

D. ANY OF THE FOLLOWING:

1. ASSIGNMENT, CONVEYANCE, ENCUMBRANCE, PLEDGE OR TRANSFER OF PROPERTY THEREIN OR ANY CONTRACT THEREFOR;
2. WRITTEN WAIVER OF THE RIGHT TO RENOUNCE OR ANY ACCEPTANCE OF PROPERTY BY AN HEIR, DEVISEE, PERSON SUCCEEDING TO A RENOUNCED INTEREST, BENEFICIARY OR PERSON DESIGNATED TO TAKE PURSUANT TO A POWER OF APPOINTMENT EXERCISED BY TESTAMENTARY INSTRUMENT;
3. SALE OR OTHER DISPOSITION OF PROPERTY PURSUANT TO JUDICIAL PROCESS;

MADE BEFORE THE EXPIRATION OF THE PERIOD IN WHICH HE IS PERMITTED TO RENOUNCE, BARS THE RIGHT TO RENOUNCE AS TO THE PROPERTY.

E. THE RIGHT TO RENOUNCE GRANTED BY THIS SECTION EXISTS IRRESPECTIVE OF ANY LIMITATION ON THE INTEREST OF THE PERSON RENOUNCING IN THE NATURE OF A SPENDTHRIFT PROVISION OR SIMILAR RESTRICTION.

## LAWS OF ARIZONA

F. THIS SECTION DOES NOT ABRIDGE THE RIGHT OF ANY PERSON TO ASSIGN, CONVEY, RELEASE OR RENOUNCE ANY PROPERTY ARISING UNDER ANY OTHER SECTION OF THIS TITLE OR OTHER STATUTE.

G. ANY INTEREST IN PROPERTY WHICH EXISTS ON THE EFFECTIVE DATE OF THIS SECTION, BUT WHICH HAS NOT THEN BECOME INDEFEASIBLY FIXED BOTH IN QUALITY AND QUANTITY, OR THE TAKER OF WHICH HAS NOT THEN BECOME FINALLY ASCERTAINED, MAY BE RENOUNCED AFTER THE EFFECTIVE DATE OF THIS SECTION AS PROVIDED HEREIN. AN INTEREST WHICH HAS ARISEN PRIOR TO THE EFFECTIVE DATE OF THIS SECTION IN ANY PERSON OTHER THAN THE PERSON RENOUNCING IS NOT DESTROYED OR DIMINISHED BY ANY ACTION OF THE PERSON RENOUNCING TAKEN UNDER THIS SECTION.

14-2802. **Effect of divorce, annulment and decree of separation**

A. A PERSON WHO IS DIVORCED FROM THE DECEDENT OR WHOSE MARRIAGE TO THE DECEDENT HAS BEEN ANNULLED IS NOT A SURVIVING SPOUSE UNLESS, BY VIRTUE OF A SUBSEQUENT MARRIAGE, HE IS MARRIED TO THE DECEDENT AT THE TIME OF DEATH. A DECREE OF SEPARATION WHICH DOES NOT TERMINATE THE STATUS OF HUSBAND AND WIFE IS NOT A DIVORCE FOR PURPOSES OF THIS SECTION.

B. FOR PURPOSES OF ARTICLES 1, 2, 3 AND 4 OF THIS CHAPTER AND OF SECTION 14-3203, A SURVIVING SPOUSE DOES NOT INCLUDE:

1. A PERSON WHO OBTAINS OR CONSENTS TO A FINAL DECREE OR JUDGMENT OF DIVORCE FROM THE DECEDENT OR AN ANNULMENT OF THEIR MARRIAGE, WHICH DECREE OR JUDGMENT IS NOT RECOGNIZED AS VALID IN THIS STATE, UNLESS THEY SUBSEQUENTLY PARTICIPATE IN A MARRIAGE CEREMONY PURPORTING TO MARRY EACH TO THE OTHER, OR SUBSEQUENTLY LIVE TOGETHER AS MAN AND WIFE.

2. A PERSON WHO, FOLLOWING A DECREE OR JUDGMENT OF DIVORCE OR ANNULMENT OBTAINED BY THE DECEDENT, PARTICIPATES IN A MARRIAGE CEREMONY WITH A THIRD PERSON.

3. A PERSON WHO WAS A PARTY TO A VALID PROCEEDING CONCLUDED BY AN ORDER PURPORTING TO TERMINATE ALL MARITAL PROPERTY RIGHTS.

## LAWS OF ARIZONA

**14-2803. Effect of homicide on intestate succession, wills, joint assets, life insurance and beneficiary designations**

A. A SPOUSE, HEIR OR DEVISEE WHO FELONIOUSLY AND INTENTIONALLY KILLS THE DECEDENT IS NOT ENTITLED TO ANY BENEFITS UNDER THE WILL OR UNDER THIS CHAPTER, AND THE ESTATE OF DECEDENT PASSES AS IF THE KILLER HAD PREDECEASED THE DECEDENT. PROPERTY APPOINTED BY THE WILL OF THE DECEDENT TO OR FOR THE BENEFIT OF THE KILLER PASSES AS IF THE KILLER HAD PREDECEASED THE DECEDENT.

B. ANY JOINT TENANT WHO FELONIOUSLY AND INTENTIONALLY KILLS ANOTHER JOINT TENANT THEREBY EFFECTS A SEVERANCE OF THE INTEREST OF THE DECEDENT SO THAT THE SHARE OF THE DECEDENT PASSES AS HIS PROPERTY AND THE KILLER HAS NO RIGHTS BY SURVIVORSHIP. THIS PROVISION APPLIES TO JOINT TENANCIES IN REAL AND PERSONAL PROPERTY, JOINT ACCOUNTS IN BANKS, SAVINGS AND LOAN ASSOCIATIONS, CREDIT UNIONS AND OTHER INSTITUTIONS, AND ANY OTHER FORM OF CO-OWNERSHIP WITH SURVIVORSHIP INCIDENTS.

C. A NAMED BENEFICIARY OF A BOND, LIFE INSURANCE POLICY OR OTHER CONTRACTUAL ARRANGEMENT WHO FELONIOUSLY AND INTENTIONALLY KILLS THE PRINCIPAL OBLIGEE OR THE PERSON UPON WHOSE LIFE THE POLICY IS ISSUED IS NOT ENTITLED TO ANY BENEFIT UNDER THE BOND, POLICY OR OTHER CONTRACTUAL ARRANGEMENT, AND IT BECOMES PAYABLE AS THOUGH THE KILLER HAD PREDECEASED THE DECEDENT.

D. ANY OTHER ACQUISITION OF PROPERTY OR INTEREST BY THE KILLER SHALL BE TREATED IN ACCORDANCE WITH THE PRINCIPLES OF THIS SECTION.

E. A FINAL JUDGMENT OF CONVICTION OF FELONIOUS AND INTENTIONAL KILLING IS CONCLUSIVE FOR PURPOSES OF THIS SECTION. IN THE ABSENCE OF A CONVICTION OF FELONIOUS AND INTENTIONAL KILLING THE COURT MAY DETERMINE BY A PREPONDERANCE OF EVIDENCE WHETHER THE KILLING WAS FELONIOUS AND INTENTIONAL FOR PURPOSES OF THIS SECTION.

## LAWS OF ARIZONA

F. THIS SECTION DOES NOT AFFECT THE RIGHTS OF ANY PERSON WHO, BEFORE RIGHTS UNDER THIS SECTION HAVE BEEN ADJUDICATED, PURCHASES FROM THE KILLER FOR VALUE AND WITHOUT NOTICE PROPERTY WHICH THE KILLER WOULD HAVE ACQUIRED EXCEPT FOR THIS SECTION, BUT THE KILLER IS LIABLE FOR THE AMOUNT OF THE PROCEEDS OR THE VALUE OF THE PROPERTY. ANY INSURANCE COMPANY, BANK, OR OTHER OBLIGOR MAKING PAYMENT ACCORDING TO THE TERMS OF ITS POLICY OR OBLIGATION IS NOT LIABLE BY REASON OF THIS SECTION UNLESS PRIOR TO PAYMENT IT HAS RECEIVED AT ITS HOME OFFICE OR PRINCIPAL ADDRESS WRITTEN NOTICE OF A CLAIM UNDER THIS SECTION.

## ARTICLE 9. CUSTODY AND DEPOSIT OF WILLS

14-2901. **Deposit of will with court in testator's lifetime**

A WILL MAY BE DEPOSITED BY THE TESTATOR OR HIS AGENT WITH ANY COURT FOR SAFEKEEPING, UNDER RULES OF THE COURT. THE WILL SHALL BE KEPT CONFIDENTIAL. DURING THE TESTATOR'S LIFETIME A DEPOSITED WILL SHALL BE DELIVERED ONLY TO HIM OR TO A PERSON AUTHORIZED IN WRITING SIGNED BY HIM TO RECEIVE THE WILL. A CONSERVATOR MAY BE ALLOWED TO EXAMINE A DEPOSITED WILL OF A PROTECTED TESTATOR UNDER PROCEDURES DESIGNED TO MAINTAIN THE CONFIDENTIAL CHARACTER OF THE DOCUMENT TO THE EXTENT POSSIBLE, AND TO ASSURE THAT IT WILL BE RESEALED AND LEFT ON DEPOSIT AFTER THE EXAMINATION. UPON BEING INFORMED OF THE TESTATOR'S DEATH, THE COURT SHALL NOTIFY ANY PERSON DESIGNATED TO RECEIVE THE WILL AND DELIVER IT TO HIM ON REQUEST, OR THE COURT MAY DELIVER THE WILL TO THE APPROPRIATE COURT.

14-2902. **Duty of custodian of will; liability**

AFTER THE DEATH OF A TESTATOR AND ON REQUEST OF AN INTERESTED PERSON, ANY PERSON HAVING CUSTODY OF A WILL OF THE TESTATOR SHALL DELIVER IT WITH REASONABLE PROMPTNESS TO A PERSON ABLE TO SECURE ITS PROBATE AND IF NONE IS KNOWN, TO AN APPROPRIATE COURT. ANY PERSON WHO WILFULLY FAILS TO DELIVER A WILL IS LIABLE TO ANY PERSON AGGRIEVED FOR THE DAMAGES WHICH MAY BE SUSTAINED BY THE FAILURE. ANY PERSON WHO WILFULLY

## LAWS OF ARIZONA

REFUSES OR FAILS TO DELIVER A WILL AFTER BEING ORDERED BY THE COURT IN A PROCEEDING BROUGHT FOR THE PURPOSE OF COMPELLING DELIVERY IS SUBJECT TO PENALTY FOR CONTEMPT OF COURT.

CHAPTER 3.  
PROBATE OF WILLS AND ADMINISTRATION  
ARTICLE 1. GENERAL PROVISIONS

14-3101. Devolution of estate at death; administration on deaths of husband and wife

A. THE POWER OF A PERSON TO LEAVE PROPERTY BY WILL, AND THE RIGHTS OF CREDITORS, DEVISEES AND HEIRS TO HIS PROPERTY ARE SUBJECT TO THE RESTRICTIONS AND LIMITATIONS CONTAINED IN THIS TITLE TO FACILITATE THE PROMPT SETTLEMENT OF ESTATES. UPON THE DEATH OF A PERSON, HIS SEPARATE PROPERTY AND HIS SHARE OF COMMUNITY PROPERTY DEVOLVES TO THE PERSONS TO WHOM THE PROPERTY IS DEVISED BY HIS LAST WILL, OR TO THOSE INDICATED AS SUBSTITUTES FOR THEM IN CASES INVOLVING LAPSE, RENUNCIATION OR OTHER CIRCUMSTANCES AFFECTING THE DEVOLUTION OF TESTATE ESTATES, OR IN THE ABSENCE OF TESTAMENTARY DISPOSITION TO HIS HEIRS, OR TO THOSE INDICATED AS SUBSTITUTES FOR THEM IN CASES INVOLVING RENUNCIATION OR OTHER CIRCUMSTANCES AFFECTING THE DEVOLUTION OF INTESTATE ESTATES. THE DEVOLUTION OF SEPARATE PROPERTY AND DECEDENT'S SHARE OF COMMUNITY PROPERTY IS SUBJECT TO RIGHTS TO THE ALLOWANCE IN LIEU OF HOMESTEAD, EXEMPT PROPERTY AND FAMILY ALLOWANCE, TO RIGHTS OF CREDITORS AND TO ADMINISTRATION AS PROVIDED IN THIS TITLE. IN ADDITION, THE SURVIVING SPOUSE'S SHARE OF THE COMMUNITY PROPERTY IS SUBJECT TO ADMINISTRATION UNTIL THE TIME FOR PRESENTATION OF CLAIMS HAS EXPIRED, AND THEREAFTER ONLY TO THE EXTENT NECESSARY TO PAY COMMUNITY CLAIMS.

B. IF A HUSBAND AND WIFE BOTH DIE, AND THE ADMINISTRATION OF ONE OF THEIR ESTATES IS NOT COMPLETED PRIOR TO COMMENCEMENT OF ADMINISTRATION OF THE OTHER, THEIR ESTATES MAY BE COMBINED IN A SINGLE ADMINISTRATION WITH THE SAME PERSONAL REPRESENTATIVE, IF FEASIBLE. IF THEIR ESTATES DEVOLVE AS IF EACH SPOUSE SURVIVED THE OTHER BECAUSE OF APPLICATION OF SECTION 14-2804, SECTION

## LAW OF ARIZONA

14-2104 OR SECTION 14-2601, AND THEIR ESTATES ARE NOT COMBINED, HALF OF THEIR COMMUNITY PROPERTY IS SUBJECT TO ADMINISTRATION IN EACH ESTATE AND COMMUNITY CLAIMS WILL BE CHARGED RATABLY TO EACH HALF OF THE COMMUNITY PROPERTY.

14-3102. **Necessity of order of probate for will**

EXCEPT AS PROVIDED IN SECTION 14-3971, TO BE EFFECTIVE TO PROVE THE TRANSFER OF ANY PROPERTY OR TO NOMINATE AN EXECUTOR, A WILL MUST BE DECLARED TO BE VALID BY AN ORDER OF INFORMAL PROBATE BY THE REGISTRAR, OR AN ADJUDICATION OF PROBATE BY THE COURT, EXCEPT THAT A DULY EXECUTED AND UNREVOKED WILL WHICH HAS NOT BEEN PROBATED MAY BE ADMITTED AS EVIDENCE OF A DEVISE IF BOTH:

1. NO COURT PROCEEDING CONCERNING THE SUCCESSION OR ADMINISTRATION OF THE ESTATE HAS OCCURRED.
2. EITHER THE DEVISEE OR HIS SUCCESSORS AND ASSIGNS POSSESSED THE PROPERTY DEVISED IN ACCORDANCE WITH THE PROVISIONS OF THE WILL, OR THE PROPERTY DEVISED WAS NOT POSSESSED OR CLAIMED BY ANYONE BY VIRTUE OF THE DECEDENT'S TITLE DURING THE TIME PERIOD FOR TESTACY PROCEEDINGS.

14-3103. **Necessity of appointment for administration**

EXCEPT AS OTHERWISE PROVIDED IN CHAPTER 4, TO ACQUIRE THE POWERS AND UNDERTAKE THE DUTIES AND LIABILITIES OF A PERSONAL REPRESENTATIVE OF A DECEDENT, A PERSON MUST BE APPOINTED BY ORDER OF THE COURT OR REGISTRAR, QUALIFY AND BE ISSUED LETTERS. ADMINISTRATION OF AN ESTATE IS COMMENCED BY THE ISSUANCE OF LETTERS.

14-3104. **Claims against decedent; necessity of administration**

NO PROCEEDING TO ENFORCE A CLAIM AGAINST THE ESTATE OF A DECEDENT OR HIS SUCCESSORS MAY BE REVIVED OR COMMENCED BEFORE THE APPOINTMENT OF A PERSONAL REPRESENTATIVE. AFTER THE APPOINTMENT AND UNTIL DISTRIBUTION, ALL PROCEEDINGS AND ACTIONS TO ENFORCE A CLAIM AGAINST THE ESTATE ARE GOVERNED BY THE

## LAWS OF ARIZONA

PROCEDURE PRESCRIBED BY THIS CHAPTER. AFTER DISTRIBUTION A CREDITOR WHOSE CLAIM HAS NOT BEEN BARRED MAY RECOVER FROM THE DISTRIBUTEES AS PROVIDED IN SECTION 14-3934 OR FROM A FORMER PERSONAL REPRESENTATIVE INDIVIDUALLY LIABLE AS PROVIDED IN SECTION 14-3935. THIS SECTION HAS NO APPLICATION TO A PROCEEDING BY A SECURED CREDITOR OF THE DECEDENT TO ENFORCE HIS RIGHT TO HIS SECURITY EXCEPT AS TO ANY DEFICIENCY JUDGMENT WHICH MIGHT BE SOUGHT THEREIN.

**14-3105. Proceedings affecting devolution and administration; jurisdiction of subject matter**

PERSONS INTERESTED IN DECEDENTS' ESTATES MAY APPLY TO THE REGISTRAR FOR DETERMINATION IN THE INFORMAL PROCEEDINGS PROVIDED IN THIS CHAPTER, AND MAY PETITION THE COURT FOR ORDERS IN FORMAL PROCEEDINGS WITHIN THE COURT'S JURISDICTION INCLUDING BUT NOT LIMITED TO THOSE DESCRIBED IN THIS ARTICLE. THE COURT MAY HEAR AND DETERMINE FORMAL PROCEEDINGS INVOLVING ADMINISTRATION AND DISTRIBUTION OF DECEDENTS' ESTATES AFTER NOTICE TO INTERESTED PERSONS IN CONFORMITY WITH SECTION 14-1401. PERSONS NOTIFIED ARE BOUND THOUGH LESS THAN ALL INTERESTED PERSONS MAY HAVE BEEN GIVEN NOTICE.

14-3106. (Blank)

**14-3107. Scope of proceedings; proceedings independent; exception**

UNLESS SUPERVISED ADMINISTRATION AS DESCRIBED IN ARTICLE 5 IS INVOLVED:

1. EACH PROCEEDING BEFORE THE COURT OR REGISTRAR IS INDEPENDENT OF ANY OTHER PROCEEDING INVOLVING THE SAME ESTATE.

2. PETITIONS FOR FORMAL ORDERS OF THE COURT MAY COMBINE VARIOUS REQUESTS FOR RELIEF IN A SINGLE PROCEEDING IF THE ORDERS SOUGHT MAY BE FINALLY GRANTED WITHOUT DELAY. EXCEPT AS REQUIRED FOR PROCEEDINGS WHICH ARE PARTICULARLY DESCRIBED BY OTHER SECTIONS OF THIS CHAPTER, NO PETITION IS DEFECTIVE BECAUSE IT FAILS TO EMBRACE ALL MATTERS WHICH MIGHT THEN BE THE SUBJECT OF A FINAL ORDER.

## LAWS OF ARIZONA

3. PROCEEDINGS FOR PROBATE OF WILLS OR ADJUDICATIONS OF NO WILL MAY BE COMBINED WITH PROCEEDINGS FOR APPOINTMENT OF PERSONAL REPRESENTATIVES.

4. A PROCEEDING FOR APPOINTMENT OF A PERSONAL REPRESENTATIVE IS CONCLUDED BY AN ORDER MAKING OR DECLINING THE APPOINTMENT.

14-3108. **Probate, testacy and appointment proceedings; ultimate time limit**

NO INFORMAL PROBATE OR APPOINTMENT PROCEEDING OR FORMAL TESTACY OR APPOINTMENT PROCEEDING, OTHER THAN A PROCEEDING TO PROBATE A WILL PREVIOUSLY PROBATED AT THE TESTATOR'S DOMICILE AND APPOINTMENT PROCEEDINGS RELATING TO AN ESTATE IN WHICH THERE HAS BEEN A PRIOR APPOINTMENT, MAY BE COMMENCED MORE THAN THREE YEARS AFTER THE DECEDENT'S DEATH, EXCEPT:

1. IF A PREVIOUS PROCEEDING WAS DISMISSED BECAUSE OF DOUBT ABOUT THE FACT OF THE DECEDENT'S DEATH, APPROPRIATE PROBATE, APPOINTMENT OR TESTACY PROCEEDINGS MAY BE MAINTAINED AT ANY TIME THEREAFTER UPON A FINDING THAT THE DECEDENT'S DEATH OCCURRED PRIOR TO THE INITIATION OF THE PREVIOUS PROCEEDING AND THE APPLICANT OR PETITIONER HAS NOT DELAYED UNDULY IN INITIATING THE SUBSEQUENT PROCEEDING.

2. APPROPRIATE PROBATE, APPOINTMENT OR TESTACY PROCEEDINGS MAY BE MAINTAINED IN RELATION TO THE ESTATE OF AN ABSENT, DISAPPEARED OR MISSING PERSON FOR WHOSE ESTATE A CONSERVATOR HAS BEEN APPOINTED, AT ANY TIME WITHIN THREE YEARS AFTER THE CONSERVATOR BECOMES ABLE TO ESTABLISH THE DEATH OF THE PROTECTED PERSON.

3. A PROCEEDING TO CONTEST AN INFORMALLY PROBATED WILL AND TO SECURE APPOINTMENT OF THE PERSON WITH LEGAL PRIORITY FOR APPOINTMENT IN THE EVENT THE CONTEST IS SUCCESSFUL, MAY BE COMMENCED WITHIN THE LATER OF TWELVE MONTHS FROM THE INFORMAL PROBATE OR THREE YEARS FROM THE DECEDENT'S DEATH.

4. AN INFORMAL APPOINTMENT OR A FORMAL TESTACY OR APPOINTMENT PROCEEDING MAY BE COMMENCED THEREAFTER

## LAWS OF ARIZONA

IF NO COURT PROCEEDING CONCERNING THE SUCCESSION OR ADMINISTRATION HAS OCCURRED WITHIN THE THREE YEAR PERIOD. IF PROCEEDINGS ARE BROUGHT UNDER THIS EXCEPTION, THE PERSONAL REPRESENTATIVE SHALL HAVE NO RIGHT TO POSSESS ESTATE ASSETS AS PROVIDED IN SECTION 14-3709 BEYOND THAT NECESSARY TO CONFIRM TITLE THERETO IN THE RIGHTFUL SUCCESSORS TO THE ESTATE; AND CLAIMS OTHER THAN EXPENSES OF ADMINISTRATION MAY NOT BE PRESENTED AGAINST THE ESTATE.

THESE LIMITATIONS DO NOT APPLY TO PROCEEDINGS TO CONSTRUE PROBATED WILLS OR DETERMINE HEIRS OF AN INTESTATE. IN CASES UNDER PARAGRAPH 1 OR 2, THE DATE ON WHICH A TESTACY OR APPOINTMENT PROCEEDING IS PROPERLY COMMENCED SHALL BE DEEMED TO BE THE DATE OF THE DECEDENT'S DEATH FOR PURPOSES OF OTHER LIMITATIONS PROVISIONS OF THIS TITLE WHICH RELATE TO THE DATE OF DEATH.

**14-3109. Statutes of limitation on decedent's cause of action**

UPON THE DEATH OF A PERSON IN WHOSE FAVOR THERE IS A CAUSE OF ACTION WHICH HAS NOT BEEN BARRED AS OF THE DATE OF HIS DEATH, THE LIMITATION OF THE ACTION CEASES TO RUN UNTIL A PERSONAL REPRESENTATIVE IS APPOINTED OR UNTIL TWELVE MONTHS AFTER THE DEATH, WHICHEVER FIRST OCCURS, BUT SHALL NOT BAR SUCH ACTION SOONER THAN FOUR MONTHS AFTER DEATH EVEN IF A PERSONAL REPRESENTATIVE IS APPOINTED EARLIER.

**ARTICLE 2. VENUE FOR PROBATE AND ADMINISTRATION;  
PRIORITY TO ADMINISTER; DEMAND FOR NOTICE**

**14-3201. Venue for first and subsequent estate proceedings; location of property**

**A. VENUE FOR THE FIRST INFORMAL OR FORMAL TESTACY OR APPOINTMENT PROCEEDINGS AFTER A DECEDENT'S DEATH IS:**

- 1. IN THE COUNTY WHERE THE DECEDENT HAD HIS DOMICILE AT THE TIME OF HIS DEATH.**
- 2. IF THE DECEDENT WAS NOT DOMICILED IN THIS STATE, IN ANY COUNTY WHERE PROPERTY OF THE DECEDENT WAS LOCATED AT THE TIME OF HIS DEATH.**

## LAWS OF ARIZONA

B. VENUE FOR ALL SUBSEQUENT PROCEEDINGS WITHIN THE EXCLUSIVE JURISDICTION OF THE COURT IS IN THE PLACE WHERE THE INITIAL PROCEEDING OCCURRED, UNLESS THE INITIAL PROCEEDING HAS BEEN TRANSFERRED AS PROVIDED IN SECTION 14-1303 OR SUBSECTION C OF THIS SECTION.

C. IF THE FIRST PROCEEDING WAS INFORMAL, ON APPLICATION OF AN INTERESTED PERSON AND AFTER NOTICE TO THE PROPONENT IN THE FIRST PROCEEDING, THE COURT, UPON FINDING THAT VENUE IS ELSEWHERE, MAY TRANSFER THE PROCEEDING AND THE FILE TO THE OTHER COURT.

D. FOR THE PURPOSE OF AIDING DETERMINATIONS CONCERNING LOCATION OF ASSETS WHICH MAY BE RELEVANT IN CASES INVOLVING NON-DOMICILIARIES, A DEBT, OTHER THAN ONE EVIDENCED BY INVESTMENT OR COMMERCIAL PAPER OR OTHER INSTRUMENT IN FAVOR OF A NON-DOMICILIARY, IS LOCATED WHERE THE DEBTOR RESIDES OR, IF THE DEBTOR IS A PERSON OTHER THAN AN INDIVIDUAL, AT THE PLACE WHERE IT HAS ITS PRINCIPAL OFFICE. COMMERCIAL PAPER, INVESTMENT PAPER AND OTHER INSTRUMENTS ARE LOCATED WHERE THE INSTRUMENT IS. AN INTEREST IN PROPERTY HELD IN TRUST IS LOCATED WHERE THE TRUSTEE MAY BE SUED.

**14-3202. Appointment or testacy proceedings; conflicting claim of domicile in another state**

IF CONFLICTING CLAIMS AS TO THE DOMICILE OF A DECEDENT ARE MADE IN A FORMAL TESTACY OR APPOINTMENT PROCEEDING COMMENCED IN THIS STATE, AND IN A TESTACY OR APPOINTMENT PROCEEDING AFTER NOTICE PENDING AT THE SAME TIME IN ANOTHER STATE, THE COURT OF THIS STATE MUST STAY, DISMISS OR PERMIT SUITABLE AMENDMENT IN, THE PROCEEDING HERE UNLESS IT IS DETERMINED THAT THE LOCAL PROCEEDING WAS COMMENCED BEFORE THE PROCEEDING ELSEWHERE. THE DETERMINATION OF DOMICILE IN THE PROCEEDING FIRST COMMENCED MUST BE ACCEPTED AS DETERMINATIVE IN THE FORMAL TESTACY OR APPOINTMENT PROCEEDING IN THIS STATE.

**14-3203. Priority among persons seeking appointment as personal representative**

A. WHETHER THE PROCEEDINGS ARE FORMAL OR INFORMAL,

## LAWS OF ARIZONA

PERSONS WHO ARE NOT DISQUALIFIED HAVE PRIORITY FOR APPOINTMENT IN THE FOLLOWING ORDER:

1. THE PERSON WITH PRIORITY AS DETERMINED BY A PROBATED WILL INCLUDING A PERSON NOMINATED BY A POWER CONFERRED IN A WILL.
2. THE SURVIVING SPOUSE OF THE DECEDENT WHO IS A DEVISEE OF THE DECEDENT.
3. OTHER DEVISEES OF THE DECEDENT.
4. THE SURVIVING SPOUSE OF THE DECEDENT.
5. OTHER HEIRS OF THE DECEDENT.
6. FORTY-FIVE DAYS AFTER THE DEATH OF THE DECEDENT, ANY CREDITOR.

B. AN OBJECTION TO AN APPOINTMENT CAN BE MADE ONLY IN FORMAL PROCEEDINGS. IN CASE OF OBJECTION THE PRIORITIES STATED IN SUBSECTION A APPLY EXCEPT THAT:

1. IF THE ESTATE APPEARS TO BE MORE THAN ADEQUATE TO MEET EXEMPTIONS AND COSTS OF ADMINISTRATION BUT INADEQUATE TO DISCHARGE ANTICIPATED UNSECURED CLAIMS, THE COURT, ON PETITION OF CREDITORS, MAY APPOINT ANY QUALIFIED PERSON.
2. IN CASE OF OBJECTION TO APPOINTMENT OF A PERSON OTHER THAN ONE WHOSE PRIORITY IS DETERMINED BY WILL BY AN HEIR OR DEVISEE APPEARING TO HAVE A SUBSTANTIAL INTEREST IN THE ESTATE, THE COURT MAY APPOINT A PERSON WHO IS ACCEPTABLE TO HEIRS AND DEVISEES WHOSE INTERESTS IN THE ESTATE APPEAR TO BE WORTH IN TOTAL MORE THAN HALF OF THE PROBABLE DISTRIBUTABLE VALUE, OR, IN DEFAULT OF THIS ACCORD ANY SUITABLE PERSON.

C. A PERSON ENTITLED TO LETTERS UNDER PARAGRAPHS 2 THROUGH 5 OF SUBSECTION A AND A PERSON AGED FOURTEEN AND OVER WHO WOULD BE ENTITLED TO LETTERS BUT FOR HIS AGE, MAY NOMINATE A QUALIFIED PERSON TO ACT AS PERSONAL REPRESENTATIVE. ANY PERSON AGED EIGHTEEN AND OVER MAY RENOUNCE HIS RIGHT TO NOMINATE OR TO AN

## LAWS OF ARIZONA

APPOINTMENT BY APPROPRIATE WRITING FILED WITH THE COURT. WHEN TWO OR MORE PERSONS SHARE A PRIORITY, THOSE OF THEM WHO DO NOT RENOUNCE MUST CONCUR IN NOMINATING ANOTHER TO ACT FOR THEM, OR IN APPLYING FOR APPOINTMENT.

D. CONSERVATORS OF THE ESTATES OF PROTECTED PERSONS, OR IF THERE IS NO CONSERVATOR, ANY GUARDIAN EXCEPT A GUARDIAN AD LITEM OF A MINOR OR INCAPACITATED PERSON, MAY EXERCISE THE SAME RIGHT TO NOMINATE, TO OBJECT TO ANOTHER'S APPOINTMENT, OR TO PARTICIPATE IN DETERMINING THE PREFERENCE OF A MAJORITY IN INTEREST OF THE HEIRS AND DEVISEES THAT THE PROTECTED PERSON OR WARD WOULD HAVE IF QUALIFIED FOR APPOINTMENT.

E. FORMAL PROCEEDINGS ARE REQUIRED TO APPOINT A PERSONAL REPRESENTATIVE IN ANY OF THE FOLLOWING SITUATIONS:

1. WHEN THERE IS A PERSON WITH A HIGHER ORDER OF PRIORITY WHO HAS NOT RENOUNCED OR WAIVED HIS RIGHT BY APPROPRIATE WRITING FILED WITH THE COURT;
2. WHEN A PRIORITY IS SHARED BY TWO OR MORE PERSONS, AS DEVISEES UNDER PARAGRAPH 3 OF SUBSECTION A OF THIS SECTION, OR AS HEIRS UNDER PARAGRAPH 5 OF SUBSECTION A OF THIS SECTION, AND ONE OR MORE OF THEM HAS NOT RENOUNCED OR CONCURRED IN NOMINATING THE PERSON WHOSE APPOINTMENT IS APPLIED FOR;
3. WHEN APPOINTMENT IS SOUGHT FOR A PERSON WHO DOES NOT HAVE ANY PRIORITY UNDER THIS SECTION, UNDER THIS PARAGRAPH THE COURT MUST DETERMINE THAT THOSE HAVING PRIORITY DO NOT OBJECT TO THE APPOINTMENT, AND THAT ADMINISTRATION IS NECESSARY.

F. NO PERSON IS QUALIFIED TO SERVE AS A PERSONAL REPRESENTATIVE WHO IS:

1. UNDER THE AGE OF MAJORITY AS DEFINED IN SECTION 1-215.
2. A PERSON WHOM THE COURT FINDS UNSUITABLE IN FORMAL PROCEEDINGS.

## LAWS OF ARIZONA

## 3. A FOREIGN CORPORATION.

G. A PERSONAL REPRESENTATIVE APPOINTED BY A COURT OF THE DECEDENT'S DOMICILE HAS PRIORITY OVER ALL OTHER PERSONS EXCEPT WHERE THE DECEDENT'S WILL NOMINATES DIFFERENT PERSONS TO BE PERSONAL REPRESENTATIVE IN THIS STATE AND IN THE STATE OF DOMICILE. THE DOMICILIARY PERSONAL REPRESENTATIVE MAY NOMINATE ANOTHER, WHO SHALL HAVE THE SAME PRIORITY AS THE DOMICILIARY PERSONAL REPRESENTATIVE.

H. THIS SECTION GOVERNS PRIORITY FOR APPOINTMENT OF A SUCCESSOR PERSONAL REPRESENTATIVE BUT DOES NOT APPLY TO THE SELECTION OF A SPECIAL ADMINISTRATOR.

14-3204. Demand for notice of order or filing concerning decedent's estate

ANY PERSON DESIRING NOTICE OF ANY ORDER OR FILING PERTAINING TO A DECEDENT'S ESTATE IN WHICH HE HAS A FINANCIAL OR PROPERTY INTEREST, MAY FILE A DEMAND FOR NOTICE WITH THE COURT AT ANY TIME AFTER THE DEATH OF THE DECEDENT STATING THE NAME OF THE DECEDENT, THE NATURE OF HIS INTEREST IN THE ESTATE AND THE DEMANDANT'S ADDRESS OR THAT OF HIS ATTORNEY. THE CLERK SHALL MAIL A COPY OF THE DEMAND TO THE PERSONAL REPRESENTATIVE IF ONE HAS BEEN APPOINTED. AFTER FILING OF A DEMAND, NO ORDER OR FILING TO WHICH THE DEMAND RELATES SHALL BE MADE OR ACCEPTED WITHOUT NOTICE AS PRESCRIBED IN SECTION 14-1401 TO THE DEMANDANT OR HIS ATTORNEY. THE VALIDITY OF AN ORDER WHICH IS ISSUED OR FILING WHICH IS ACCEPTED WITHOUT COMPLIANCE WITH THIS REQUIREMENT SHALL NOT BE AFFECTED BY THE ERROR, BUT THE PETITIONER RECEIVING THE ORDER OR THE PERSON MAKING THE FILING MAY BE LIABLE FOR ANY DAMAGE CAUSED BY THE ABSENCE OF NOTICE. THE REQUIREMENT OF NOTICE ARISING FROM A DEMAND UNDER THIS PROVISION MAY BE WAIVED IN WRITING BY THE DEMANDANT AND SHALL CEASE UPON THE TERMINATION OF HIS INTEREST IN THE ESTATE.

ARTICLE 3. INFORMAL PROBATE AND APPOINTMENT PROCEEDINGS

14-3301. Informal probate or appointment proceedings; application; contents

## LAWS OF ARIZONA

A. INFORMAL PROBATE OR INFORMAL APPOINTMENT MAY BE MADE ONLY BY APPLICATION OF ONE OF THE FOLLOWING:

1. THE SURVIVING SPOUSE OF THE DECEDENT.
2. AN ADULT CHILD OF THE DECEDENT.
3. A PERSON NOMINATED AS A PERSONAL REPRESENTATIVE BY A PROBATED WILL OR THE WILL FOR WHICH PROBATE IS ASKED OR PURSUANT TO A POWER CONFERRED BY THE WILL IF APPOINTMENT OF THAT PERSON IS ASKED BY THE APPLICATION AND THE PERSON IS A NATIONAL BANKING ASSOCIATION, A HOLDER OF A BANKING PERMIT UNDER THE LAWS OF THIS STATE, OR A TITLE INSURANCE COMPANY WHICH IS QUALIFIED TO DO BUSINESS WITH THE STATE TREASURER, OR A TRUST COMPANY HOLDING A CERTIFICATE TO ENGAGE IN TRUST BUSINESS FROM THE STATE SUPERINTENDENT OF BANKS.
4. ALL OF THE HEIRS, WHO EITHER JOIN IN THE APPLICATION OR CONSENT TO THE APPOINTMENT BY A SEPARATE WRITING FILED WITH THE COURT.

B. APPLICATIONS FOR INFORMAL PROBATE OR INFORMAL APPOINTMENT SHALL BE DIRECTED TO THE REGISTRAR, AND VERIFIED BY THE APPLICANT TO BE ACCURATE AND COMPLETE TO THE BEST OF HIS KNOWLEDGE AND BELIEF AS TO THE FOLLOWING INFORMATION:

1. EVERY APPLICATION FOR INFORMAL PROBATE OF A WILL OR FOR INFORMAL APPOINTMENT OF A PERSONAL REPRESENTATIVE, OTHER THAN A SPECIAL OR SUCCESSOR REPRESENTATIVE, SHALL CONTAIN THE FOLLOWING:

- (a) A STATEMENT OF THE INTEREST OF THE APPLICANT.
- (b) THE NAME, DATE OF DEATH OF THE DECEDENT, HIS AGE, THE COUNTY AND STATE OF HIS DOMICILE AT THE TIME OF DEATH, THE NAMES AND ADDRESSES OF THE SPOUSE, CHILDREN, HEIRS AND DEVISEES AND THE AGES OF ANY WHO ARE MINORS SO FAR AS KNOWN OR ASCERTAINABLE WITH REASONABLE DILIGENCE BY THE APPLICANT.
- (c) IF THE DECEDENT WAS NOT DOMICILED IN THE STATE AT THE TIME OF HIS DEATH, A STATEMENT SHOWING VENUE.

## LAWS OF ARIZONA

(d) A STATEMENT IDENTIFYING AND INDICATING THE ADDRESS OF ANY PERSONAL REPRESENTATIVE OF THE DECEDENT APPOINTED IN THIS STATE OR ELSEWHERE WHOSE APPOINTMENT HAS NOT BEEN TERMINATED.

(e) A STATEMENT INDICATING WHETHER THE APPLICANT HAS RECEIVED A DEMAND FOR NOTICE, OR IS AWARE OF ANY DEMAND FOR NOTICE OF ANY PROBATE OR APPOINTMENT PROCEEDING CONCERNING THE DECEDENT THAT MAY HAVE BEEN FILED IN THIS STATE OR ELSEWHERE.

2. AN APPLICATION FOR INFORMAL PROBATE OF A WILL SHALL STATE THE FOLLOWING IN ADDITION TO THE STATEMENTS REQUIRED BY PARAGRAPH 1 OF THIS SUBSECTION:

(a) THAT THE ORIGINAL OF THE DECEDENT'S LAST WILL IS IN THE POSSESSION OF THE COURT, OR ACCOMPANIES THE APPLICATION, OR THAT AN AUTHENTICATED COPY OF A WILL PROBATED IN ANOTHER JURISDICTION ACCOMPANIES THE APPLICATION.

(b) THAT THE APPLICANT, TO THE BEST OF HIS KNOWLEDGE, BELIEVES THE WILL TO HAVE BEEN VALIDLY EXECUTED.

(c) THAT AFTER THE EXERCISE OF REASONABLE DILIGENCE, THE APPLICANT IS UNAWARE OF ANY INSTRUMENT REVOKING THE WILL, AND THAT THE APPLICANT BELIEVES THAT THE INSTRUMENT WHICH IS THE SUBJECT OF THE APPLICATION IS THE DECEDENT'S LAST WILL.

(d) THAT THE TIME LIMIT FOR INFORMAL PROBATE AS PROVIDED IN THIS CHAPTER HAS NOT EXPIRED EITHER BECAUSE THREE YEARS OR LESS HAVE PASSED SINCE THE DECEDENT'S DEATH, OR, IF MORE THAN THREE YEARS FROM DEATH HAVE PASSED, THAT CIRCUMSTANCES AS DESCRIBED BY SECTION 14-3108 AUTHORIZING TARDY PROBATE HAVE OCCURRED.

3. AN APPLICATION FOR INFORMAL APPOINTMENT OF A PERSONAL REPRESENTATIVE TO ADMINISTER AN ESTATE UNDER A WILL SHALL DESCRIBE THE WILL BY DATE OF EXECUTION AND STATE THE TIME AND PLACE OF PROBATE OR THE PENDING APPLICATION OR PETITION FOR PROBATE. THE APPLICATION FOR APPOINTMENT SHALL ADOPT THE STATEMENTS IN THE APPLICATION OR PETITION FOR PROBATE AND

## LAWS OF ARIZONA

STATE THE NAME, ADDRESS AND PRIORITY FOR APPOINTMENT OF THE PERSON WHOSE APPOINTMENT IS SOUGHT.

4. AN APPLICATION FOR INFORMAL APPOINTMENT OF AN ADMINISTRATOR IN INTESTACY SHALL STATE IN ADDITION TO THE STATEMENTS REQUIRED BY PARAGRAPH 1 OF SUBSECTION B OF THIS SECTION:

(a) THAT AFTER THE EXERCISE OF REASONABLE DILIGENCE, THE APPLICANT IS UNAWARE OF ANY UNREVOKED TESTAMEN-TARY INSTRUMENT RELATING TO PROPERTY HAVING A SITUS IN THIS STATE UNDER SECTION 14-1301, OR, A STATEMENT WHY ANY SUCH INSTRUMENT OF WHICH HE MAY BE AWARE IS NOT BEING PROBATED.

(b) THE PRIORITY OF THE PERSON WHOSE APPOINTMENT IS SOUGHT AND THE NAMES OF ANY OTHER PERSONS HAVING A PRIOR OR EQUAL RIGHT TO THE APPOINTMENT UNDER SECTION 14-3203.

5. AN APPLICATION FOR APPOINTMENT OF A PERSONAL REPRESENTATIVE TO SUCCEED A PERSONAL REPRESENTATIVE APPOINTED UNDER A DIFFERENT TESTACY STATUS SHALL REFER TO THE ORDER IN THE MOST RECENT TESTACY PRO-CEEDING, STATE THE NAME AND ADDRESS OF BOTH THE PERSON WHOSE APPOINTMENT IS SOUGHT AND OF THE PERSON WHOSE APPOINTMENT WILL BE TERMINATED IF THE APPLICA-TION IS GRANTED, AND DESCRIBE THE PRIORITY OF THE APPLICANT.

6. AN APPLICATION FOR APPOINTMENT OF A PERSONAL REPRESENTATIVE TO SUCCEED A PERSONAL REPRESENTATIVE WHO HAS TENDERED A RESIGNATION AS PROVIDED IN SECTION 14-3610, SUBSECTION C, OR WHOSE APPOINTMENT HAS BEEN TERMINATED BY DEATH, APPOINTMENT OF A CONSERVATOR OR REMOVAL, SHALL ADOPT THE STATEMENTS IN THE APPLICA-TION OR PETITION WHICH LED TO THE APPOINTMENT OF THE PERSON BEING SUCCEDED EXCEPT AS SPECIFICALLY CHANGED OR CORRECTED, STATE THE NAME AND ADDRESS OF THE PERSON WHO SEEKS APPOINTMENT AS SUCCESSOR AND DES-CRIBE THE PRIORITY OF THE APPLICANT.

14-3302. Informal probate; duty of registrar; effect of informal probate

## LAWS OF ARIZONA

UPON RECEIPT OF AN APPLICATION REQUESTING INFORMAL PROBATE OF A WILL, THE REGISTRAR, UPON MAKING THE FINDINGS REQUIRED BY SECTION 14-3303 SHALL ISSUE A WRITTEN STATEMENT OF INFORMAL PROBATE IF AT LEAST ONE HUNDRED TWENTY HOURS HAVE ELAPSED SINCE THE DECEDENT'S DEATH. INFORMAL PROBATE IS CONCLUSIVE AS TO ALL PERSONS UNTIL SUPERSEDED BY AN ORDER IN A FORMAL TESTACY PROCEEDING. NO DEFECT IN THE APPLICATION OR PROCEDURE RELATING THERETO WHICH LEADS TO INFORMAL PROBATE OF A WILL RENDERS THE PROBATE VOID.

**14-3303. Informal probate; proof and findings required**

A. IN AN INFORMAL PROCEEDING FOR ORIGINAL PROBATE OF A WILL, THE REGISTRAR SHALL DETERMINE WHETHER:

1. THE APPLICATION IS COMPLETE.
2. THE APPLICANT HAS MADE OATH OR AFFIRMATION THAT THE STATEMENTS CONTAINED IN THE APPLICATION ARE TRUE TO THE BEST OF HIS KNOWLEDGE AND BELIEF.
3. THE APPLICANT APPEARS FROM THE APPLICATION TO BE A PERSON PERMITTED TO APPLY AS PROVIDED IN SECTION 14-3301, SUBSECTION A.
4. ON THE BASIS OF THE STATEMENTS IN THE APPLICATION, VENUE IS PROPER.
5. AN ORIGINAL, DULY EXECUTED AND APPARENTLY UNREVOKED WILL IS IN THE REGISTRAR'S POSSESSION.
6. ANY NOTICE REQUIRED BY SECTION 14-3204 HAS BEEN GIVEN AND THAT THE APPLICATION IS NOT WITHIN SECTION 14-3304.
7. IT APPEARS FROM THE APPLICATION THAT THE TIME LIMIT FOR ORIGINAL PROBATE HAS NOT EXPIRED.

B. THE APPLICATION SHALL BE DENIED IF IT INDICATES THAT A PERSONAL REPRESENTATIVE HAS BEEN APPOINTED IN ANOTHER COUNTY OF THIS STATE OR EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, IF IT APPEARS THAT THIS OR ANOTHER WILL OF THE DECEDENT HAS BEEN THE SUBJECT OF A PREVIOUS PROBATE ORDER.

## LAWS OF ARIZONA

C. A WILL WHICH APPEARS TO HAVE THE REQUIRED SIGNATURES AND WHICH CONTAINS AN ATTESTATION CLAUSE SHOWING THAT REQUIREMENTS OF EXECUTION UNDER SECTION 14-2502, 14-2503 OR 14-2506 HAVE BEEN MET SHALL BE PROBATED WITHOUT FURTHER PROOF. IN OTHER CASES, THE REGISTRAR MAY ASSUME EXECUTION IF THE WILL APPEARS TO HAVE BEEN PROPERLY EXECUTED, OR HE MAY ACCEPT A SWORN STATEMENT OR AFFIDAVIT OF ANY PERSON HAVING KNOWLEDGE OF THE CIRCUMSTANCES OF EXECUTION, WHETHER OR NOT THE PERSON WAS A WITNESS TO THE WILL.

D. INFORMAL PROBATE OF A WILL WHICH HAS BEEN PREVIOUSLY PROBATED IN ANOTHER JURISDICTION MAY BE GRANTED AT ANY TIME UPON WRITTEN APPLICATION BY ANY INTERESTED PERSON, TOGETHER WITH DEPOSIT OF AN AUTHENTICATED COPY OF THE WILL AND OF THE STATEMENT PROBATING IT FROM THE OFFICE OR COURT WHERE IT WAS FIRST PROBATED.

E. A WILL FROM A PLACE WHICH DOES NOT PROVIDE FOR PROBATE OF A WILL AFTER DEATH AND WHICH IS NOT ELIGIBLE FOR PROBATE UNDER SUBSECTION A OF THIS SECTION, MAY BE PROBATED IN THIS STATE UPON RECEIPT BY THE REGISTRAR OF A DULY AUTHENTICATED COPY OF THE WILL AND A DULY AUTHENTICATED CERTIFICATE OF ITS LEGAL CUSTODIAN THAT THE COPY FILED IS A TRUE COPY AND THAT THE WILL HAS BECOME OPERATIVE UNDER THE LAW OF THE OTHER PLACE.

**14-3304. Informal probate; unavailable in certain cases**

AN APPLICATION FOR INFORMAL PROBATE SHALL BE DECLINED IF IT RELATES TO ONE OR MORE OF A KNOWN SERIES OF TESTAMENTARY INSTRUMENTS THE LATEST OF WHICH DOES NOT EXPRESSLY REVOKE THE EARLIER, EXCEPT THAT A SERIES CONSISTING OF A WILL WITH ITS CODICILS MAY BE INFORMALLY PROBATED.

**14-3305. Informal probate; registrar not satisfied**

IF THE REGISTRAR IS NOT SATISFIED THAT A WILL IS ENTITLED TO BE PROBATED IN INFORMAL PROCEEDINGS BECAUSE OF FAILURE TO MEET THE REQUIREMENTS OF SECTIONS 14-3303 AND 14-3304 OR ANY OTHER REASON, HE MAY DECLINE THE APPLICATION. A DECLINATION OF INFORMAL PROBATE IS NOT

## LAWS OF ARIZONA

AN ADJUDICATION AND DOES NOT PRECLUDE FORMAL PROBATE PROCEEDINGS.

14-3306. **Informal probate; notice requirements**

A. THE MOVING PARTY MUST GIVE NOTICE AS DESCRIBED BY SECTION 14-1401 OF HIS APPLICATION FOR INFORMAL PROBATE:

1. TO ANY PERSON DEMANDING IT PURSUANT TO SECTION 14-3204.
2. TO ANY PERSONAL REPRESENTATIVE OF THE DECEDENT WHOSE APPOINTMENT HAS NOT BEEN TERMINATED.

NO OTHER NOTICE NEED BE GIVEN PRIOR TO ISSUANCE OF A STATEMENT OF INFORMAL PROBATE BY THE REGISTRAR.

B. UPON ISSUANCE OF A STATEMENT OF INFORMAL PROBATE, THE APPLICANT MUST WITHIN TEN DAYS GIVE WRITTEN INFORMATION TO ALL HEIRS AND DEVISEES OF THE ADMISSION OF THE WILL TO PROBATE, TOGETHER WITH A COPY OF THE WILL. THE INFORMATION SHALL DESCRIBE THE COURT WHERE PAPERS RELATING TO THE ESTATE ARE ON FILE AND STATE THAT AN HEIR HAS FOUR MONTHS FROM RECEIPT OF THE INFORMATION WITHIN WHICH TO COMMENCE A FORMAL TESTACY PROCEEDING IF HE WISHES TO CONTEST THE PROBATE. IF A PERSONAL REPRESENTATIVE HAS BEEN APPOINTED, THE INFORMATION GIVEN PURSUANT TO THIS SECTION MAY BE COMBINED WITH THE INFORMATION REQUIRED BY SECTION 14-3705 AND MAY IN THAT CASE BE GIVEN BY EITHER THE APPLICANT OR THE PERSONAL REPRESENTATIVE ON BEHALF OF BOTH. THIS INFORMATION SHALL BE DELIVERED OR SENT BY MAIL TO EACH OF THE HEIRS AND DEVISEES WHOSE ADDRESS IS REASONABLY AVAILABLE TO THE APPLICANT. AN HEIR TO WHOM THE INFORMATION IS GIVEN IS BARRED FROM COMMENCING A FORMAL TESTACY PROCEEDING TO CONTEST THE PROBATE OF THE WILL AFTER FOUR MONTHS HAVE ELAPSED FROM RECEIPT OF THE INFORMATION; BUT HE IS NOT BARRED FROM COMMENCING A FORMAL TESTACY PROCEEDING TO PROBATE A LATER DISCOVERED WILL. AN HEIR TO WHOM THE INFORMATION IS NOT GIVEN MAY CONTEST THE INFORMAL PROBATE WITHIN THE TIME LIMIT SPECIFIED IN SECTION 14-3108. THE APPLICANT SHALL BE LIABLE TO ANY HEIR OR DEVISEE DAMAGED BY FAILURE TO COMPLY WITH THIS SUBSECTION.

## LAWS OF ARIZONA

**14-3307. Informal appointment proceedings; delay in order; duty of registrar; effect of appointment**

A. UPON RECEIPT OF AN APPLICATION FOR INFORMAL APPOINTMENT OF A PERSONAL REPRESENTATIVE OTHER THAN A SPECIAL ADMINISTRATOR AS PROVIDED IN SECTION 14-3614, IF AT LEAST ONE HUNDRED TWENTY HOURS HAVE ELAPSED SINCE THE DECEDENT'S DEATH, THE REGISTRAR, AFTER MAKING THE FINDINGS REQUIRED BY SECTION 14-3308, SHALL APPOINT THE APPLICANT SUBJECT TO QUALIFICATION AND ACCEPTANCE, EXCEPT THAT IF THE DECEDENT WAS A NON-RESIDENT THE REGISTRAR SHALL DELAY THE ORDER OF APPOINTMENT UNTIL THIRTY DAYS HAVE ELAPSED SINCE DEATH UNLESS THE PERSONAL REPRESENTATIVE APPOINTED AT THE DECEDENT'S DOMICILE IS THE APPLICANT OR THE DECEDENT'S WILL DIRECTS THAT HIS ESTATE BE SUBJECT TO THE LAWS OF THIS STATE.

B. THE STATUS OF PERSONAL REPRESENTATIVE AND THE POWERS AND DUTIES PERTAINING TO THE OFFICE ARE FULLY ESTABLISHED BY INFORMAL APPOINTMENT. AN APPOINTMENT, AND THE OFFICE OF PERSONAL REPRESENTATIVE CREATED THEREBY, IS SUBJECT TO TERMINATION AS PROVIDED IN SECTIONS 14-3608 THROUGH 14-3612, BUT IS NOT SUBJECT TO RETROACTIVE VACATION.

**14-3308. Informal appointment proceedings; proof and findings required**

A. IN INFORMAL APPOINTMENT PROCEEDINGS, THE REGISTRAR MUST DETERMINE WHETHER:

1. THE APPLICATION FOR INFORMAL APPOINTMENT OF A PERSONAL REPRESENTATIVE IS COMPLETE.
2. THE APPLICANT HAS MADE OATH OR AFFIRMATION THAT THE STATEMENTS CONTAINED IN THE APPLICATION ARE TRUE TO THE BEST OF HIS KNOWLEDGE AND BELIEF.
3. THE APPLICANT APPEARS FROM THE APPLICATION TO BE A PERSON PERMITTED TO APPLY AS PROVIDED IN SECTION 14-3301, SUBSECTION A.
4. ON THE BASIS OF THE STATEMENTS IN THE APPLICATION, VENUE IS PROPER.

## LAWS OF ARIZONA

5. ANY WILL TO WHICH THE REQUESTED APPOINTMENT RELATES HAS BEEN FORMALLY OR INFORMALLY PROBATED, EXCEPT THIS REQUIREMENT DOES NOT APPLY TO THE APPOINTMENT OF A SPECIAL ADMINISTRATOR.

6. ANY NOTICE REQUIRED BY SECTION 14-3204 HAS BEEN GIVEN.

7. FROM THE STATEMENTS IN THE APPLICATION, THE PERSON WHOSE APPOINTMENT IS SOUGHT HAS PRIORITY ENTITLING HIM TO THE APPOINTMENT.

8. THE WILL, IF ANY, REQUIRES SUPERVISED ADMINISTRATION.

B. UNLESS SECTION 14-3612 CONTROLS, THE APPLICATION MUST BE DENIED IF IT INDICATES ANY OF THE FOLLOWING:

1. A PERSONAL REPRESENTATIVE WHO HAS NOT FILED A WRITTEN STATEMENT OF RESIGNATION AS PROVIDED IN SECTION 14-3610, SUBSECTION C HAS BEEN APPOINTED IN THIS OR ANOTHER COUNTY OF THIS STATE.

2. THE DECEDENT WAS NOT DOMICILED IN THIS STATE, A PERSONAL REPRESENTATIVE WHOSE APPOINTMENT HAS NOT BEEN TERMINATED HAS BEEN APPOINTED BY A COURT IN THE STATE OF DOMICILE AND THE APPLICANT IS NOT THE DOMICILIARY PERSONAL REPRESENTATIVE OR HIS NOMINEE.

3. OTHER REQUIREMENTS OF THIS SECTION HAVE NOT BEEN MET.

**14-3309. Informal appointment proceedings; registrar not satisfied**

IF THE REGISTRAR IS NOT SATISFIED THAT A REQUESTED INFORMAL APPOINTMENT OF A PERSONAL REPRESENTATIVE SHOULD BE MADE BECAUSE OF FAILURE TO MEET THE REQUIREMENTS OF SECTIONS 14-3307, 14-3308 AND 14-3311, OR FOR ANY OTHER REASON, HE MAY DECLINE THE APPLICATION. A DECLINATION OF INFORMAL APPOINTMENT IS NOT AN ADJUDICATION AND DOES NOT PRECLUDE APPOINTMENT IN FORMAL PROCEEDINGS.

## LAWS OF ARIZONA

**14-3310. Informal appointment proceedings; notice requirements**

THE MOVING PARTY MUST GIVE NOTICE AS DESCRIBED BY SECTION 14-1401 OF HIS INTENTION TO SEEK AN APPOINTMENT INFORMALLY:

1. TO ANY PERSON DEMANDING IT PURSUANT TO SECTION 14-3204.
2. TO ANY PERSON HAVING A PRIOR OR EQUAL RIGHT TO APPOINTMENT NOT WAIVED IN WRITING AND FILED WITH THE COURT. NO OTHER NOTICE OF AN INFORMAL APPOINTMENT PROCEEDING IS REQUIRED.

**14-3311. Informal appointment unavailable in certain cases**

IF AN APPLICATION FOR INFORMAL APPOINTMENT INDICATES THE EXISTENCE OF A POSSIBLE UNREVOKED TESTAMENTARY INSTRUMENT WHICH MAY RELATE TO PROPERTY SUBJECT TO THE LAWS OF THIS STATE, AND WHICH IS NOT FILED FOR PROBATE IN THIS COURT, THE REGISTRAR SHALL DECLINE THE APPLICATION.

**ARTICLE 4. FORMAL TESTACY AND APPOINTMENT PROCEEDINGS****14-3401. Formal testacy proceedings; nature; when commenced**

A. A FORMAL TESTACY PROCEEDING IS LITIGATION TO DETERMINE WHETHER A DECEDENT LEFT A VALID WILL. A FORMAL TESTACY PROCEEDING MAY BE COMMENCED BY AN INTERESTED PERSON FILING A PETITION AS DESCRIBED IN SECTION 14-3402, SUBSECTION A IN WHICH HE REQUESTS THAT THE COURT, AFTER NOTICE AND HEARING, ENTER AN ORDER PROBATING A WILL, OR A PETITION TO SET ASIDE AN INFORMAL PROBATE OF A WILL OR TO PREVENT INFORMAL PROBATE OF A WILL WHICH IS THE SUBJECT OF A PENDING APPLICATION, OR A PETITION IN ACCORDANCE WITH SECTION 14-3402, SUBSECTION B FOR AN ORDER THAT THE DECEDENT DIED INTESTATE.

B. A PETITION MAY SEEK FORMAL PROBATE OF A WILL WITHOUT REGARD TO WHETHER THE SAME OR A CONFLICTING WILL HAS BEEN INFORMALLY PROBATED. A FORMAL TESTACY

## LAWS OF ARIZONA

PROCEEDING MAY INVOLVE A REQUEST FOR APPOINTMENT OF A PERSONAL REPRESENTATIVE.

C. DURING THE PENDENCY OF A FORMAL TESTACY PROCEEDING, THE REGISTRAR SHALL NOT ACT UPON ANY APPLICATION FOR INFORMAL PROBATE OF ANY WILL OF THE DECEDENT OR ANY APPLICATION FOR INFORMAL APPOINTMENT OF A PERSONAL REPRESENTATIVE OF THE DECEDENT.

D. UNLESS A PETITION IN A FORMAL TESTACY PROCEEDING ALSO REQUESTS CONFIRMATION OF THE PREVIOUS INFORMAL APPOINTMENT, A PREVIOUSLY APPOINTED PERSONAL REPRESENTATIVE, AFTER RECEIPT OF NOTICE OF THE COMMENCEMENT OF A FORMAL PROBATE PROCEEDING, MUST REFRAIN FROM EXERCISING HIS POWER TO MAKE ANY FURTHER DISTRIBUTION OF THE ESTATE DURING THE PENDENCY OF THE FORMAL PROCEEDING. A PETITIONER WHO SEEKS THE APPOINTMENT OF A DIFFERENT PERSONAL REPRESENTATIVE IN A FORMAL PROCEEDING ALSO MAY REQUEST AN ORDER RESTRAINING THE ACTING PERSONAL REPRESENTATIVE FROM EXERCISING ANY OF THE POWERS OF HIS OFFICE AND REQUESTING THE APPOINTMENT OF A SPECIAL ADMINISTRATOR. IN THE ABSENCE OF A REQUEST OR IF THE REQUEST IS DENIED, THE COMMENCEMENT OF A FORMAL PROCEEDING HAS NO EFFECT ON THE POWERS AND DUTIES OF A PREVIOUSLY APPOINTED PERSONAL REPRESENTATIVE OTHER THAN THOSE RELATING TO DISTRIBUTION.

14-3402. **Formal testacy or appointment proceedings; petition; contents**

A. PETITIONS FOR FORMAL PROBATE OF A WILL, OR FOR ADJUDICATION OF INTESTACY WITH OR WITHOUT REQUEST FOR APPOINTMENT OF A PERSONAL REPRESENTATIVE, MUST BE DIRECTED TO THE COURT, REQUEST A JUDICIAL ORDER AFTER NOTICE AND HEARING AND CONTAIN FURTHER STATEMENTS AS INDICATED IN THIS SECTION. A PETITION FOR FORMAL PROBATE OF A WILL MUST:

1. REQUEST AN ORDER AS TO THE TESTACY OF THE DECEDENT IN RELATION TO A PARTICULAR INSTRUMENT WHICH MAY OR MAY NOT HAVE BEEN INFORMALLY PROBATED AND DETERMINING THE HEIRS;
2. CONTAIN THE STATEMENTS REQUIRED FOR INFORMAL

## LAWS OF ARIZONA

APPLICATIONS AS STATED IN PARAGRAPH 1 OF SUBSECTION B OF SECTION 14-3301 AND THE STATEMENTS REQUIRED BY SUBDIVISIONS (b) AND (c), PARAGRAPH 2 OF SUBSECTION B OF SECTION 14-3301; AND

3. STATE WHETHER THE ORIGINAL OF THE LAST WILL OF THE DECEDENT IS IN THE POSSESSION OF THE COURT OR ACCOMPANIES THE PETITION. IF THE ORIGINAL WILL IS NEITHER IN THE POSSESSION OF THE COURT NOR ACCOMPANIES THE PETITION AND NO AUTHENTICATED COPY OF A WILL PROBATED IN ANOTHER JURISDICTION ACCOMPANIES THE PETITION, THE PETITION ALSO MUST STATE THE CONTENTS OF THE WILL, AND INDICATE THAT IT IS LOST, DESTROYED OR OTHERWISE UNAVAILABLE.

B. A PETITION FOR ADJUDICATION OF INTESTACY AND APPOINTMENT OF AN ADMINISTRATOR IN INTESTACY MUST REQUEST A JUDICIAL FINDING AND ORDER THAT THE DECEDENT LEFT NO WILL AND DETERMINING THE HEIRS, CONTAIN THE STATEMENTS REQUIRED BY PARAGRAPHS 1 AND 4 OF SUBSECTION B OF SECTION 14-3301 AND INDICATE WHETHER SUPERVISED ADMINISTRATION IS SOUGHT. A PETITION MAY REQUEST AN ORDER DETERMINING INTESTACY AND HEIRS WITHOUT REQUESTING THE APPOINTMENT OF AN ADMINISTRATOR, IN WHICH CASE, THE STATEMENTS REQUIRED BY SUBDIVISION (b), PARAGRAPH 4 OF SUBSECTION B OF SECTION 14-3301 MAY BE OMITTED.

**14-3403. Formal testacy proceeding; notice of hearing on petition**

A. UPON COMMENCEMENT OF A FORMAL TESTACY PROCEEDING, THE CLERK SHALL FIX A TIME AND PLACE OF HEARING. NOTICE SHALL BE GIVEN IN THE MANNER PRESCRIBED BY SECTION 14-1401 BY THE PETITIONER TO THE PERSONS SPECIFIED IN THIS SECTION AND TO ANY ADDITIONAL PERSON WHO HAS FILED A DEMAND FOR NOTICE UNDER SECTION 14-3204. NOTICE SHALL BE GIVEN TO THE FOLLOWING PERSONS: THE SURVIVING SPOUSE, CHILDREN AND OTHER HEIRS OF THE DECEDENT, THE DEVISEES AND EXECUTORS NAMED IN ANY WILL THAT IS BEING, OR HAS BEEN, PROBATED, OR OFFERED FOR INFORMAL OR FORMAL PROBATE IN THE COUNTY, OR THAT IS KNOWN BY THE PETITIONER TO HAVE BEEN PROBATED, OR OFFERED FOR INFORMAL OR FORMAL PROBATE IN ANOTHER JURISDICTION, AND ANY PERSONAL

## LAWS OF ARIZONA

REPRESENTATIVE OF THE DECEDENT WHOSE APPOINTMENT HAS NOT BEEN TERMINATED. NOTICE MAY BE GIVEN TO OTHER PERSONS. IN ADDITION, THE PETITIONER SHALL GIVE NOTICE BY PUBLICATION IN ACCORDANCE WITH SECTION 14-1401, SUBSECTION A, PARAGRAPH 3.

B. IF IT APPEARS BY THE PETITION OR OTHERWISE THAT THE FACT OF THE DEATH OF THE ALLEGED DECEDENT MAY BE IN DOUBT, OR ON THE WRITTEN DEMAND OF ANY INTERESTED PERSON, A COPY OF THE NOTICE OF THE HEARING ON THE PETITION SHALL BE SENT BY REGISTERED MAIL TO THE ALLEGED DECEDENT AT HIS LAST KNOWN ADDRESS. THE COURT SHALL DIRECT THE PETITIONER TO REPORT THE RESULTS OF, OR MAKE AND REPORT BACK CONCERNING, A REASONABLY DILIGENT SEARCH FOR THE ALLEGED DECEDENT IN ANY MANNER THAT MAY SEEM ADVISABLE, INCLUDING ANY OR ALL OF THE FOLLOWING METHODS:

1. BY INSERTING IN ONE OR MORE SUITABLE PERIODICALS A NOTICE REQUESTING INFORMATION FROM ANY PERSON HAVING KNOWLEDGE OF THE WHEREABOUTS OF THE ALLEGED DECEDENT.
2. BY NOTIFYING LAW ENFORCEMENT OFFICIALS AND PUBLIC WELFARE AGENCIES IN APPROPRIATE LOCATIONS OF THE DISAPPEARANCE OF THE ALLEGED DECEDENT.
3. BY ENGAGING THE SERVICES OF AN INVESTIGATOR. THE COSTS OF ANY SEARCH SO DIRECTED SHALL BE PAID BY THE PETITIONER IF THERE IS NO ADMINISTRATION OR BY THE ESTATE OF THE DECEDENT IN CASE THERE IS ADMINISTRATION.

**14-3404. Formal testacy proceedings; written objections to probate**

ANY PARTY TO A FORMAL PROCEEDING WHO OPPOSES THE PROBATE OF A WILL FOR ANY REASON SHALL STATE IN HIS PLEADINGS HIS OBJECTIONS TO PROBATE OF THE WILL.

**14-3405. Formal testacy proceedings; uncontested cases; hearings and proof**

IF A PETITION IN A TESTACY PROCEEDING IS UNOPPOSED, THE COURT MAY ORDER PROBATE OR INTESTACY ON THE STRENGTH OF THE PLEADINGS IF SATISFIED THAT THE

## LAWS OF ARIZONA

CONDITIONS OF SECTION 14-3409 HAVE BEEN MET, OR CONDUCT A HEARING IN OPEN COURT AND REQUIRE PROOF OF THE MATTERS NECESSARY TO SUPPORT THE ORDER SOUGHT. IF EVIDENCE CONCERNING EXECUTION OF THE WILL IS NECESSARY, THE AFFIDAVIT OR TESTIMONY OF ONE OF ANY ATTESTING WITNESSES TO THE INSTRUMENT IS SUFFICIENT. IF THE AFFIDAVIT OR TESTIMONY OF AN ATTESTING WITNESS IS NOT AVAILABLE, EXECUTION OF THE WILL MAY BE PROVED BY OTHER EVIDENCE OR AFFIDAVIT.

**14-3406. Formal testacy proceedings; contested cases; testimony of attesting witnesses**

A. IF EVIDENCE CONCERNING EXECUTION OF AN ATTESTED WILL WHICH IS NOT SELF-PROVED IS NECESSARY IN CONTESTED CASES, THE TESTIMONY OF AT LEAST ONE OF THE ATTESTING WITNESSES, IF WITHIN THE STATE, COMPETENT AND ABLE TO TESTIFY, IS REQUIRED. DUE EXECUTION OF AN ATTESTED OR UNATTESTED WILL MAY BE PROVED BY OTHER EVIDENCE.

B. IF THE WILL IS SELF-PROVED, COMPLIANCE WITH SIGNATURE REQUIREMENTS FOR EXECUTION IS CONCLUSIVELY PRESUMED AND OTHER REQUIREMENTS OF EXECUTION ARE PRESUMED SUBJECT TO REBUTTAL WITHOUT THE TESTIMONY OF ANY WITNESS UPON FILING THE WILL AND THE ACKNOWLEDGMENT AND AFFIDAVITS ANNEXED OR ATTACHED THERETO, UNLESS THERE IS PROOF OF FRAUD OR FORGERY AFFECTING THE ACKNOWLEDGMENT OR AFFIDAVIT.

**14-3407. Formal testacy proceedings; burdens in contested cases**

IN CONTESTED CASES, PETITIONERS WHO SEEK TO ESTABLISH INTESTACY HAVE THE BURDEN OF ESTABLISHING PRIMA FACIE PROOF OF DEATH, VENUE AND HEIRSHIP. PROPONENTS OF A WILL HAVE THE BURDEN OF ESTABLISHING PRIMA FACIE PROOF OF DUE EXECUTION IN ALL CASES, AND IF THEY ARE ALSO PETITIONERS, PRIMA FACIE PROOF OF DEATH AND VENUE. CONTESTANTS OF A WILL HAVE THE BURDEN OF ESTABLISHING LACK OF TESTAMENTARY INTENT OR CAPACITY, UNDUE INFLUENCE, FRAUD, DURESS, MISTAKE OR REVOCATION. PARTIES HAVE THE ULTIMATE BURDEN OF PERSUASION AS TO MATTERS WITH RESPECT TO WHICH THEY HAVE THE INITIAL BURDEN OF PROOF. IF A WILL IS OPPOSED BY THE PETITION FOR PROBATE OF A LATER WILL REVOKING THE FORMER, IT SHALL BE

## LAWS OF ARIZONA

DETERMINED FIRST WHETHER THE LATER WILL IS ENTITLED TO PROBATE, AND IF A WILL IS OPPOSED BY A PETITION FOR A DECLARATION OF INTESTACY, IT SHALL BE DETERMINED FIRST WHETHER THE WILL IS ENTITLED TO PROBATE.

**14-3408. Formal testacy proceedings; will construction; effect of final order in another jurisdiction**

A FINAL ORDER OF A COURT OF ANOTHER STATE DETERMINING TESTACY, THE VALIDITY OR CONSTRUCTION OF A WILL, MADE IN A PROCEEDING INVOLVING NOTICE TO AND AN OPPORTUNITY FOR CONTEST BY ALL INTERESTED PERSONS MUST BE ACCEPTED AS DETERMINATIVE BY THE COURTS OF THIS STATE IF IT INCLUDES, OR IS BASED UPON, A FINDING THAT THE DECEDENT WAS DOMICILED AT HIS DEATH IN THE STATE WHERE THE ORDER WAS MADE.

**14-3409. Formal testacy proceedings; orders; foreign will**

AFTER THE TIME REQUIRED FOR ANY NOTICE HAS EXPIRED, UPON PROOF OF NOTICE, AND AFTER ANY HEARING THAT MAY BE NECESSARY, IF THE COURT FINDS THAT THE TESTATOR IS DEAD, VENUE IS PROPER AND THAT THE PROCEEDING WAS COMMENCED WITHIN THE LIMITATION PRESCRIBED BY SECTION 14-3108, IT SHALL DETERMINE THE DECEDENT'S DOMICILE AT DEATH, HIS HEIRS AND HIS STATE OF TESTACY. ANY WILL FOUND TO BE VALID AND UNREVOKED SHALL BE FORMALLY PROBATED. TERMINATION OF ANY PREVIOUS INFORMAL APPOINTMENT OF A PERSONAL REPRESENTATIVE, WHICH MAY BE APPROPRIATE IN VIEW OF THE RELIEF REQUESTED AND FINDINGS, IS GOVERNED BY SECTION 14-3612. THE PETITION SHALL BE DISMISSED OR APPROPRIATE AMENDMENT ALLOWED IF THE COURT IS NOT SATISFIED THAT THE ALLEGED DECEDENT IS DEAD. A WILL FROM A PLACE WHICH DOES NOT PROVIDE FOR PROBATE OF A WILL AFTER DEATH, MAY BE PROVED FOR PROBATE IN THIS STATE BY A DULY AUTHENTICATED CERTIFICATE OF ITS LEGAL CUSTODIAN THAT THE COPY INTRODUCED IS A TRUE COPY AND THAT THE WILL HAS BECOME EFFECTIVE UNDER THE LAW OF THE OTHER PLACE.

**14-3410. Formal testacy proceedings; probate of more than one instrument**

IF TWO OR MORE INSTRUMENTS ARE OFFERED FOR PROBATE BEFORE A FINAL ORDER IS ENTERED IN A FORMAL TESTACY

## LAWS OF ARIZONA

PROCEEDING, MORE THAN ONE INSTRUMENT MAY BE PROBATED IF NEITHER EXPRESSLY REVOKES THE OTHER OR CONTAINS PROVISIONS WHICH WORK A TOTAL REVOCATION BY IMPLICATION. IF MORE THAN ONE INSTRUMENT IS PROBATED, THE ORDER SHALL INDICATE WHAT PROVISIONS CONTROL IN RESPECT TO THE NOMINATION OF AN EXECUTOR, IF ANY. THE ORDER MAY, BUT NEED NOT, INDICATE HOW ANY PROVISIONS OF A PARTICULAR INSTRUMENT ARE AFFECTED BY THE OTHER INSTRUMENT. AFTER A FINAL ORDER IN A TESTACY PROCEEDING HAS BEEN ENTERED, NO PETITION FOR PROBATE OF ANY OTHER INSTRUMENT OF THE DECEDENT MAY BE ENTERED, EXCEPT INCIDENT TO A PETITION TO VACATE OR MODIFY A PREVIOUS PROBATE ORDER AND SUBJECT TO THE TIME LIMITS OF SECTION 14-3412.

**14-3411. Formal testacy proceedings; partial intestacy**

IF IT BECOMES EVIDENT IN THE COURSE OF A FORMAL TESTACY PROCEEDING THAT, THOUGH ONE OR MORE INSTRUMENTS ARE ENTITLED TO BE PROBATED, THE DECEDENT'S ESTATE IS OR MAY BE PARTIALLY INTESTATE, THE COURT SHALL ENTER AN ORDER TO THAT EFFECT.

**14-3412. Formal testacy proceedings; effect of order; vacation**

A. SUBJECT TO APPEAL AND SUBJECT TO VACATION AS PROVIDED IN THIS SECTION AND IN SECTION 14-3413, A FORMAL TESTACY ORDER UNDER SECTIONS 14-3409 THROUGH 14-3411, INCLUDING AN ORDER THAT THE DECEDENT LEFT NO VALID WILL AND DETERMINING HEIRS, IS FINAL AS TO ALL PERSONS WITH RESPECT TO ALL ISSUES CONCERNING THE DECEDENT'S ESTATE THAT THE COURT CONSIDERED OR MIGHT HAVE CONSIDERED INCIDENT TO ITS RENDITION RELEVANT TO THE QUESTION OF WHETHER THE DECEDENT LEFT A VALID WILL, AND TO THE DETERMINATION OF HEIRS, EXCEPT THAT:

1. NOT LATER THAN SIXTY DAYS AFTER ENTRY OF A FORMAL TESTACY ORDER PROBATING A WILL OR A FORMAL ADJUDICATION OF INTESTACY, ANY INTERESTED PERSON WHO DID NOT OPPOSE THE PROBATE OF THE WILL OR THE ALLEGATIONS OF INTESTACY AT THE ORIGINAL HEARING MAY PETITION THE COURT TO VACATE ITS ORDER AND REOPEN THE MATTER; THE COURT SHALL THEREUPON FIX A TIME AND PLACE OF HEARING, WITH NOTICE TO THE HEIRS, THE DEVISEES NAMED IN THE

## LAWS OF ARIZONA

WILL, THE PERSONAL REPRESENTATIVE, AND OTHER PERSONS AS DIRECTED BY THE COURT. THE COURT SHALL PROCEED AS IN ANY CONTESTED TESTACY CASE; THE COURT MAY VACATE THE ORIGINAL ORDER AND MAKE A NEW ORDER DETERMINING THE DECEDENT'S STATE OF TESTACY, OR DENY THE PETITION TO VACATE AND CONFIRM THE ORIGINAL ORDER.

2. THE COURT SHALL ENTERTAIN A PETITION FOR MODIFICATION OR VACATION OF ITS ORDER AND PROBATE OF ANOTHER WILL OF THE DECEDENT IF IT IS SHOWN THAT THE PROPONENTS OF THE LATER-OFFERED WILL WERE UNAWARE OF ITS EXISTENCE AT THE TIME OF THE EARLIER PROCEEDING OR WERE UNAWARE OF THE EARLIER PROCEEDING AND WERE GIVEN NO NOTICE THEREOF, EXCEPT BY PUBLICATION.

3. IF INTESTACY OF ALL OR PART OF THE ESTATE HAS BEEN ORDERED, THE DETERMINATION OF HEIRS OF THE DECEDENT MAY BE RECONSIDERED IF IT IS SHOWN THAT ONE OR MORE PERSONS WERE OMITTED FROM THE DETERMINATION AND IT IS ALSO SHOWN THAT THE PERSONS WERE UNAWARE OF THEIR RELATIONSHIP TO THE DECEDENT, WERE UNAWARE OF HIS DEATH OR WERE GIVEN NO NOTICE OF ANY PROCEEDING CONCERNING HIS ESTATE, EXCEPT BY PUBLICATION.

4. A PETITION FOR VACATION UNDER EITHER PARAGRAPH 2 OR 3 OF THIS SUBSECTION MUST BE FILED PRIOR TO THE EARLIER OF THE FOLLOWING TIME LIMITS:

(a) IF A PERSONAL REPRESENTATIVE HAS BEEN APPOINTED FOR THE ESTATE, THE TIME OF ENTRY OF ANY ORDER APPROVING FINAL DISTRIBUTION OF THE ESTATE, OR, IF THE ESTATE IS CLOSED BY STATEMENT, SIX MONTHS AFTER THE FILING OF THE CLOSING STATEMENT.

(b) WHETHER OR NOT A PERSONAL REPRESENTATIVE HAS BEEN APPOINTED FOR THE ESTATE OF THE DECEDENT, THE TIME PRESCRIBED BY SECTION 14-3108 WHEN IT IS NO LONGER POSSIBLE TO INITIATE AN ORIGINAL PROCEEDING TO PROBATE A WILL OF THE DECEDENT.

(c) TWELVE MONTHS AFTER THE ENTRY OF THE ORDER SOUGHT TO BE VACATED.

5. THE ORDER ORIGINALLY RENDERED IN THE TESTACY PROCEEDING MAY BE MODIFIED OR VACATED, IF APPROPRIATE

## LAWS OF ARIZONA

UNDER THE CIRCUMSTANCES, BY THE ORDER OF PROBATE OF THE LATER-OFFERED WILL OR THE ORDER REDETERMINING HEIRS.

6. THE FINDING OF THE FACT OF DEATH IS CONCLUSIVE AS TO THE ALLEGED DECEDENT ONLY IF NOTICE OF THE HEARING ON THE PETITION IN THE FORMAL TESTACY PROCEEDING WAS SENT BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO THE ALLEGED DECEDENT AT HIS LAST KNOWN ADDRESS AND THE COURT FINDS THAT A SEARCH UNDER SECTION 14-3403, SUBSECTION B WAS MADE.

B. IF THE ALLEGED DECEDENT IS NOT DEAD, EVEN IF NOTICE WAS SENT AND SEARCH WAS MADE, HE MAY RECOVER ESTATE ASSETS IN THE HANDS OF THE PERSONAL REPRESENTATIVE. IN ADDITION TO ANY REMEDIES AVAILABLE TO THE ALLEGED DECEDENT BY REASON OF ANY FRAUD OR INTENTIONAL WRONGDOING, THE ALLEGED DECEDENT MAY RECOVER ANY ESTATE OR ITS PROCEEDS FROM DISTRIBUTEES THAT IS IN THEIR HANDS, OR THE VALUE OF DISTRIBUTIONS RECEIVED BY THEM, TO THE EXTENT THAT ANY RECOVERY FROM DISTRIBUTEES IS EQUITABLE IN VIEW OF THE CIRCUMSTANCES.

**14-3413. Formal testacy proceedings; vacation of order for other cause**

FOR GOOD CAUSE SHOWN, AN ORDER IN A FORMAL TESTACY PROCEEDING MAY BE MODIFIED OR VACATED WITHIN THE TIME ALLOWED FOR APPEAL.

**14-3414. Formal proceedings concerning appointment of personal representative**

A. A FORMAL PROCEEDING FOR ADJUDICATION REGARDING THE PRIORITY OR QUALIFICATION OF ONE WHO IS AN APPLICANT FOR APPOINTMENT AS PERSONAL REPRESENTATIVE, OR OF ONE WHO PREVIOUSLY HAS BEEN APPOINTED PERSONAL REPRESENTATIVE IN INFORMAL PROCEEDINGS, IF AN ISSUE CONCERNING THE TESTACY OF THE DECEDENT IS OR MAY BE INVOLVED, IS GOVERNED BY SECTION 14-3402, AS WELL AS BY THIS SECTION. IN OTHER CASES, THE PETITION SHALL CONTAIN OR ADOPT THE STATEMENTS REQUIRED BY SECTION 14-3301, PARAGRAPH 1 AND DESCRIBE THE QUESTION RELATING TO PRIORITY OR QUALIFICATION OF THE PERSONAL REPRESENTATIVE WHICH IS TO BE RESOLVED. IF THE PROCEEDING

## LAWS OF ARIZONA

PRECEDES ANY APPOINTMENT OF A PERSONAL REPRESENTATIVE, IT SHALL STAY ANY PENDING INFORMAL APPOINTMENT PROCEEDINGS AS WELL AS ANY COMMENCED THEREAFTER. IF THE PROCEEDING IS COMMENCED AFTER APPOINTMENT, THE PREVIOUSLY APPOINTED PERSONAL REPRESENTATIVE, AFTER RECEIPT OF NOTICE THEREOF, SHALL REFRAIN FROM EXERCISING ANY POWER OF ADMINISTRATION EXCEPT AS NECESSARY TO PRESERVE THE ESTATE OR UNLESS THE COURT ORDERS OTHERWISE.

B. AFTER NOTICE TO INTERESTED PERSONS, INCLUDING ALL PERSONS INTERESTED IN THE ADMINISTRATION OF THE ESTATE AS SUCCESSORS UNDER THE APPLICABLE ASSUMPTION CONCERNING TESTACY, ANY PREVIOUSLY APPOINTED PERSONAL REPRESENTATIVE AND ANY PERSON HAVING OR CLAIMING PRIORITY FOR APPOINTMENT AS PERSONAL REPRESENTATIVE, THE COURT SHALL DETERMINE WHO IS ENTITLED TO APPOINTMENT UNDER SECTION 14-3203, MAKE A PROPER APPOINTMENT AND, IF APPROPRIATE, TERMINATE ANY PRIOR APPOINTMENT FOUND TO HAVE BEEN IMPROPER AS PROVIDED IN CASES OF REMOVAL UNDER SECTION 14-3611.

**14-3415. Proof of missing will**

IF THE ORIGINAL WILL, OR AN AUTHENTICATED COPY OF THE WILL AS PROBATED IN ANOTHER JURISDICTION, IS NOT AVAILABLE, THE CONTENTS OF THE WILL CAN BE PROVED BY A COPY OF THE WILL AND TESTIMONY OF AT LEAST ONE CREDIBLE WITNESS THAT THE COPY IS A TRUE COPY OF THE ORIGINAL. IF A COPY OF THE WILL IS UNAVAILABLE, CONTENTS OF THE WILL CAN BE PROVED ONLY BY CLEAR AND CONVINCING PROOF. A WITNESS NEED NOT BE AN ATTESTING WITNESS TO THE WILL. IF THE MISSING WILL IS ALLOWED FOR PROBATE, THE ORDER OF THE COURT SHALL SET FORTH THE CONTENTS OF THE WILL AS FOUND BY THE COURT.

## ARTICLE 5. SUPERVISED ADMINISTRATION

**14-3501. Supervised administration; nature of proceeding**

SUPERVISED ADMINISTRATION IS A SINGLE IN REM PROCEEDING TO SECURE COMPLETE ADMINISTRATION AND SETTLEMENT OF A DECEDENT'S ESTATE UNDER THE CONTINUING AUTHORITY OF THE COURT WHICH EXTENDS UNTIL ENTRY OF

## LAWS OF ARIZONA

AN ORDER APPROVING DISTRIBUTION OF THE ESTATE AND DISCHARGING THE PERSONAL REPRESENTATIVE OR OTHER ORDER TERMINATING THE PROCEEDING. A SUPERVISED PERSONAL REPRESENTATIVE IS RESPONSIBLE TO THE COURT, AS WELL AS TO THE INTERESTED PARTIES, AND IS SUBJECT TO DIRECTIONS CONCERNING THE ESTATE MADE BY THE COURT ON ITS OWN MOTION OR ON THE MOTION OF ANY INTERESTED PARTY. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, OR AS OTHERWISE ORDERED BY THE COURT, A SUPERVISED PERSONAL REPRESENTATIVE HAS THE SAME DUTIES AND POWERS AS A PERSONAL REPRESENTATIVE WHO IS NOT SUPERVISED.

**14-3502. Supervised administration; petition; order**

A PETITION FOR SUPERVISED ADMINISTRATION MAY BE FILED BY ANY INTERESTED PERSON OR BY A PERSONAL REPRESENTATIVE AT ANY TIME OR THE PRAYER FOR SUPERVISED ADMINISTRATION MAY BE JOINED WITH A PETITION IN A TESTACY OR APPOINTMENT PROCEEDING. IF THE TESTACY OF THE DECEDENT AND THE PRIORITY AND QUALIFICATION OF ANY PERSONAL REPRESENTATIVE HAVE NOT BEEN ADJUDICATED PREVIOUSLY, THE PETITION FOR SUPERVISED ADMINISTRATION SHALL INCLUDE THE MATTERS REQUIRED OF A PETITION IN A FORMAL TESTACY PROCEEDING AND THE NOTICE REQUIREMENTS AND PROCEDURES APPLICABLE TO A FORMAL TESTACY PROCEEDING APPLY. IF NOT PREVIOUSLY ADJUDICATED, THE COURT SHALL ADJUDICATE THE TESTACY OF THE DECEDENT AND QUESTIONS RELATING TO THE PRIORITY AND QUALIFICATIONS OF THE PERSONAL REPRESENTATIVE IN ANY CASE INVOLVING A REQUEST FOR SUPERVISED ADMINISTRATION, EVEN THOUGH THE REQUEST FOR SUPERVISED ADMINISTRATION MAY BE DENIED. AFTER NOTICE TO INTERESTED PERSONS, THE COURT SHALL ORDER SUPERVISED ADMINISTRATION OF A DECEDENT'S ESTATE:

1. IF THE DECEDENT'S WILL DIRECTS SUPERVISED ADMINISTRATION, IT SHALL BE ORDERED UNLESS THE COURT FINDS THAT CIRCUMSTANCES BEARING ON THE NEED FOR SUPERVISED ADMINISTRATION HAVE CHANGED SINCE THE EXECUTION OF THE WILL AND THAT THERE IS NO NECESSITY FOR SUPERVISED ADMINISTRATION.
2. IF THE DECEDENT'S WILL DIRECTS UNSUPERVISED ADMINISTRATION, SUPERVISED ADMINISTRATION SHALL BE ORDERED

## LAWS OF ARIZONA

ONLY UPON A FINDING THAT IT IS NECESSARY FOR PROTECTION OF PERSONS INTERESTED IN THE ESTATE.

3. IN OTHER CASES IF THE COURT FINDS THAT SUPERVISED ADMINISTRATION IS NECESSARY UNDER THE CIRCUMSTANCES.

**14-3503. Supervised administration; effect on other proceedings**

A. THE PENDENCY OF A PROCEEDING FOR SUPERVISED ADMINISTRATION OF A DECEDENT'S ESTATE STAYS ACTION ON ANY INFORMAL APPLICATION THEN PENDING OR THEREAFTER FILED.

B. IF A WILL HAS BEEN PREVIOUSLY PROBATED IN INFORMAL PROCEEDINGS, THE EFFECT OF THE FILING OF A PETITION FOR SUPERVISED ADMINISTRATION IS AS PROVIDED FOR FORMAL TESTACY PROCEEDINGS BY SECTION 14-3401.

C. AFTER HE HAS RECEIVED NOTICE OF THE FILING OF A PETITION FOR SUPERVISED ADMINISTRATION, A PERSONAL REPRESENTATIVE WHO HAS BEEN APPOINTED PREVIOUSLY SHALL NOT EXERCISE HIS POWER TO DISTRIBUTE ANY ESTATE. THE FILING OF THE PETITION DOES NOT AFFECT HIS OTHER POWERS AND DUTIES UNLESS THE COURT RESTRICTS THE EXERCISE OF ANY OF THEM PENDING FULL HEARING ON THE PETITION.

**14-3504. Supervised administration; powers of personal representative**

UNLESS RESTRICTED BY THE COURT, A SUPERVISED PERSONAL REPRESENTATIVE HAS, WITHOUT INTERIM ORDERS APPROVING EXERCISE OF A POWER, ALL POWERS OF PERSONAL REPRESENTATIVES UNDER THIS TITLE, BUT ALL SALES OF REAL PROPERTY SHALL BE SUBJECT TO COURT CONFIRMATION AS PROVIDED IN SECTIONS 14-3506 AND 14-3507, AND THE PERSONAL REPRESENTATIVE SHALL NOT EXERCISE HIS POWER TO MAKE ANY DISTRIBUTION OF THE ESTATE WITHOUT PRIOR ORDER OF THE COURT. ANY OTHER RESTRICTION ON THE POWER OF A PERSONAL REPRESENTATIVE WHICH MAY BE ORDERED BY THE COURT MUST BE ENDORSED ON HIS LETTERS OF APPOINTMENT AND, UNLESS SO ENDORSED, IS INEFFECTIVE AS TO PERSONS DEALING IN GOOD FAITH WITH THE PERSONAL REPRESENTATIVE.

**14-3505. Supervised administration; interim orders; distribution and closing orders; annual accounts; accounting on closing**

## LAWS OF ARIZONA

A. UNLESS OTHERWISE ORDERED BY THE COURT, SUPERVISED ADMINISTRATION IS TERMINATED BY ORDER IN ACCORDANCE WITH TIME RESTRICTIONS, NOTICES AND CONTENTS OF ORDERS PRESCRIBED FOR PROCEEDINGS UNDER SECTION 14-3931. INTERIM ORDERS APPROVING OR DIRECTING PARTIAL DISTRIBUTIONS OR GRANTING OTHER RELIEF MAY BE ISSUED BY THE COURT AT ANY TIME DURING THE PENDENCY OF A SUPERVISED ADMINISTRATION ON THE APPLICATION OF THE PERSONAL REPRESENTATIVE OR ANY INTERESTED PERSON.

B. A SUPERVISED PERSONAL REPRESENTATIVE SHALL FILE AN ACCOUNT WITH THE COURT NOT LESS THAN ANNUALLY DURING HIS ADMINISTRATION, AND ON CLOSING SHALL FILE A FINAL ACCOUNT TO BE APPROVED UNDER SECTION 14-3931. HE SHALL ALSO ACCOUNT TO THE COURT ON RESIGNATION OR REMOVAL. SUBJECT TO APPEAL OR VACATION WITHIN THE TIME PERMITTED, AN ORDER MADE ON NOTICE AND HEARING ALLOWING AN INTERMEDIATE ACCOUNT OF A PERSONAL REPRESENTATIVE ADJUDICATES HIS LIABILITIES CONCERNING MATTERS CONSIDERED IN CONNECTION THEREWITH. A COPY OF THE INTERMEDIATE ACCOUNT MUST BE SENT TO ALL INTERESTED PARTIES ALONG WITH NOTICE OF HEARING ON THE ACCOUNT. IN CONNECTION WITH ANY ACCOUNT, THE COURT MAY REQUIRE THE PERSONAL REPRESENTATIVE TO SUBMIT TO PHYSICAL CHECK OF THE ESTATE IN HIS CONTROL, TO BE MADE IN ANY MATTER THE COURT MAY SPECIFY.

**14-3508. Additional bond for sale of real property; exception**

THE COURT MAY REQUIRE AN ADDITIONAL BOND IF THE SALE OF REAL PROPERTY OF THE ESTATE IS BEING CONFIRMED, BUT AN ADDITIONAL BOND SHALL NOT BE REQUIRED IF IT APPEARS TO THE COURT THAT THE PENALTY OF THE BOND GIVEN BEFORE RECEIVING LETTERS, OR A BOND GIVEN IN PLACE THEREOF, IS SUFFICIENT.

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

**14-3601. Qualification**

PRIOR TO RECEIVING LETTERS, A PERSONAL REPRESENTATIVE SHALL QUALIFY BY FILING WITH THE APPOINTING COURT ANY REQUIRED BOND AND A STATEMENT OF ACCEPTANCE OF THE DUTIES OF THE OFFICE.

## LAWS OF ARIZONA

14-3602. **Acceptance of appointment; consent to jurisdiction**

BY ACCEPTING APPOINTMENT, A PERSONAL REPRESENTATIVE SUBMITS PERSONALLY TO THE JURISDICTION OF THE COURT IN ANY PROCEEDING RELATING TO THE ESTATE THAT MAY BE INSTITUTED BY ANY INTERESTED PERSON. NOTICE OF ANY PROCEEDING SHALL BE DELIVERED TO THE PERSONAL REPRESENTATIVE, OR MAILED TO HIM BY ORDINARY FIRST CLASS MAIL AT HIS ADDRESS AS LISTED IN THE APPLICATION OR PETITION FOR APPOINTMENT OR AS THEREAFTER REPORTED TO THE COURT AND TO HIS ADDRESS AS THEN KNOWN TO PETITIONER.

14-3603. **Bond required; exceptions**

A. A BOND IS REQUIRED OF A PERSONAL REPRESENTATIVE UNLESS EITHER:

1. THE WILL EXPRESSLY WAIVES THE BOND.
2. ALL OF THE HEIRS IF NO WILL HAS BEEN PROBATED, OR ALL OF THE DEVISEES UNDER A WILL WHICH DOES NOT PROVIDE FOR WAIVER OF THE BOND, FILE WITH THE COURT A WRITTEN WAIVER OF THE BOND REQUIREMENT. A DULY APPOINTED GUARDIAN OR CONSERVATOR MAY WAIVE ON BEHALF OF HIS WARD OR PROTECTED PERSON UNLESS THE GUARDIAN OR CONSERVATOR IS THE PERSONAL REPRESENTATIVE.
3. THE PERSONAL REPRESENTATIVE IS A NATIONAL BANKING ASSOCIATION, A HOLDER OF A BANKING PERMIT UNDER THE LAWS OF THIS STATE, A TITLE INSURANCE COMPANY WHICH IS QUALIFIED TO DO BUSINESS UNDER THE LAWS OF THE STATE AND MAINTAINS THE REQUIRED DEPOSIT WITH THE STATE TREASURER, OR A TRUST COMPANY HOLDING A CERTIFICATE TO ENGAGE IN TRUST BUSINESS FROM THE STATE SUPERINTENDENT OF BANKS.
4. THE PETITION FOR FORMAL OR INFORMAL APPOINTMENT ALLEGES THAT THE PROBABLE VALUE OF THE ENTIRE ESTATE WILL PERMIT SUMMARY PROCEDURES UNDER SECTION 14-3973 AND THE SURVIVING SPOUSE, OR THE NOMINEE OF THE SURVIVING SPOUSE, IS APPLYING FOR APPOINTMENT AS PERSONAL REPRESENTATIVE.

## LAWS OF ARIZONA

B. IN ANY CASE WHERE BOND IS NOT REQUIRED UNDER SUBSECTION A, THE COURT MAY, UPON PETITION OF ANY INTERESTED PERSON AND UPON REASONABLE PROOF THAT THE INTEREST OF THE PETITIONING PERSON IS IN DANGER OF BEING LOST BECAUSE OF THE ADMINISTRATION OF THE ESTATE, REQUIRE A BOND IN SUCH AMOUNT AS THE COURT MAY DIRECT TO PROTECT THE INTEREST OF THE PETITIONER OR OF THE PETITIONER AND OTHERS. AN HEIR OR DEVISEE WHO INITIALLY WAIVED BOND MAY BE A PETITIONER UNDER THIS SUBSECTION.

C. IF A BOND IS NOT INITIALLY REQUIRED BECAUSE THE PETITION FOR APPOINTMENT ALLEGES THAT THE PROBABLE VALUE OF THE ENTIRE ESTATE WILL PERMIT SUMMARY PROCEDURES UNDER SECTION 14-3973, AND IT LATER APPEARS FROM THE INVENTORY AND APPRAISAL THAT THE VALUE OF THE ESTATE WILL NOT PERMIT USE OF SUCH PROCEDURES, THEN THE PERSONAL REPRESENTATIVE MUST PROMPTLY FILE A BOND UNLESS ONE IS NOT REQUIRED FOR SOME OTHER REASON UNDER SUBSECTION A.

14-3604. **Bond amount; security; procedure; reduction**

A. IF BOND IS REQUIRED AND THE PROVISIONS OF THE WILL OR ORDER DO NOT SPECIFY THE AMOUNT, UNLESS STATED IN HIS APPLICATION OR PETITION, THE PERSON QUALIFYING SHALL FILE A STATEMENT UNDER OATH WITH THE REGISTRAR INDICATING HIS BEST ESTIMATE OF THE VALUE OF THE PERSONAL ESTATE OF THE DECEDENT, REAL ESTATE, LESS ENCUMBRANCES THEREON AND OF THE INCOME EXPECTED FROM THE PERSONAL AND REAL ESTATE DURING THE NEXT YEAR, AND HE SHALL EXECUTE AND FILE A BOND WITH THE REGISTRAR, OR GIVE OTHER SUITABLE SECURITY, IN AN AMOUNT NOT LESS THAN THE ESTIMATE PROVIDED, HOWEVER, THAT SAID BOND MAY BE REDUCED BY THE AMOUNT OF ANY REAL ESTATE, LESS ENCUMBRANCES THEREON, IF THE LETTERS ISSUED TO THE PERSONAL REPRESENTATIVE CONTAIN THE RESTRICTION THAT SALES OF REAL PROPERTY BY THE PERSONAL REPRESENTATIVE ARE SUBJECT TO THE PROVISIONS OF SECTIONS 14-3506 AND 14-3507 OF THIS CHAPTER. THE REGISTRAR SHALL DETERMINE THAT THE BOND IS DULY EXECUTED BY A CORPORATE SURETY, OR ONE OR MORE INDIVIDUAL SURETIES WHOSE PERFORMANCE IS SECURED BY PLEDGE OF PERSONAL PROPERTY, MORTGAGE ON REAL PROPERTY OR OTHER ADEQUATE

## LAWS OF ARIZONA

SECURITY. THE REGISTRAR MAY PERMIT THE AMOUNT OF THE BOND TO BE REDUCED BY THE VALUE OF ASSETS OF THE ESTATE DEPOSITED WITH THE CLERK OF THE COURT OR A DOMESTIC FINANCIAL INSTITUTION, AS DEFINED IN SECTION 14-6101, IN A MANNER THAT PREVENTS THEIR UNAUTHORIZED DISPOSITION. ON PETITION OF THE PERSONAL REPRESENTATIVE OR ANOTHER INTERESTED PERSON THE COURT MAY EXCUSE A REQUIREMENT OF BOND, INCREASE OR REDUCE THE AMOUNT OF THE BOND, RELEASE SURETIES, OR PERMIT THE SUBSTITUTION OF ANOTHER BOND WITH THE SAME OR DIFFERENT SURETIES.

B. WHEN A SURETY OF A PERSONAL REPRESENTATIVE DESIRES TO BE RELEASED FROM RESPONSIBILITY FOR FUTURE ACTS, HE MAY APPLY TO THE COURT FOR A RELEASE. THE COURT SHALL CAUSE A CITATION TO BE ISSUED TO THE PERSONAL REPRESENTATIVE, REQUIRING HIM TO APPEAR AT A TIME AND PLACE THEREIN SPECIFIED, AND TO GIVE OTHER SECURITY. NOTICE SHALL BE GIVEN TO THE PERSONAL REPRESENTATIVE AS PROVIDED IN SECTION 14-3602. IF NEW SECURITY IS GIVEN AND APPROVED BY THE JUDGE HE MAY THEREUPON ORDER THAT THE SURETY WHO APPLIED FOR RELEASE SHALL NOT BE LIABLE ON HIS BOND FOR ANY SUBSEQUENT ACT, DEFAULT OR MISCONDUCT OF THE PERSONAL REPRESENTATIVE. IF THE PERSONAL REPRESENTATIVE NEGLECTS OR REFUSES TO GIVE NEW AND SUFFICIENT SECURITY ON THE RETURN OF THE CITATION, OR WITHIN SUCH REASONABLE TIME AS THE JUDGE ALLOWS, UNLESS THE SURETY MAKING THE APPLICATION CONSENTS TO AN EXTENSION OF TIME, THE COURT SHALL REVOKE THE LETTERS.

14-3605. (Blank)

14-3606. **Terms and conditions of bonds**

A. THE FOLLOWING REQUIREMENTS AND PROVISIONS APPLY TO ANY BOND REQUIRED BY THIS ARTICLE:

1. BONDS SHALL NAME THE STATE AS OBLIGEE FOR THE BENEFIT OF THE PERSONS INTERESTED IN THE ESTATE AND SHALL BE CONDITIONED UPON THE FAITHFUL DISCHARGE BY THE FIDUCIARY OF ALL DUTIES ACCORDING TO LAW.

2. UNLESS OTHERWISE PROVIDED BY THE TERMS OF THE

## LAWS OF ARIZONA

APPROVED BOND, SURETIES ARE JOINTLY AND SEVERALLY LIABLE WITH THE PERSONAL REPRESENTATIVE AND WITH EACH OTHER. THE ADDRESS OF SURETIES SHALL BE STATED IN THE BOND.

3. BY EXECUTING AN APPROVED BOND OF A PERSONAL REPRESENTATIVE, THE SURETY CONSENTS TO THE JURISDICTION OF THE COURT WHICH ISSUED LETTERS TO THE PRIMARY OBLIGOR IN ANY PROCEEDINGS PERTAINING TO THE FIDUCIARY DUTIES OF THE PERSONAL REPRESENTATIVE AND NAMING THE SURETY AS A PARTY. NOTICE OF ANY PROCEEDING SHALL BE DELIVERED TO THE SURETY OR MAILED TO HIM BY REGISTERED OR CERTIFIED MAIL AT HIS ADDRESS AS LISTED WITH THE COURT WHERE THE BOND IS FILED AND TO HIS ADDRESS AS THEN KNOWN TO THE PETITIONER.

4. ON PETITION OF A SUCCESSOR PERSONAL REPRESENTATIVE, ANY OTHER PERSONAL REPRESENTATIVE OF THE SAME DECEDENT, OR ANY INTERESTED PERSON, A PROCEEDING IN THE COURT MAY BE INITIATED AGAINST A SURETY FOR BREACH OF THE OBLIGATION OF THE BOND OF THE PERSONAL REPRESENTATIVE.

5. THE BOND OF THE PERSONAL REPRESENTATIVE IS NOT VOID AFTER THE FIRST RECOVERY BUT MAY BE PROCEEDED AGAINST FROM TIME TO TIME UNTIL THE WHOLE PENALTY IS EXHAUSTED.

B. NO ACTION OR PROCEEDING MAY BE COMMENCED AGAINST THE SURETY ON ANY MATTER AS TO WHICH AN ACTION OR PROCEEDING AGAINST THE PRIMARY OBLIGOR IS BARRED BY ADJUDICATION OR LIMITATION.

14-3607. **Order restraining personal representative**

A. ON PETITION OF ANY PERSON WHO APPEARS TO HAVE AN INTEREST IN THE ESTATE, THE COURT BY TEMPORARY ORDER MAY RESTRAIN A PERSONAL REPRESENTATIVE FROM PERFORMING SPECIFIED ACTS OF ADMINISTRATION, DISBURSEMENT OR DISTRIBUTION, OR MAY EXERCISE ANY POWERS OR DISCHARGE ANY DUTIES OF HIS OFFICE, OR MAY MAKE ANY OTHER ORDER TO SECURE PROPER PERFORMANCE OF HIS DUTY, IF IT APPEARS TO THE COURT THAT THE PERSONAL REPRESENTATIVE OTHERWISE MAY TAKE SOME ACTION WHICH

## LAWS OF ARIZONA

WOULD JEOPARDIZE UNREASONABLY THE INTEREST OF THE APPLICANT OR OF SOME OTHER INTERESTED PERSON. PERSONS WITH WHOM THE PERSONAL REPRESENTATIVE MAY TRANSACT BUSINESS MAY BE MADE PARTIES.

B. THE MATTER SHALL BE SET FOR HEARING WITHIN TEN DAYS UNLESS THE PARTIES OTHERWISE AGREE. NOTICE AS THE COURT DIRECTS SHALL BE GIVEN TO THE PERSONAL REPRESENTATIVE AND HIS ATTORNEY OF RECORD, IF ANY, AND TO ANY OTHER PARTIES NAMED DEFENDANT IN THE PETITION.

14-3608. **Termination of appointment; general**

TERMINATION OF APPOINTMENT OF A PERSONAL REPRESENTATIVE OCCURS AS INDICATED IN SECTIONS 14-3609 THROUGH 14-3612. TERMINATION ENDS THE RIGHT AND POWER PERTAINING TO THE OFFICE OF PERSONAL REPRESENTATIVE AS CONFERRED BY THIS TITLE OR ANY WILL, EXCEPT THAT A PERSONAL REPRESENTATIVE, AT ANY TIME PRIOR TO DISTRIBUTION OR UNTIL RESTRAINED OR ENJOINED BY COURT ORDER, MAY PERFORM ACTS NECESSARY TO PROTECT THE ESTATE AND MAY DELIVER THE ASSETS TO A SUCCESSOR REPRESENTATIVE. TERMINATION DOES NOT DISCHARGE A PERSONAL REPRESENTATIVE FROM LIABILITY FOR TRANSACTIONS OR OMISSIONS OCCURRING BEFORE TERMINATION, OR RELIEVE HIM OF THE DUTY TO PRESERVE ASSETS SUBJECT TO HIS CONTROL, TO ACCOUNT THEREFOR AND TO DELIVER THE ASSETS. TERMINATION DOES NOT AFFECT THE JURISDICTION OF THE COURT OVER THE PERSONAL REPRESENTATIVE, BUT TERMINATES HIS AUTHORITY TO REPRESENT THE ESTATE IN ANY PENDING OR FUTURE PROCEEDING.

14-3609. **Termination of appointment; death or disability**

THE DEATH OF A PERSONAL REPRESENTATIVE OR THE APPOINTMENT OF A CONSERVATOR FOR THE ESTATE OF A PERSONAL REPRESENTATIVE, TERMINATES HIS APPOINTMENT. UNTIL APPOINTMENT AND QUALIFICATION OF A SUCCESSOR OR SPECIAL REPRESENTATIVE TO REPLACE THE DECEASED OR PROTECTED REPRESENTATIVE, THE REPRESENTATIVE OF THE ESTATE OF THE DECEASED OR PROTECTED PERSONAL REPRESENTATIVE, IF ANY, HAS THE DUTY TO PROTECT THE ESTATE POSSESSED AND BEING ADMINISTERED BY HIS DECEDENT OR WARD AT THE TIME HIS APPOINTMENT TERMINATES, HAS THE

## LAWS OF ARIZONA

POWER TO PERFORM ACTS NECESSARY FOR PROTECTION AND SHALL ACCOUNT FOR AND DELIVER THE ESTATE ASSETS TO A SUCCESSOR OR SPECIAL PERSONAL REPRESENTATIVE UPON HIS APPOINTMENT AND QUALIFICATION.

**14-3610. Termination of appointment; voluntary**

A. AN APPOINTMENT OF A PERSONAL REPRESENTATIVE TERMINATES AS PROVIDED IN SECTION 14-3933, ONE YEAR AFTER THE FILING OF A CLOSING STATEMENT.

B. AN ORDER CLOSING AN ESTATE AS PROVIDED IN SECTION 14-3931 OR 14-3932 TERMINATES AN APPOINTMENT OF A PERSONAL REPRESENTATIVE.

C. A PERSONAL REPRESENTATIVE MAY RESIGN HIS POSITION BY FILING A WRITTEN STATEMENT OF RESIGNATION WITH THE REGISTRAR AFTER HE HAS GIVEN AT LEAST FIFTEEN DAYS WRITTEN NOTICE TO THE PERSONS KNOWN TO BE INTERESTED IN THE ESTATE. IF NO ONE APPLIES OR PETITIONS FOR APPOINTMENT OF A SUCCESSOR REPRESENTATIVE WITHIN THE TIME INDICATED IN THE NOTICE, THE FILED STATEMENT OF RESIGNATION IS INEFFECTIVE AS A TERMINATION OF APPOINTMENT AND IN ANY EVENT IS EFFECTIVE ONLY UPON THE APPOINTMENT AND QUALIFICATION OF A SUCCESSOR REPRESENTATIVE AND DELIVERY OF THE ASSETS TO HIM.

**14-3611. Termination of appointment by removal; cause; procedure**

A. A PERSON INTERESTED IN THE ESTATE MAY PETITION FOR REMOVAL OF A PERSONAL REPRESENTATIVE FOR CAUSE AT ANY TIME. UPON FILING OF THE PETITION, THE COURT SHALL FIX A TIME AND PLACE FOR HEARING. NOTICE SHALL BE GIVEN BY THE PETITIONER TO THE PERSONAL REPRESENTATIVE, AND TO OTHER PERSONS AS THE COURT MAY ORDER. EXCEPT AS OTHERWISE ORDERED AS PROVIDED IN SECTION 14-3607, AFTER RECEIPT OF NOTICE OF REMOVAL PROCEEDINGS, THE PERSONAL REPRESENTATIVE SHALL NOT ACT EXCEPT TO ACCOUNT, TO CORRECT MALADMINISTRATION OR PRESERVE THE ESTATE. IF REMOVAL IS ORDERED, THE COURT ALSO SHALL DIRECT BY ORDER THE DISPOSITION OF THE ASSETS REMAINING IN THE NAME OF, OR UNDER THE CONTROL OF, THE PERSONAL REPRESENTATIVE BEING REMOVED.

## LAWS OF ARIZONA

## B. CAUSE FOR REMOVAL EXISTS:

1. WHEN REMOVAL WOULD BE IN THE BEST INTERESTS OF THE ESTATE.
2. IF IT IS SHOWN THAT A PERSONAL REPRESENTATIVE OR THE PERSON SEEKING HIS APPOINTMENT INTENTIONALLY MISREPRESENTED MATERIAL FACTS IN THE PROCEEDINGS LEADING TO HIS APPOINTMENT.
3. IF IT IS SHOWN THAT THE PERSONAL REPRESENTATIVE HAS DISREGARDED AN ORDER OF THE COURT, HAS BECOME INCAPABLE OF DISCHARGING THE DUTIES OF HIS OFFICE, HAS MISMANAGED THE ESTATE OR FAILED TO PERFORM ANY DUTY PERTAINING TO THE OFFICE.

UNLESS THE DECEDENT'S WILL DIRECTS OTHERWISE, A PERSONAL REPRESENTATIVE APPOINTED AT THE DECEDENT'S DOMICILE, INCIDENT TO SECURING APPOINTMENT OF HIMSELF OR HIS NOMINEE AS ANCILLARY PERSONAL REPRESENTATIVE, MAY OBTAIN REMOVAL OF ANOTHER WHO WAS APPOINTED PERSONAL REPRESENTATIVE IN THIS STATE TO ADMINISTER LOCAL ASSETS.

**14-3612. Termination of appointment; change of testacy status**

EXCEPT AS OTHERWISE ORDERED IN FORMAL PROCEEDINGS, THE PROBATE OF A WILL SUBSEQUENT TO THE APPOINTMENT OF A PERSONAL REPRESENTATIVE IN INTESTACY OR UNDER A WILL WHICH IS SUPERSEDED BY FORMAL PROBATE OF ANOTHER WILL, OR THE VACATION OF AN INFORMAL PROBATE OF A WILL SUBSEQUENT TO THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE THEREUNDER, DOES NOT TERMINATE THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE ALTHOUGH HIS POWERS MAY BE REDUCED AS PROVIDED IN SECTION 14-3401. TERMINATION OCCURS UPON APPOINTMENT IN INFORMAL OR FORMAL APPOINTMENT PROCEEDINGS OF A PERSON ENTITLED TO APPOINTMENT UNDER THE LATER ASSUMPTION CONCERNING TESTACY. IF NO REQUEST FOR NEW APPOINTMENT IS MADE WITHIN THIRTY DAYS AFTER EXPIRATION OF TIME FOR APPEAL FROM THE ORDER IN FORMAL TESTACY PROCEEDINGS, OR FROM THE INFORMAL PROBATE, CHANGING THE ASSUMPTION CONCERNING TESTACY, THE PREVIOUSLY APPOINTED PERSONAL REPRESENTATIVE UPON REQUEST MAY BE APPOINTED PERSONAL REPRESENTATIVE UNDER THE SUBSEQUENTLY PROBATED WILL, OR AS IN INTESTACY AS THE CASE MAY BE.

## LAWS OF ARIZONA

**14-3613. Successor personal representative**

ARTICLES 3 AND 4 OF THIS CHAPTER GOVERN PROCEEDINGS FOR APPOINTMENT OF A PERSONAL REPRESENTATIVE TO SUCCEED ONE WHOSE APPOINTMENT HAS BEEN TERMINATED. AFTER APPOINTMENT AND QUALIFICATION, A SUCCESSOR PERSONAL REPRESENTATIVE MAY BE SUBSTITUTED IN ALL ACTIONS AND PROCEEDINGS TO WHICH THE FORMER PERSONAL REPRESENTATIVE WAS A PARTY, AND NO NOTICE, PROCESS OR CLAIM WHICH WAS GIVEN OR SERVED UPON THE FORMER PERSONAL REPRESENTATIVE NEED BE GIVEN TO OR SERVED UPON THE SUCCESSOR IN ORDER TO PRESERVE ANY POSITION OR RIGHT THE PERSON GIVING THE NOTICE OR FILING THE CLAIM MAY THEREBY HAVE OBTAINED OR PRESERVED WITH REFERENCE TO THE FORMER PERSONAL REPRESENTATIVE. EXCEPT AS OTHERWISE ORDERED BY THE COURT, THE SUCCESSOR PERSONAL REPRESENTATIVE HAS THE POWERS AND DUTIES IN RESPECT TO THE CONTINUED ADMINISTRATION WHICH THE FORMER PERSONAL REPRESENTATIVE WOULD HAVE HAD IF HIS APPOINTMENT HAD NOT BEEN TERMINATED.

**14-3614. Special administrator; appointment**

A SPECIAL ADMINISTRATOR MAY BE APPOINTED:

1. INFORMALLY BY THE REGISTRAR ON THE APPLICATION OF ANY INTERESTED PERSON WHEN NECESSARY TO PROTECT THE ESTATE OF A DECEDENT PRIOR TO THE APPOINTMENT OF A GENERAL PERSONAL REPRESENTATIVE OR IF A PRIOR APPOINTMENT HAS BEEN TERMINATED AS PROVIDED IN SECTION 14-3609.
2. IN A FORMAL PROCEEDING BY ORDER OF THE COURT ON THE PETITION OF ANY INTERESTED PERSON AND FINDING, AFTER NOTICE AND HEARING, THAT APPOINTMENT IS NECESSARY TO PRESERVE THE ESTATE OR TO SECURE ITS PROPER ADMINISTRATION INCLUDING ITS ADMINISTRATION IN CIRCUMSTANCES WHERE A GENERAL PERSONAL REPRESENTATIVE CANNOT OR SHOULD NOT ACT. IF IT APPEARS TO THE COURT THAT AN EMERGENCY EXISTS, APPOINTMENT MAY BE ORDERED WITHOUT NOTICE.

**14-3615. Special administrator; who may be appointed**

A. IF A SPECIAL ADMINISTRATOR IS TO BE APPOINTED PENDING THE PROBATE OF A WILL WHICH IS THE SUBJECT OF A

## LAWS OF ARIZONA

PENDING APPLICATION OR PETITION FOR PROBATE, THE PERSON NAMED EXECUTOR IN THE WILL SHALL BE APPOINTED IF AVAILABLE, AND QUALIFIED.

B. IN OTHER CASES, ANY PROPER PERSON MAY BE APPOINTED SPECIAL ADMINISTRATOR.

**14-3616. Special administrator; appointed informally; powers and duties**

A SPECIAL ADMINISTRATOR APPOINTED BY THE REGISTRAR IN INFORMAL PROCEEDINGS PURSUANT TO SECTION 14-3614, PARAGRAPH 1 HAS THE DUTY TO COLLECT AND MANAGE THE ASSETS OF THE ESTATE, TO PRESERVE THEM, TO ACCOUNT THEREFOR AND TO DELIVER THEM TO THE GENERAL PERSONAL REPRESENTATIVE UPON HIS QUALIFICATION. THE SPECIAL ADMINISTRATOR HAS THE POWER OF A PERSONAL REPRESENTATIVE UNDER THIS TITLE NECESSARY TO PERFORM HIS DUTIES.

**14-3617. Special administrator; formal proceedings; power and duties**

A SPECIAL ADMINISTRATOR APPOINTED BY ORDER OF THE COURT IN ANY FORMAL PROCEEDING HAS THE POWER OF A GENERAL PERSONAL REPRESENTATIVE EXCEPT AS LIMITED IN THE APPOINTMENT AND DUTIES AS PRESCRIBED IN THE ORDER. THE APPOINTMENT MAY BE FOR A SPECIFIED TIME, TO PERFORM PARTICULAR ACTS OR ON OTHER TERMS AS THE COURT MAY DIRECT.

**14-3618. Termination of appointment; special administrator**

THE APPOINTMENT OF A SPECIAL ADMINISTRATOR TERMINATES IN ACCORDANCE WITH THE PROVISIONS OF THE ORDER OF APPOINTMENT OR ON THE APPOINTMENT OF A GENERAL PERSONAL REPRESENTATIVE. IN OTHER CASES, THE APPOINTMENT OF A SPECIAL ADMINISTRATOR IS SUBJECT TO TERMINATION AS PROVIDED IN SECTIONS 14-3608 THROUGH 14-3611.

ARTICLE 7. DUTIES AND POWERS OF  
PERSONAL REPRESENTATIVES

**14-3701. Time of accrual of duties and powers**

THE DUTIES AND POWERS OF A PERSONAL REPRESENTATIVE COMMENCE UPON HIS APPOINTMENT. THE POWERS OF A

## LAWS OF ARIZONA

PERSONAL REPRESENTATIVE RELATE BACK IN TIME TO GIVE ACTS BY THE PERSON APPOINTED WHICH ARE BENEFICIAL TO THE ESTATE OCCURRING PRIOR TO APPOINTMENT THE SAME EFFECT AS THOSE OCCURRING THEREAFTER. PRIOR TO APPOINTMENT, A PERSON NAMED EXECUTOR IN A WILL MAY CARRY OUT WRITTEN INSTRUCTIONS OF THE DECEDENT RELATING TO HIS BODY, FUNERAL AND BURIAL ARRANGEMENTS. A PERSONAL REPRESENTATIVE MAY RATIFY AND ACCEPT ACTS ON BEHALF OF THE ESTATE DONE BY OTHERS WHERE THE ACTS WOULD HAVE BEEN PROPER FOR A PERSONAL REPRESENTATIVE.

**14-3702. Priority among different letters**

A PERSON TO WHOM GENERAL LETTERS ARE ISSUED FIRST HAS EXCLUSIVE AUTHORITY UNDER THE LETTERS UNTIL HIS APPOINTMENT IS TERMINATED OR MODIFIED. IF, THROUGH ERROR, GENERAL LETTERS ARE AFTERWARDS ISSUED TO ANOTHER, THE FIRST APPOINTED REPRESENTATIVE MAY RECOVER ANY PROPERTY OF THE ESTATE IN THE HANDS OF THE REPRESENTATIVE SUBSEQUENTLY APPOINTED, BUT THE ACTS OF THE LATTER DONE IN GOOD FAITH BEFORE NOTICE OF THE FIRST LETTERS ARE NOT VOID FOR WANT OF VALIDITY OF APPOINTMENT.

**14-3703. General duties; relation and liability to persons interested in estate; standing to sue**

A. A PERSONAL REPRESENTATIVE IS A FIDUCIARY WHO SHALL OBSERVE THE STANDARDS OF CARE APPLICABLE TO TRUSTEES AS DESCRIBED BY SECTION 14-7302. A PERSONAL REPRESENTATIVE IS UNDER A DUTY TO SETTLE AND DISTRIBUTE THE ESTATE OF THE DECEDENT IN ACCORDANCE WITH THE TERMS OF ANY PROBATED AND EFFECTIVE WILL AND THIS TITLE, AND AS EXPEDITIOUSLY AND EFFICIENTLY AS IS CONSISTENT WITH THE BEST INTERESTS OF THE ESTATE. HE SHALL USE THE AUTHORITY CONFERRED UPON HIM BY THIS TITLE, THE TERMS OF THE WILL, IF ANY, AND ANY ORDER IN PROCEEDINGS TO WHICH HE IS PARTY FOR THE BEST INTERESTS OF SUCCESSORS TO THE ESTATE.

B. A PERSONAL REPRESENTATIVE SHALL NOT BE SURCHARGED FOR ACTS OF ADMINISTRATION OR DISTRIBUTION IF THE CONDUCT IN QUESTION WAS AUTHORIZED AT THE TIME.

## LAWS OF ARIZONA

SUBJECT TO OTHER OBLIGATIONS OF ADMINISTRATION, AN INFORMALLY PROBATED WILL IS AUTHORITY TO ADMINISTER AND DISTRIBUTE THE ESTATE ACCORDING TO ITS TERMS. AN ORDER OF APPOINTMENT OF A PERSONAL REPRESENTATIVE, WHETHER ISSUED IN INFORMAL OR FORMAL PROCEEDINGS, IS AUTHORITY TO DISTRIBUTE APPARENTLY INTTESTATE ASSETS TO THE HEIRS OF THE DECEDENT IF, AT THE TIME OF DISTRIBUTION, THE PERSONAL REPRESENTATIVE IS NOT AWARE OF A PENDING TESTACY PROCEEDING, A PROCEEDING TO VACATE AN ORDER ENTERED IN AN EARLIER TESTACY PROCEEDING, A FORMAL PROCEEDING QUESTIONING HIS APPOINTMENT OR FITNESS TO CONTINUE, OR A SUPERVISED ADMINISTRATION PROCEEDING. NOTHING IN THIS SECTION AFFECTS THE DUTY OF THE PERSONAL REPRESENTATIVE TO ADMINISTER AND DISTRIBUTE THE ESTATE IN ACCORDANCE WITH THE RIGHTS OF CLAIMANTS, THE SURVIVING SPOUSE, ANY DEPENDENT CHILDREN AND ANY PRETERMITTED CHILD OF THE DECEDENT AS DESCRIBED ELSEWHERE IN THIS TITLE.

C. EXCEPT AS TO PROCEEDINGS WHICH DO NOT SURVIVE THE DEATH OF THE DECEDENT, A PERSONAL REPRESENTATIVE OF A DECEDENT DOMICILED IN THIS STATE AT HIS DEATH HAS THE SAME STANDING TO SUE AND BE SUED IN THE COURTS OF THIS STATE AND THE COURTS OF ANY OTHER JURISDICTION AS HIS DECEDENT HAD IMMEDIATELY PRIOR TO DEATH.

**14-3704. Personal representative to proceed without court order; exception**

A PERSONAL REPRESENTATIVE SHALL PROCEED EXPEDITIOUSLY WITH THE SETTLEMENT AND DISTRIBUTION OF A DECEDENT'S ESTATE AND, EXCEPT AS OTHERWISE SPECIFIED OR ORDERED IN REGARD TO A SUPERVISED PERSONAL REPRESENTATIVE, DO SO WITHOUT ADJUDICATION, ORDER OR DIRECTION OF THE COURT, BUT HE MAY INVOKE THE JURISDICTION OF THE COURT, IN PROCEEDINGS AUTHORIZED BY THIS TITLE, TO RESOLVE QUESTIONS CONCERNING THE ESTATE OR ITS ADMINISTRATION.

**14-3705. Duty of personal representative; information to heirs, devisees and state tax commission**

NOT LATER THAN TEN DAYS AFTER HIS APPOINTMENT EVERY PERSONAL REPRESENTATIVE, EXCEPT ANY SPECIAL

## LAWS OF ARIZONA

ADMINISTRATOR, SHALL GIVE INFORMATION OF HIS APPOINTMENT TO THE HEIRS AND DEVISEES, INCLUDING, IF THERE HAS BEEN NO FORMAL TESTACY PROCEEDING AND IF THE PERSONAL REPRESENTATIVE WAS APPOINTED ON THE ASSUMPTION THAT THE DECEDENT DIED INTESTATE, THE DEVISEES IN ANY WILL MENTIONED IN THE APPLICATION FOR APPOINTMENT OF A PERSONAL REPRESENTATIVE; INFORMATION SHALL ALSO BE GIVEN TO THE STATE TAX COMMISSION. THE INFORMATION SHALL BE DELIVERED OR SENT BY ORDINARY MAIL TO THE STATE TAX COMMISSION AND TO EACH OF THE HEIRS AND DEVISEES WHOSE ADDRESS IS REASONABLY AVAILABLE TO THE PERSONAL REPRESENTATIVE. THE DUTY DOES NOT EXTEND TO REQUIRE INFORMATION TO PERSONS WHO HAVE BEEN ADJUDICATED IN A PRIOR FORMAL TESTACY PROCEEDING TO HAVE NO INTEREST IN THE ESTATE. THE INFORMATION SHALL INCLUDE THE NAME AND ADDRESS OF THE PERSONAL REPRESENTATIVE, INDICATE THAT IT IS BEING SENT TO PERSONS WHO HAVE OR MAY HAVE SOME INTEREST IN THE ESTATE BEING ADMINISTERED, INDICATE WHETHER BOND HAS BEEN FILED, AND DESCRIBE THE COURT WHERE PAPERS RELATING TO THE ESTATE ARE ON FILE. THE PERSONAL REPRESENTATIVE'S FAILURE TO GIVE THIS INFORMATION IS A BREACH OF HIS DUTY TO THE PERSONS CONCERNED BUT DOES NOT AFFECT THE VALIDITY OF HIS APPOINTMENT, HIS POWERS OR OTHER DUTIES. A PERSONAL REPRESENTATIVE MAY INFORM OTHER PERSONS OF HIS APPOINTMENT BY DELIVERY OR ORDINARY FIRST CLASS MAIL.

**14-3706. Duty of personal representative; inventory and appraisalment**

A. WITHIN THREE MONTHS AFTER HIS APPOINTMENT, A PERSONAL REPRESENTATIVE, WHO IS NOT A SPECIAL ADMINISTRATOR OR A SUCCESSOR TO ANOTHER REPRESENTATIVE WHO HAS PREVIOUSLY DISCHARGED THIS DUTY, SHALL PREPARE AN INVENTORY OF PROPERTY OWNED BY THE DECEDENT AT THE TIME OF HIS DEATH, LISTING IT WITH REASONABLE DETAIL, AND INDICATING AS TO EACH LISTED ITEM, ITS FAIR MARKET VALUE AS OF THE DATE OF THE DECEDENT'S DEATH, ITS NATURE AS COMMUNITY OR SEPARATE PROPERTY AND THE TYPE AND AMOUNT OF ANY ENCUMBRANCE THAT MAY EXIST WITH REFERENCE TO ANY ITEM.

B. THE PERSONAL REPRESENTATIVE MAY FILE THE ORIGINAL OF THE INVENTORY WITH THE COURT AND SEND A COPY OF

## LAWS OF ARIZONA

THE INVENTORY ONLY TO INTERESTED PERSONS WHO REQUEST IT; OR, IF HE ELECTS NOT TO FILE THE INVENTORY WITH THE COURT, HE MUST MAIL A COPY OF THE INVENTORY TO EACH OF THE HEIRS IN AN INTESTATE ESTATE, OR TO EACH OF THE DEVISEES IF A WILL HAS BEEN PROBATED, AND TO ANY OTHER INTERESTED PERSONS WHO REQUEST IT.

**14-3707. Employment of appraisers**

THE PERSONAL REPRESENTATIVE MAY EMPLOY A QUALIFIED AND DISINTERESTED APPRAISER TO ASSIST HIM IN ASCERTAINING THE FAIR MARKET VALUE AS OF THE DATE OF THE DECEDENT'S DEATH OF ANY ASSET THE VALUE OF WHICH MAY BE SUBJECT TO REASONABLE DOUBT. DIFFERENT PERSONS MAY BE EMPLOYED TO APPRAISE DIFFERENT KINDS OF ASSETS INCLUDED IN THE ESTATE. THE NAMES AND ADDRESSES OF ANY APPRAISER SHALL BE INDICATED ON THE INVENTORY WITH THE ITEM OR ITEMS HE APPRAISED.

**14-3708. Duty of personal representative; supplementary inventory**

IF ANY PROPERTY NOT INCLUDED IN THE ORIGINAL INVENTORY COMES TO THE KNOWLEDGE OF A PERSONAL REPRESENTATIVE OR IF THE PERSONAL REPRESENTATIVE LEARNS THAT THE VALUE OR DESCRIPTION INDICATED IN THE ORIGINAL INVENTORY FOR ANY ITEM IS ERRONEOUS OR MISLEADING, HE SHALL MAKE A SUPPLEMENTARY INVENTORY OR APPRAISEMENT SHOWING THE MARKET VALUE AS OF THE DATE OF THE DECEDENT'S DEATH OF THE NEW ITEM OR THE REVISED MARKET VALUE OR DESCRIPTIONS, AND THE APPRAISERS OR OTHER DATA RELIED UPON, IF ANY, AND FILE IT WITH THE COURT IF THE ORIGINAL INVENTORY WAS FILED, OR FURNISH COPIES THEREOF OR INFORMATION THEREOF TO PERSONS INTERESTED IN THE NEW INFORMATION.

**14-3709. Duty of personal representative; possession of estate**

EXCEPT AS OTHERWISE PROVIDED BY A DECEDENT'S WILL, EVERY PERSONAL REPRESENTATIVE HAS A RIGHT TO, AND SHALL TAKE POSSESSION OR CONTROL OF, THE DECEDENT'S PROPERTY, EXCEPT THAT ANY REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY MAY BE LEFT WITH OR SURRENDERED TO THE PERSON PRESUMPTIVELY ENTITLED THERETO UNLESS OR UNTIL, IN THE JUDGMENT OF THE PERSONAL REPRESENTATIVE, POSSESSION OF THE PROPERTY BY HIM WILL BE NECESSARY

## LAWS OF ARIZONA

FOR PURPOSES OF ADMINISTRATION. THE REQUEST BY A PERSONAL REPRESENTATIVE FOR DELIVERY OF ANY PROPERTY POSSESSED BY AN HEIR OR DEVISEE IS CONCLUSIVE EVIDENCE, IN ANY ACTION AGAINST THE HEIR OR DEVISEE FOR POSSESSION THEREOF, THAT THE POSSESSION OF THE PROPERTY BY THE PERSONAL REPRESENTATIVE IS NECESSARY FOR PURPOSES OF ADMINISTRATION. THE PERSONAL REPRESENTATIVE SHALL PAY TAXES ON, AND TAKE ALL STEPS REASONABLY NECESSARY FOR THE MANAGEMENT, PROTECTION AND PRESERVATION OF, THE ESTATE IN HIS POSSESSION. HE MAY MAINTAIN AN ACTION TO RECOVER POSSESSION OF PROPERTY OR TO DETERMINE THE TITLE THERETO.

14-3710. Power to avoid transfers; action to set aside fraudulent conveyances

A. THE PROPERTY LIABLE FOR THE PAYMENT OF UNSECURED DEBTS OF A DECEDENT INCLUDES ALL PROPERTY TRANSFERRED BY HIM BY ANY MEANS WHICH IS IN LAW VOID OR VOIDABLE AS AGAINST HIS CREDITORS AND SUBJECT TO PRIOR LIENS. THE RIGHT TO RECOVER THIS PROPERTY, SO FAR AS NECESSARY FOR THE PAYMENT OF UNSECURED DEBTS OF THE DECEDENT, IS EXCLUSIVELY IN THE PERSONAL REPRESENTATIVE.

B. WHEN THERE IS A DEFICIENCY OF ASSETS IN CUSTODY OF A PERSONAL REPRESENTATIVE, AND DECEDENT IN HIS LIFETIME HAS CONVEYED OR TRANSFERRED PROPERTY, OR ANY RIGHTS OR INTERESTS THEREIN, WITH INTENT TO DEFRAUD CREDITORS, OR TO AVOID A RIGHT, DEBT OR DUTY OF ANY PERSON, OR HAS CONVEYED OR TRANSFERRED THE PROPERTY SO THAT THE CONVEYANCE OR TRANSFER BY LAW IS VOID OR VOIDABLE AS AGAINST CREDITORS, THE PERSONAL REPRESENTATIVE SHALL COMMENCE AND PROSECUTE AN ACTION FOR THE RECOVERY OF THE PROPERTY FOR THE BENEFIT OF THE CREDITORS, AND SHALL RECOVER PROPERTY WHICH HAS BEEN SO CONVEYED OR TRANSFERRED, WHATEVER MAY HAVE BEEN THE MANNER OF THE CONVEYANCE OR TRANSFER.

C. THE PERSONAL REPRESENTATIVE IS NOT BOUND TO BRING THE ACTION UNLESS THE CREDITORS PAY SUCH PART OF THE COSTS AND EXPENSES OF THE ACTION, OR GIVE SUCH SURETY TO THE PERSONAL REPRESENTATIVE THEREFOR AS THE COURT ON APPLICATION BY THE CREDITORS MAY DIRECT.

## LAWS OF ARIZONA

D. THE PROPERTY RECOVERED SHALL BE SUBJECT TO PAYMENT OF THE DEBTS OF DECEDENT AS OTHER PROPERTY IN CUSTODY OF THE PERSONAL REPRESENTATIVE.

**14-3711. Powers of personal representatives; in general**

UNTIL TERMINATION OF HIS APPOINTMENT A PERSONAL REPRESENTATIVE HAS THE SAME POWER OVER THE TITLE TO PROPERTY OF THE ESTATE THAT AN ABSOLUTE OWNER WOULD HAVE, IN TRUST HOWEVER, FOR THE BENEFIT OF THE CREDITORS AND OTHERS INTERESTED IN THE ESTATE. THIS POWER MAY BE EXERCISED WITHOUT NOTICE, HEARING OR ORDER OF COURT.

**14-3712. Improper exercise of power; breach of fiduciary duty**

IF THE EXERCISE OF POWER CONCERNING THE ESTATE IS IMPROPER, THE PERSONAL REPRESENTATIVE IS LIABLE TO INTERESTED PERSONS FOR DAMAGE OR LOSS RESULTING FROM BREACH OF HIS FIDUCIARY DUTY TO THE SAME EXTENT AS A TRUSTEE OF AN EXPRESS TRUST. THE RIGHTS OF PURCHASERS AND OTHERS DEALING WITH A PERSONAL REPRESENTATIVE SHALL BE DETERMINED AS PROVIDED IN SECTIONS 14-3713 AND 14-3714.

**14-3713. Sale, encumbrance or transaction involving conflict of interest; voidable; exceptions**

ANY SALE OR ENCUMBRANCE TO THE PERSONAL REPRESENTATIVE, HIS SPOUSE, AGENT OR ATTORNEY, OR ANY CORPORATION OR TRUST IN WHICH HE HAS A SUBSTANTIAL BENEFICIAL INTEREST, OR ANY TRANSACTION WHICH IS AFFECTED BY A SUBSTANTIAL CONFLICT OF INTEREST ON THE PART OF THE PERSONAL REPRESENTATIVE, IS VOIDABLE BY ANY PERSON INTERESTED IN THE ESTATE EXCEPT ONE WHO HAS CONSENTED AFTER FAIR DISCLOSURE, UNLESS EITHER:

1. THE WILL OR A CONTRACT ENTERED INTO BY THE DECEDENT EXPRESSLY AUTHORIZED THE TRANSACTION.
2. THE TRANSACTION IS APPROVED BY THE COURT AFTER NOTICE TO INTERESTED PERSONS.

**14-3714. Persons dealing with personal representative; protection**

## LAWS OF ARIZONA

A PERSON WHO IN GOOD FAITH EITHER ASSISTS OR DEALS WITH ANOTHER PERSON ACTING AS A PERSONAL REPRESENTATIVE, ON THE BASIS OF A COPY OF LETTERS CERTIFIED BY OR UNDER THE DIRECTION OF THE COURT OR AN OFFICER THEREOF WITHIN SIXTY DAYS OF THE TRANSACTION, IS PROTECTED AS IF THE PERSONAL REPRESENTATIVE PROPERLY EXERCISED HIS POWER AND EVEN THOUGH THE AUTHORITY OF THAT PERSON AS PERSONAL REPRESENTATIVE HAS BEEN TERMINATED. THE FACT THAT A PERSON KNOWINGLY DEALS WITH ONE WHO PURPORTS TO ACT AS A PERSONAL REPRESENTATIVE DOES NOT ALONE REQUIRE THE PERSON TO INQUIRE INTO THE EXISTENCE OF A POWER, THE PROPRIETY OF ITS EXERCISE, OR THE CURRENT AUTHORITY OF THE PURPORTED PERSONAL REPRESENTATIVE. EXCEPT FOR RESTRICTIONS ON POWERS OF SUPERVISED PERSONAL REPRESENTATIVES WHICH ARE ENDORSED ON LETTERS AS PROVIDED IN SECTION 14-3504, NO PROVISION IN ANY WILL OR ORDER OF COURT PURPORTING TO LIMIT THE POWER OF A PERSONAL REPRESENTATIVE IS EFFECTIVE EXCEPT AS TO PERSONS WITH ACTUAL KNOWLEDGE THEREOF. A PERSON IS NOT BOUND TO SEE TO THE PROPER APPLICATION OF ESTATE ASSETS PAID OR DELIVERED TO A PERSONAL REPRESENTATIVE. THE PROTECTION HERE EXPRESSED EXTENDS TO INSTANCES IN WHICH SOME PROCEDURAL IRREGULARITY OR JURISDICTIONAL DEFECT OCCURRED IN PROCEEDINGS LEADING TO THE ISSUANCE OF LETTERS, INCLUDING A CASE IN WHICH THE ALLEGED DECEDENT IS FOUND TO BE ALIVE. THE PROTECTION HERE EXPRESSED IS NOT BY SUBSTITUTION FOR THAT PROVIDED BY COMPARABLE PROVISIONS OF THE LAWS RELATING TO COMMERCIAL TRANSACTIONS AND LAWS SIMPLIFYING TRANSFERS OF SECURITIES BY FIDUCIARIES. IF PROPERTY IS WRONGFULLY TRANSFERRED BY A PERSON ACTING AS A PERSONAL REPRESENTATIVE TO A PERSON WHO IS NOT IN GOOD FAITH, ANY PERSON WHO SUBSEQUENTLY PURCHASES THE PROPERTY IN GOOD FAITH IS PROTECTED AS IF THE ORIGINAL TRANSFEREE DEALT IN GOOD FAITH.

**14-3715. Transactions authorized for personal representatives; exceptions**

EXCEPT AS RESTRICTED OR OTHERWISE PROVIDED BY THE WILL OR BY AN ORDER IN A FORMAL PROCEEDING AND SUBJECT TO THE PRIORITIES STATED IN SECTION 14-3902, A PERSONAL

## LAWS OF ARIZONA

REPRESENTATIVE, ACTING REASONABLY FOR THE BENEFIT OF THE INTERESTED PERSONS, MAY PROPERLY:

1. RETAIN ASSETS OWNED BY THE DECEDENT PENDING DISTRIBUTION OR LIQUIDATION INCLUDING THOSE IN WHICH THE REPRESENTATIVE IS PERSONALLY INTERESTED OR WHICH ARE OTHERWISE IMPROPER FOR TRUST INVESTMENT.
2. RECEIVE ASSETS FROM FIDUCIARIES OR OTHER SOURCES.
3. PERFORM, COMPROMISE OR REFUSE PERFORMANCE OF THE DECEDENT'S CONTRACTS THAT CONTINUE AS OBLIGATIONS OF THE ESTATE, AS HE MAY DETERMINE UNDER THE CIRCUMSTANCES. IN PERFORMING ENFORCEABLE CONTRACTS BY THE DECEDENT TO CONVEY OR LEASE LAND, THE PERSONAL REPRESENTATIVE, AMONG OTHER POSSIBLE COURSES OF ACTION, MAY EITHER:
  - (a) EXECUTE AND DELIVER A DEED OF CONVEYANCE FOR CASH PAYMENT OF ALL SUMS REMAINING DUE OR THE PURCHASER'S NOTE FOR THE SUM REMAINING DUE SECURED BY A MORTGAGE OR DEED OF TRUST ON THE LAND.
  - (b) DELIVER A DEED IN ESCROW WITH DIRECTIONS THAT THE PROCEEDS, WHEN PAID IN ACCORDANCE WITH THE ESCROW AGREEMENT, BE PAID TO THE SUCCESSORS OF THE DECEDENT, AS DESIGNATED IN THE ESCROW AGREEMENT.
4. SATISFY WRITTEN CHARITABLE PLEDGES OF THE DECEDENT IRRESPECTIVE OF WHETHER THE PLEDGES CONSTITUTED BINDING OBLIGATIONS OF THE DECEDENT OR WERE PROPERLY PRESENTED AS CLAIMS, IF IN THE JUDGMENT OF THE PERSONAL REPRESENTATIVE THE DECEDENT WOULD HAVE WANTED THE PLEDGES COMPLETED UNDER THE CIRCUMSTANCES.
5. IF FUNDS ARE NOT NEEDED TO MEET DEBTS AND EXPENSES CURRENTLY PAYABLE AND ARE NOT IMMEDIATELY DISTRIBUTABLE, DEPOSIT OR INVEST LIQUID ASSETS OF THE ESTATE, INCLUDING MONIES RECEIVED FROM THE SALE OF OTHER ASSETS, IN FEDERALLY INSURED INTEREST-BEARING ACCOUNTS, READILY MARKETABLE SECURED LOAN ARRANGEMENTS OR OTHER PRUDENT INVESTMENTS WHICH WOULD BE REASONABLE FOR USE BY TRUSTEES GENERALLY.

## LAWS OF ARIZONA

6. ACQUIRE OR DISPOSE OF AN ASSET, INCLUDING LAND IN THIS OR ANOTHER STATE, FOR CASH OR ON CREDIT AND AT PUBLIC OR PRIVATE SALE AND MANAGE, DEVELOP, IMPROVE, EXCHANGE, PARTITION, CHANGE THE CHARACTER OF OR ABANDON AN ESTATE ASSET.

7. MAKE ORDINARY OR EXTRAORDINARY REPAIRS OR ALTERATIONS IN BUILDINGS OR OTHER STRUCTURES, DEMOLISH ANY IMPROVEMENTS, RAZE EXISTING OR ERECT NEW PARTY WALLS OR BUILDINGS.

8. SUBDIVIDE, DEVELOP OR DEDICATE LAND TO PUBLIC USE, MAKE OR OBTAIN THE VACATION OF PLATS AND ADJUST BOUNDARIES, ADJUST DIFFERENCES IN VALUATION ON EXCHANGE OR PARTITION BY GIVING OR RECEIVING CONSIDERATIONS OR DEDICATE EASEMENTS TO PUBLIC USE WITHOUT CONSIDERATION.

9. ENTER FOR ANY PURPOSE INTO A LEASE AS LESSOR OR LESSEE, WITH OR WITHOUT OPTION TO PURCHASE OR RENEW, FOR A TERM WITHIN OR EXTENDING BEYOND THE PERIOD OF ADMINISTRATION.

10. ENTER INTO A LEASE OR ARRANGEMENT FOR EXPLORATION AND REMOVAL OF MINERALS OR OTHER NATURAL RESOURCES OR ENTER INTO A POOLING OR UNITIZATION AGREEMENT.

11. ABANDON PROPERTY WHEN, IN THE OPINION OF THE PERSONAL REPRESENTATIVE, IT IS VALUELESS, IS SO ENCUMBERED, OR IS IN CONDITION THAT IT IS OF NO BENEFIT TO THE ESTATE.

12. VOTE STOCKS OR OTHER SECURITIES IN PERSON OR BY GENERAL OR LIMITED PROXY.

13. PAY CALLS, ASSESSMENTS, AND OTHER SUMS CHARGEABLE OR ACCRUING AGAINST OR ON ACCOUNT OF SECURITIES, UNLESS BARRED BY THE PROVISIONS RELATING TO CLAIMS.

14. HOLD A SECURITY IN THE NAME OF A NOMINEE OR IN OTHER FORM WITHOUT DISCLOSURE OF THE INTEREST OF THE ESTATE BUT THE PERSONAL REPRESENTATIVE IS LIABLE FOR ANY ACT OF THE NOMINEE IN CONNECTION WITH THE SECURITY SO HELD.

## LAWS OF ARIZONA

15. INSURE THE ASSETS OF THE ESTATE AGAINST DAMAGE, LOSS AND LIABILITY AND HIMSELF AGAINST LIABILITY AS TO THIRD PERSONS.
16. BORROW MONEY WITH OR WITHOUT SECURITY TO BE REPAID FROM THE ESTATE ASSETS OR OTHERWISE, AND ADVANCE MONEY FOR THE PROTECTION OF THE ESTATE.
17. EFFECT A FAIR AND REASONABLE COMPROMISE WITH ANY DEBTOR OR OBLIGOR, OR EXTEND, RENEW OR IN ANY MANNER MODIFY THE TERMS OF ANY OBLIGATION OWING TO THE ESTATE. IF THE PERSONAL REPRESENTATIVE HOLDS A MORTGAGE, PLEDGE OR OTHER LIEN UPON PROPERTY OF ANOTHER PERSON, HE MAY, IN LIEU OF FORECLOSURE, ACCEPT A CONVEYANCE OR TRANSFER OF ENCUMBERED ASSETS FROM THE OWNER THEREOF IN SATISFACTION OF THE INDEBTEDNESS SECURED BY LIEN.
18. PAY TAXES, ASSESSMENTS, COMPENSATION OF THE PERSONAL REPRESENTATIVE AND OTHER EXPENSES INCIDENT TO THE ADMINISTRATION OF THE ESTATE.
19. SELL OR EXERCISE STOCK SUBSCRIPTION OR CONVERSION RIGHTS. AND CONSENT, DIRECTLY OR THROUGH A COMMITTEE OR OTHER AGENT, TO THE REORGANIZATION, CONSOLIDATION, MERGER, DISSOLUTION OR LIQUIDATION OF A CORPORATION OR OTHER BUSINESS ENTERPRISE.
20. ALLOCATE ITEMS OF INCOME OR EXPENSE TO EITHER ESTATE INCOME OR PRINCIPAL, AS PERMITTED OR PROVIDED BY LAW.
21. EMPLOY PERSONS, INCLUDING ATTORNEYS, AUDITORS, INVESTMENT ADVISORS OR AGENTS, EVEN IF THEY ARE ASSOCIATED WITH THE PERSONAL REPRESENTATIVE, TO ADVISE OR ASSIST THE PERSONAL REPRESENTATIVE IN THE PERFORMANCE OF HIS ADMINISTRATIVE DUTIES, ACT WITHOUT INDEPENDENT INVESTIGATION UPON THEIR RECOMMENDATIONS AND INSTEAD OF ACTING PERSONALLY, EMPLOY ONE OR MORE AGENTS TO PERFORM ANY ACT OF ADMINISTRATION, WHETHER OR NOT DISCRETIONARY.
22. PROSECUTE OR DEFEND CLAIMS, OR PROCEEDINGS IN ANY JURISDICTION FOR THE PROTECTION OF THE ESTATE AND OF

## LAWS OF ARIZONA

THE PERSONAL REPRESENTATIVE IN THE PERFORMANCE OF HIS DUTIES.

23. SELL, MORTGAGE OR LEASE ANY REAL OR PERSONAL PROPERTY OF THE ESTATE OR ANY INTEREST THEREIN FOR CASH, CREDIT OR FOR PART CASH AND PART CREDIT, AND WITH OR WITHOUT SECURITY FOR UNPAID BALANCES.

24. CONTINUE ANY UNINCORPORATED BUSINESS OR VENTURE IN WHICH THE DECEDENT WAS ENGAGED AT THE TIME OF HIS DEATH:

(a) IN THE SAME BUSINESS FORM FOR A PERIOD OF NOT MORE THAN FOUR MONTHS FROM THE DATE OF APPOINTMENT OF A GENERAL PERSONAL REPRESENTATIVE IF CONTINUATION IS A REASONABLE MEANS OF PRESERVING THE VALUE OF THE BUSINESS INCLUDING GOODWILL.

(b) IN THE SAME BUSINESS FORM FOR ANY ADDITIONAL PERIOD OF TIME THAT MAY BE APPROVED BY ORDER OF THE COURT IN A FORMAL PROCEEDING WITH NOTICE TO INTERESTED PERSONS.

(c) THROUGHOUT THE PERIOD OF ADMINISTRATION IF THE BUSINESS IS INCORPORATED BY THE PERSONAL REPRESENTATIVE AND IF NONE OF THE PROBABLE DISTRIBUTEES OF THE BUSINESS WHO ARE COMPETENT ADULTS OBJECT TO ITS INCORPORATION AND RETENTION IN THE ESTATE.

25. INCORPORATE ANY BUSINESS OR VENTURE IN WHICH THE DECEDENT WAS ENGAGED AT THE TIME OF HIS DEATH.

26. PROVIDE FOR EXONERATION OF THE PERSONAL REPRESENTATIVE FROM PERSONAL LIABILITY IN ANY CONTRACT ENTERED INTO ON BEHALF OF THE ESTATE.

27. SATISFY AND SETTLE CLAIMS AND DISTRIBUTE THE ESTATE AS PROVIDED IN THIS TITLE.

**14-3716. Powers and duties of successor personal representative**

A SUCCESSOR PERSONAL REPRESENTATIVE HAS THE SAME POWER AND DUTY AS THE ORIGINAL PERSONAL REPRESENTATIVE TO COMPLETE THE ADMINISTRATION AND DISTRIBUTION

## LAWS OF ARIZONA

OF THE ESTATE, AS EXPEDITIOUSLY AS POSSIBLE, BUT HE SHALL NOT EXERCISE ANY POWER EXPRESSLY MADE PERSONAL TO THE EXECUTOR NAMED IN THE WILL.

**14-3717. Co-representatives; when joint action required**

IF TWO OR MORE PERSONS ARE APPOINTED CO-REPRESENTATIVES AND UNLESS THE WILL PROVIDES OTHERWISE, THE CONCURRENCE OF ALL IS REQUIRED ON ALL ACTS CONNECTED WITH THE ADMINISTRATION AND DISTRIBUTION OF THE ESTATE. THIS RESTRICTION DOES NOT APPLY WHEN ANY CO-REPRESENTATIVE RECEIVES AND RECEIPTS FOR PROPERTY DUE THE ESTATE, WHEN THE CONCURRENCE OF ALL CANNOT READILY BE OBTAINED IN THE TIME REASONABLY AVAILABLE FOR EMERGENCY ACTION NECESSARY TO PRESERVE THE ESTATE, OR WHEN A CO-REPRESENTATIVE HAS BEEN DELEGATED TO ACT FOR THE OTHERS. PERSONS DEALING WITH A CO-REPRESENTATIVE IF ACTUALLY UNAWARE THAT ANOTHER HAS BEEN APPOINTED TO SERVE WITH HIM OR IF ADVISED BY THE PERSONAL REPRESENTATIVE WITH WHOM THEY DEAL THAT HE HAS AUTHORITY TO ACT ALONE FOR ANY OF THE REASONS MENTIONED HEREIN, ARE AS FULLY PROTECTED AS IF THE PERSON WITH WHOM THEY DEALT HAD BEEN THE SOLE PERSONAL REPRESENTATIVE.

**14-3718. Powers of surviving personal representative**

UNLESS THE TERMS OF THE WILL OTHERWISE PROVIDE, EVERY POWER EXERCISABLE BY PERSONAL CO-REPRESENTATIVES MAY BE EXERCISED BY THE ONE OR MORE REMAINING AFTER THE APPOINTMENT OF ONE OR MORE IS TERMINATED, AND IF ONE OF TWO OR MORE NOMINATED AS CO-EXECUTORS IS NOT APPOINTED, THOSE APPOINTED MAY EXERCISE ALL THE POWERS INCIDENT TO THE OFFICE.

**14-3719. Compensation of personal representative**

A PERSONAL REPRESENTATIVE IS ENTITLED TO REASONABLE COMPENSATION FOR HIS SERVICES. IF A WILL PROVIDES FOR COMPENSATION OF THE PERSONAL REPRESENTATIVE AND THERE IS NO CONTRACT WITH THE DECEDENT REGARDING COMPENSATION, HE MAY RENOUNCE THE PROVISION BEFORE QUALIFYING AND BE ENTITLED TO REASONABLE COMPENSATION. A PERSONAL REPRESENTATIVE ALSO MAY RENOUNCE HIS

## LAWS OF ARIZONA

RIGHT TO ALL OR ANY PART OF THE COMPENSATION. A WRITTEN RENUNCIATION OF FEE MAY BE FILED WITH THE COURT.

**14-3720. Expenses in estate litigation**

IF ANY PERSONAL REPRESENTATIVE OR PERSON NOMINATED AS PERSONAL REPRESENTATIVE DEFENDS OR PROSECUTES ANY PROCEEDING IN GOOD FAITH, WHETHER SUCCESSFUL OR NOT HE IS ENTITLED TO RECEIVE FROM THE ESTATE HIS NECESSARY EXPENSES AND DISBURSEMENTS INCLUDING REASONABLE ATTORNEYS' FEES INCURRED.

**14-3721. Proceedings for review of employment of agents and compensation of personal representatives and employees of estate**

AFTER NOTICE TO ALL INTERESTED PERSONS, ON PETITION OF AN INTERESTED PERSON, INCLUDING ANY PERSON EMPLOYED BY THE PERSONAL REPRESENTATIVE, OR ON APPROPRIATE MOTION IF ADMINISTRATION IS SUPERVISED, THE COURT MAY REVIEW THE PROPRIETY OF EMPLOYMENT OF ANY PERSON BY THE PERSONAL REPRESENTATIVE, THE REASONABLENESS OF THE COMPENSATION OF ANY PERSON SO EMPLOYED, OR THE REASONABLENESS OF THE COMPENSATION DETERMINED BY THE PERSONAL REPRESENTATIVE FOR HIS OWN SERVICES. ANY PERSON WHO HAS RECEIVED EXCESSIVE COMPENSATION FROM AN ESTATE FOR SERVICES RENDERED MAY BE ORDERED TO MAKE APPROPRIATE REFUND.

**14-3722. Demand for court confirmation of sale; court confirmation on petition of personal representative**

ANY PERSON INTERESTED IN AN ESTATE MAY GIVE WRITTEN DEMAND TO THE PERSONAL REPRESENTATIVE THAT ANY SALE OF SPECIFIED REAL PROPERTY IN THE ESTATE SHOULD BE CONFIRMED BY THE COURT AS THOUGH IT WERE A SALE IN SUPERVISED ADMINISTRATION UNDER SECTIONS 14-3506 AND 14-3507. IF THE PERSONAL REPRESENTATIVE, AFTER RECEIPT OF A DEMAND, THEREAFTER CONTRACTS TO SELL OR ENTERS INTO A SALE OF THE SPECIFIED PROPERTY WITHOUT OBTAINING COURT CONFIRMATION, HE SHALL BE LIABLE TO ALL INTERESTED PERSONS FOR DAMAGES. IN ANY SALE OF REAL PROPERTY, WHETHER OR NOT A DEMAND HAS BEEN MADE, THE PERSONAL REPRESENTATIVE MAY PETITION THE COURT FOR

## LAWS OF ARIZONA

CONFIRMATION OF THE SALE UNDER THE SAME PROCEDURES AS THOUGH IT WERE A SALE IN SUPERVISED ADMINISTRATION UNDER SECTIONS 14-3506 AND 14-3507, EXCEPT THAT NOTICE SHALL BE GIVEN PURSUANT TO SECTION 14-1401 TO THE HEIRS IN AN INTESTATE ESTATE OR TO DEVISEES AFFECTED BY THE SALE UNDER A WILL. THIS SECTION DOES NOT PRECLUDE REMEDIES UNDER SECTION 14-3607 OR OTHER TYPES OF PROCEEDINGS UNDER SECTION 14-3704 IN RELATION TO THE SALE.

## ARTICLE 8. CREDITORS' CLAIMS

14-3801. **Notice to creditors**

UNLESS NOTICE HAS ALREADY BEEN GIVEN UNDER THIS SECTION, A PERSONAL REPRESENTATIVE UPON HIS APPOINTMENT SHALL PUBLISH A NOTICE ONCE A WEEK FOR THREE SUCCESSIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY ANNOUNCING HIS APPOINTMENT AND ADDRESS AND NOTIFYING CREDITORS OF THE ESTATE TO PRESENT THEIR CLAIMS WITHIN FOUR MONTHS AFTER THE DATE OF THE FIRST PUBLICATION OF THE NOTICE OR BE FOREVER BARRED.

14-3802. **Statutes of limitations**

UNLESS AN ESTATE IS INSOLVENT THE PERSONAL REPRESENTATIVE, WITH THE CONSENT OF ALL SUCCESSORS, MAY WAIVE ANY DEFENSE OF LIMITATIONS AVAILABLE TO THE ESTATE. IF THE DEFENSE IS NOT WAIVED, NO CLAIM WHICH WAS BARRED BY ANY STATUTE OF LIMITATIONS AT THE TIME OF THE DECEDENT'S DEATH SHALL BE ALLOWED OR PAID. THE RUNNING OF ANY STATUTE OF LIMITATIONS MEASURED FROM SOME OTHER EVENT THAN DEATH AND ADVERTISEMENT FOR CLAIMS AGAINST A DECEDENT IS SUSPENDED DURING THE FOUR MONTHS FOLLOWING THE DECEDENT'S DEATH BUT RESUMES THEREAFTER AS TO CLAIMS NOT BARRED PURSUANT TO THE SECTIONS WHICH FOLLOW. FOR PURPOSES OF ANY STATUTE OF LIMITATIONS, THE PROPER PRESENTATION OF A CLAIM UNDER SECTION 14-3804 IS EQUIVALENT TO COMMENCEMENT OF A PROCEEDING ON THE CLAIM.

14-3803. **Limitations on presentation of claims**

A. ALL CLAIMS AGAINST A DECEDENT'S ESTATE WHICH AROSE BEFORE THE DEATH OF THE DECEDENT, INCLUDING CLAIMS OF

## LAWS OF ARIZONA

THE STATE AND ANY SUBDIVISION THEREOF, WHETHER DUE OR TO BECOME DUE, ABSOLUTE OR CONTINGENT, LIQUIDATED OR UNLIQUIDATED, FOUNDED ON CONTRACT, TORT OR OTHER LEGAL BASIS, IF NOT BARRED EARLIER BY OTHER STATUTE OF LIMITATIONS, ARE BARRED AGAINST THE ESTATE, THE PERSONAL REPRESENTATIVE AND THE HEIRS AND DEVISEES OF THE DECEDENT, UNLESS PRESENTED AS FOLLOWS:

1. WITHIN FOUR MONTHS AFTER THE DATE OF THE FIRST PUBLICATION OF NOTICE TO CREDITORS IF NOTICE IS GIVEN IN COMPLIANCE WITH SECTION 14-3801, EXCEPT CLAIMS BARRED BY THE NONCLAIM STATUTE AT THE DECEDENT'S DOMICILE BEFORE THE FIRST PUBLICATION FOR CLAIMS IN THIS STATE ARE ALSO BARRED IN THIS STATE.

2. WITHIN THREE YEARS AFTER THE DECEDENT'S DEATH, IF NOTICE TO CREDITORS HAS NOT BEEN PUBLISHED.

B. ALL CLAIMS OTHER THAN ADMINISTRATION EXPENSES AGAINST A DECEDENT'S ESTATE WHICH ARISE AT OR AFTER THE DEATH OF THE DECEDENT, INCLUDING CLAIMS OF THE STATE AND ANY SUBDIVISION THEREOF, WHETHER DUE OR TO BECOME DUE, ABSOLUTE OR CONTINGENT, LIQUIDATED OR UNLIQUIDATED, FOUNDED ON CONTRACT, TORT OR OTHER LEGAL BASIS, ARE BARRED AGAINST THE ESTATE, THE PERSONAL REPRESENTATIVE AND THE HEIRS AND DEVISEES OF THE DECEDENT, UNLESS PRESENTED AS FOLLOWS:

1. A CLAIM BASED ON A CONTRACT WITH THE PERSONAL REPRESENTATIVE, WITHIN FOUR MONTHS AFTER PERFORMANCE BY THE PERSONAL REPRESENTATIVE IS DUE.

2. ANY OTHER CLAIM, WITHIN FOUR MONTHS AFTER IT ARISES.

C. NOTHING IN THIS SECTION AFFECTS OR PREVENTS:

1. ANY PROCEEDING TO ENFORCE ANY MORTGAGE, PLEDGE OR OTHER LIEN UPON PROPERTY OF THE ESTATE.

2. TO THE LIMITS OF THE INSURANCE PROTECTION ONLY, ANY PROCEEDING TO ESTABLISH LIABILITY OF THE DECEDENT OR THE PERSONAL REPRESENTATIVE FOR WHICH HE IS PROTECTED BY LIABILITY INSURANCE.

## LAWS OF ARIZONA

## 14-3804. Manner of presentation of claims

CLAIMS AGAINST A DECEDENT'S ESTATE MAY BE PRESENTED AS FOLLOWS:

1. THE CLAIMANT MAY DELIVER OR MAIL TO THE PERSONAL REPRESENTATIVE A WRITTEN STATEMENT OF THE CLAIM INDICATING ITS BASIS, THE NAME AND ADDRESS OF THE CLAIMANT AND THE AMOUNT CLAIMED, OR MAY FILE A WRITTEN STATEMENT OF THE CLAIM, IN THE FORM PRESCRIBED BY RULE, WITH THE CLERK OF THE COURT. THE CLAIM IS DEEMED PRESENTED ON THE FIRST TO OCCUR OF RECEIPT OF THE WRITTEN STATEMENT OF CLAIM BY THE PERSONAL REPRESENTATIVE. OR THE FILING OF THE CLAIM WITH THE COURT. IF A CLAIM IS NOT YET DUE, THE DATE WHEN IT WILL BECOME DUE SHALL BE STATED. IF THE CLAIM IS CONTINGENT OR UNLIQUIDATED, THE NATURE OF THE UNCERTAINTY SHALL BE STATED. IF THE CLAIM IS SECURED, THE SECURITY SHALL BE DESCRIBED. FAILURE TO DESCRIBE CORRECTLY THE SECURITY, THE NATURE OF ANY UNCERTAINTY, AND THE DUE DATE OF A CLAIM NOT YET DUE DOES NOT INVALIDATE THE PRESENTATION MADE.
2. THE CLAIMANT MAY COMMENCE A PROCEEDING AGAINST THE PERSONAL REPRESENTATIVE IN ANY COURT WHERE THE PERSONAL REPRESENTATIVE MAY BE SUBJECTED TO JURISDICTION, TO OBTAIN PAYMENT OF HIS CLAIM AGAINST THE ESTATE, BUT THE COMMENCEMENT OF THE PROCEEDING MUST OCCUR WITHIN THE TIME LIMITED FOR PRESENTING THE CLAIM. NO PRESENTATION OF CLAIM IS REQUIRED IN REGARD TO MATTERS CLAIMED IN PROCEEDINGS AGAINST THE DECEDENT WHICH WERE PENDING AT THE TIME OF HIS DEATH.
3. IF A CLAIM IS PRESENTED UNDER PARAGRAPH 1, NO PROCEEDING THEREON MAY BE COMMENCED MORE THAN SIXTY DAYS AFTER THE PERSONAL REPRESENTATIVE HAS MAILED A NOTICE OF DISALLOWANCE; BUT, IN THE CASE OF A CLAIM WHICH IS NOT PRESENTLY DUE OR WHICH IS CONTINGENT OR UNLIQUIDATED, THE PERSONAL REPRESENTATIVE MAY CONSENT TO AN EXTENSION OF THE SIXTY DAY PERIOD, OR TO AVOID INJUSTICE THE COURT, ON PETITION, MAY ORDER AN EXTENSION OF THE SIXTY DAY PERIOD, EXCEPT NO EXTENSION MAY RUN BEYOND THE APPLICABLE STATUTE OF LIMITATIONS.

## LAWS OF ARIZONA

14-3805. **Priority of claims**

A. IF THE APPLICABLE ASSETS OF THE ESTATE ARE INSUFFICIENT TO PAY ALL CLAIMS IN FULL, THE PERSONAL REPRESENTATIVE SHALL MAKE PAYMENT IN THE FOLLOWING ORDER:

1. COSTS AND EXPENSES OF ADMINISTRATION.
2. REASONABLE FUNERAL EXPENSES.
3. DEBTS AND TAXES WITH PREFERENCE UNDER FEDERAL LAW.
4. REASONABLE AND NECESSARY MEDICAL AND HOSPITAL EXPENSES OF THE LAST ILLNESS OF THE DECEDENT, INCLUDING COMPENSATION OF PERSONS ATTENDING HIM.
5. DEBTS AND TAXES WITH PREFERENCE UNDER THE LAWS OF THIS STATE.
6. ALL OTHER CLAIMS.

B. NO PREFERENCE SHALL BE GIVEN IN THE PAYMENT OF ANY CLAIM OVER ANY OTHER CLAIM OF THE SAME CLASS AND A CLAIM DUE AND PAYABLE SHALL NOT BE ENTITLED TO A PREFERENCE OVER CLAIMS NOT DUE.

14-3806. **Allowance of claims**

A. AS TO CLAIMS PRESENTED IN THE MANNER DESCRIBED IN SECTION 14-3804 WITHIN THE TIME LIMIT PRESCRIBED IN SECTION 14-3803, THE PERSONAL REPRESENTATIVE MAY MAIL A NOTICE TO ANY CLAIMANT STATING THAT THE CLAIM HAS BEEN DISALLOWED. IF, AFTER ALLOWING OR DISALLOWING A CLAIM, THE PERSONAL REPRESENTATIVE CHANGES HIS DECISION CONCERNING THE CLAIM, HE SHALL NOTIFY THE CLAIMANT. THE PERSONAL REPRESENTATIVE MAY NOT CHANGE A DISALLOWANCE OF A CLAIM AFTER THE TIME FOR THE CLAIMANT TO FILE A PETITION FOR ALLOWANCE OR TO COMMENCE A PROCEEDING ON THE CLAIM HAS RUN AND THE CLAIM HAS BEEN BARRED. EVERY CLAIM WHICH IS DISALLOWED IN WHOLE OR IN PART BY THE PERSONAL REPRESENTATIVE IS BARRED SO FAR AS NOT ALLOWED UNLESS THE CLAIMANT FILES A PETITION FOR ALLOWANCE IN THE COURT OR COM-

## LAWS OF ARIZONA

MENCES A PROCEEDING AGAINST THE PERSONAL REPRESENTATIVE NOT LATER THAN SIXTY DAYS AFTER THE MAILING OF THE NOTICE OF DISALLOWANCE OR PARTIAL ALLOWANCE IF THE NOTICE WARNS THE CLAIMANT OF THE IMPENDING BAR. FAILURE OF THE PERSONAL REPRESENTATIVE TO MAIL NOTICE TO A CLAIMANT OF ACTION ON HIS CLAIM FOR SIXTY DAYS AFTER THE TIME FOR ORIGINAL PRESENTATION OF THE CLAIM HAS EXPIRED HAS THE EFFECT OF A NOTICE OF ALLOWANCE. THE PERSONAL REPRESENTATIVE OF THE ESTATE OF A DECEASED SPOUSE MAY CLASSIFY A CLAIM AS A COMMUNITY CLAIM PAYABLE OUT OF COMMUNITY PROPERTY, OR AS A SEPARATE CLAIM PAYABLE OUT OF SEPARATE PROPERTY AND THE BALANCE OF THE DECEDENT'S HALF OF COMMUNITY PROPERTY. EITHER CLASSIFICATION CONSTITUTES A DISALLOWANCE IN PART; FAILURE TO GIVE NOTICE OF THE CLASSIFICATION TO THE CLAIMANT AS PROVIDED IN THIS SUBSECTION, OR FAILURE TO CLASSIFY AN ALLOWED CLAIM, HAS THE EFFECT OF ALLOWING THE CLAIM AS PAYABLE OUT OF BOTH SEPARATE AND COMMUNITY PROPERTY.

B. UPON THE PETITION OF THE PERSONAL REPRESENTATIVE OR OF A CLAIMANT IN A PROCEEDING FOR THE PURPOSE, THE COURT MAY ALLOW IN WHOLE OR IN PART ANY CLAIM OR CLAIMS PRESENTED TO THE PERSONAL REPRESENTATIVE OR FILED WITH THE CLERK OF THE COURT IN DUE TIME AND NOT BARRED BY SUBSECTION A OF THIS SECTION. NOTICE IN THIS PROCEEDING SHALL BE GIVEN TO THE CLAIMANT, THE PERSONAL REPRESENTATIVE AND THOSE OTHER PERSONS INTERESTED IN THE ESTATE AS THE COURT MAY DIRECT BY ORDER ENTERED AT THE TIME THE PROCEEDING IS COMMENCED.

C. A JUDGMENT IN A PROCEEDING IN ANOTHER COURT AGAINST A PERSONAL REPRESENTATIVE TO ENFORCE A CLAIM AGAINST A DECEDENT'S ESTATE IS AN ALLOWANCE OF THE CLAIM.

D. UNLESS OTHERWISE PROVIDED IN ANY JUDGMENT IN ANOTHER COURT ENTERED AGAINST THE PERSONAL REPRESENTATIVE, ALLOWED CLAIMS BEAR INTEREST AT THE LEGAL RATE FOR THE PERIOD COMMENCING SIXTY DAYS AFTER THE TIME FOR ORIGINAL PRESENTATION OF THE CLAIM HAS EXPIRED UNLESS BASED ON A CONTRACT MAKING A PROVISION FOR INTEREST, IN WHICH CASE THEY BEAR INTEREST IN ACCORDANCE WITH THAT PROVISION.

## LAWS OF ARIZONA

14-3807. **Payment of claims**

A. UPON THE EXPIRATION OF FOUR MONTHS FROM THE DATE OF THE FIRST PUBLICATION OF THE NOTICE TO CREDITORS, THE PERSONAL REPRESENTATIVE SHALL PROCEED TO PAY THE CLAIMS ALLOWED AGAINST THE ESTATE IN THE ORDER OF PRIORITY PRESCRIBED, AFTER MAKING PROVISION FOR ALLOWANCE IN LIEU OF HOMESTEAD, EXEMPT PROPERTY AND FAMILY ALLOWANCE, FOR CLAIMS ALREADY PRESENTED WHICH HAVE NOT YET BEEN ALLOWED OR WHOSE ALLOWANCE HAS BEEN APPEALED, AND FOR UNBARRED CLAIMS WHICH MAY YET BE PRESENTED, INCLUDING COSTS AND EXPENSES OF ADMINISTRATION. BY PETITION TO THE COURT IN A PROCEEDING FOR THE PURPOSE, OR BY APPROPRIATE MOTION IF THE ADMINISTRATION IS SUPERVISED, A CLAIMANT WHOSE CLAIM HAS BEEN ALLOWED BUT NOT PAID AS PROVIDED HEREIN MAY SECURE AN ORDER DIRECTING THE PERSONAL REPRESENTATIVE TO PAY THE CLAIM TO THE EXTENT THAT FUNDS OF THE ESTATE ARE AVAILABLE FOR THE PAYMENT.

B. THE PERSONAL REPRESENTATIVE AT ANY TIME MAY PAY ANY JUST CLAIM WHICH HAS NOT BEEN BARRED, WITH OR WITHOUT FORMAL PRESENTATION, BUT HE IS PERSONALLY LIABLE TO ANY OTHER CLAIMANT WHOSE CLAIM IS ALLOWED AND WHO IS INJURED BY SUCH PAYMENT IF EITHER:

1. THE PAYMENT WAS MADE BEFORE THE EXPIRATION OF THE TIME LIMIT STATED IN SUBSECTION A AND THE PERSONAL REPRESENTATIVE FAILED TO REQUIRE THE PAYEE TO GIVE ADEQUATE SECURITY FOR THE REFUND OF ANY OF THE PAYMENT NECESSARY TO PAY OTHER CLAIMANTS.

2. THE PAYMENT WAS MADE, DUE TO THE NEGLIGENCE OR WILFUL FAULT OF THE PERSONAL REPRESENTATIVE, IN SUCH MANNER AS TO DEPRIVE THE INJURED CLAIMANT OF HIS PRIORITY.

14-3808. **Individual liability of personal representative**

A. UNLESS OTHERWISE PROVIDED IN THE CONTRACT, A PERSONAL REPRESENTATIVE IS NOT INDIVIDUALLY LIABLE ON A CONTRACT PROPERLY ENTERED INTO IN HIS FIDUCIARY CAPACITY IN THE COURSE OF ADMINISTRATION OF THE ESTATE UNLESS HE FAILS TO REVEAL HIS REPRESENTATIVE CAPACITY AND IDENTIFY THE ESTATE IN THE CONTRACT.

## LAWS OF ARIZONA

B. A PERSONAL REPRESENTATIVE IS INDIVIDUALLY LIABLE FOR OBLIGATIONS ARISING FROM OWNERSHIP OR CONTROL OF THE ESTATE OR FOR TORTS COMMITTED IN THE COURSE OF ADMINISTRATION OF THE ESTATE ONLY IF HE IS PERSONALLY AT FAULT.

C. CLAIMS BASED ON CONTRACTS ENTERED INTO BY A PERSONAL REPRESENTATIVE IN HIS FIDUCIARY CAPACITY, ON OBLIGATIONS ARISING FROM OWNERSHIP OR CONTROL OF THE ESTATE, OR ON TORTS COMMITTED IN THE COURSE OF ESTATE ADMINISTRATION MAY BE ASSERTED AGAINST THE ESTATE BY PROCEEDING AGAINST THE PERSONAL REPRESENTATIVE IN HIS FIDUCIARY CAPACITY, WHETHER OR NOT THE PERSONAL REPRESENTATIVE IS INDIVIDUALLY LIABLE THEREFOR.

D. ISSUES OF LIABILITY AS BETWEEN THE ESTATE AND THE PERSONAL REPRESENTATIVE INDIVIDUALLY MAY BE DETERMINED IN A PROCEEDING FOR ACCOUNTING, SURCHARGE OR INDEMNIFICATION OR OTHER APPROPRIATE PROCEEDING.

14-3809. **Secured claims**

PAYMENT OF A SECURED CLAIM IS UPON THE BASIS OF THE AMOUNT ALLOWED IF THE CREDITOR SURRENDERS HIS SECURITY, OTHERWISE PAYMENT IS UPON THE BASIS OF ONE OF THE FOLLOWING:

1. IF THE CREDITOR EXHAUSTS HIS SECURITY BEFORE RECEIVING PAYMENT, UNLESS PRECLUDED BY OTHER LAW, UPON THE AMOUNT OF THE CLAIM ALLOWED LESS THE FAIR VALUE OF THE SECURITY.
2. IF THE CREDITOR DOES NOT HAVE THE RIGHT TO EXHAUST HIS SECURITY OR HAS NOT DONE SO, UPON THE AMOUNT OF THE CLAIM ALLOWED LESS THE VALUE OF THE SECURITY DETERMINED BY CONVERTING IT INTO MONEY ACCORDING TO THE TERMS OF THE AGREEMENT PURSUANT TO WHICH THE SECURITY WAS DELIVERED TO THE CREDITOR, OR BY THE CREDITOR AND PERSONAL REPRESENTATIVE BY AGREEMENT, ARBITRATION, COMPROMISE OR LITIGATION.

14-3810. **Claims not due and contingent or unliquidated claims**

A. IF A CLAIM WHICH WILL BECOME DUE AT A FUTURE TIME OR A CONTINGENT OR UNLIQUIDATED CLAIM BECOMES DUE OR

## LAWS OF ARIZONA

CERTAIN BEFORE THE DISTRIBUTION OF THE ESTATE, AND IF THE CLAIM HAS BEEN ALLOWED OR ESTABLISHED BY A PROCEEDING, IT IS PAID IN THE SAME MANNER AS PRESENTLY DUE AND ABSOLUTE CLAIMS OF THE SAME CLASS.

B. IN OTHER CASES THE PERSONAL REPRESENTATIVE OR, ON PETITION OF THE PERSONAL REPRESENTATIVE OR THE CLAIMANT IN A SPECIAL PROCEEDING FOR THE PURPOSE, THE COURT MAY PROVIDE FOR PAYMENT AS FOLLOWS:

1. IF THE CLAIMANT CONSENTS, HE MAY BE PAID THE PRESENT OR AGREED VALUE OF THE CLAIM, TAKING ANY UNCERTAINTY INTO ACCOUNT.
2. ARRANGEMENT FOR FUTURE PAYMENT, OR POSSIBLE PAYMENT, ON THE HAPPENING OF THE CONTINGENCY OR ON LIQUIDATION MAY BE MADE BY CREATING A TRUST, GIVING A MORTGAGE, OBTAINING A BOND OR SECURITY FROM A DISTRIBUTEE, OR OTHERWISE.

14-3811. **Counterclaims**

IN ALLOWING A CLAIM THE PERSONAL REPRESENTATIVE MAY DEDUCT ANY COUNTERCLAIM WHICH THE ESTATE HAS AGAINST THE CLAIMANT. IN DETERMINING A CLAIM AGAINST AN ESTATE A COURT SHALL REDUCE THE AMOUNT ALLOWED BY THE AMOUNT OF ANY COUNTERCLAIMS AND, IF THE COUNTERCLAIMS EXCEED THE CLAIM, RENDER A JUDGMENT AGAINST THE CLAIMANT IN THE AMOUNT OF THE EXCESS. A COUNTERCLAIM, LIQUIDATED OR UNLIQUIDATED, MAY ARISE FROM A TRANSACTION OTHER THAN THAT UPON WHICH THE CLAIM IS BASED. A COUNTERCLAIM MAY GIVE RISE TO RELIEF EXCEEDING IN AMOUNT OR DIFFERENT IN KIND FROM THAT SOUGHT IN THE CLAIM.

14-3812. **Execution and levies prohibited**

NO EXECUTION MAY ISSUE UPON NOR MAY ANY LEVY BE MADE AGAINST ANY PROPERTY OF THE ESTATE UNDER ANY JUDGMENT AGAINST A DECEDENT OR A PERSONAL REPRESENTATIVE, BUT THIS SECTION SHALL NOT BE CONSTRUED TO PREVENT THE ENFORCEMENT OF MORTGAGES, PLEDGES OR LIENS UPON REAL OR PERSONAL PROPERTY IN AN APPROPRIATE PROCEEDING.

## LAWS OF ARIZONA

**14-3813. Compromise of claims**

WHEN A CLAIM AGAINST THE ESTATE HAS BEEN PRESENTED IN ANY MANNER, THE PERSONAL REPRESENTATIVE MAY, IF IT APPEARS FOR THE BEST INTEREST OF THE ESTATE, COMPROMISE THE CLAIM, WHETHER DUE OR NOT DUE, ABSOLUTE OR CONTINGENT, LIQUIDATED OR UNLIQUIDATED.

**14-3814. Encumbered assets**

IF ANY ASSETS OF THE ESTATE ARE ENCUMBERED BY MORTGAGE, PLEDGE, LIEN OR OTHER SECURITY INTEREST, THE PERSONAL REPRESENTATIVE MAY PAY THE ENCUMBRANCE OR ANY PART THEREOF, RENEW OR EXTEND ANY OBLIGATION SECURED BY THE ENCUMBRANCE OR CONVEY OR TRANSFER THE ASSETS TO THE CREDITOR IN SATISFACTION OF HIS LIEN, IN WHOLE OR IN PART, WHETHER OR NOT THE HOLDER OF THE ENCUMBRANCE HAS FILED A CLAIM, IF IT APPEARS TO BE FOR THE BEST INTEREST OF THE ESTATE. PAYMENT OF AN ENCUMBRANCE DOES NOT INCREASE THE SHARE OF THE DISTRIBUTEES ENTITLED TO THE ENCUMBERED ASSETS UNLESS THE DISTRIBUTEES IS ENTITLED TO EXONERATION.

**14-3815. Administration in more than one state; duty of personal representative**

A. ALL ASSETS OF ESTATES BEING ADMINISTERED IN THIS STATE ARE SUBJECT TO ALL CLAIMS, ALLOWANCES AND CHARGES EXISTING OR ESTABLISHED AGAINST THE PERSONAL REPRESENTATIVE WHEREVER APPOINTED.

B. IF THE ESTATE EITHER IN THIS STATE OR AS A WHOLE IS INSUFFICIENT TO COVER ALL FAMILY EXEMPTIONS AND ALLOWANCES DETERMINED BY THE LAW OF THE DECEDENT'S DOMICILE, PRIOR CHARGES AND CLAIMS, AFTER SATISFACTION OF THE EXEMPTIONS, ALLOWANCES AND CHARGES, EACH CLAIMANT WHOSE CLAIM HAS BEEN ALLOWED EITHER IN THIS STATE OR IN ANOTHER JURISDICTION IN ADMINISTRATIONS OF WHICH THE PERSONAL REPRESENTATIVE IS AWARE, IS ENTITLED TO RECEIVE PAYMENT OF AN EQUAL PROPORTION OF HIS CLAIM. IF A PREFERENCE OR SECURITY IN REGARD TO A CLAIM IS ALLOWED IN ANOTHER JURISDICTION BUT NOT IN THIS STATE, THE CREDITOR SO BENEFITED IS TO RECEIVE DIVIDENDS FROM LOCAL ASSETS ONLY UPON THE BALANCE OF HIS CLAIM AFTER DEDUCTING THE AMOUNT OF THE BENEFIT.

## LAWS OF ARIZONA

C. IN CASE THE FAMILY EXEMPTIONS AND ALLOWANCES, PRIOR CHARGES AND CLAIMS OF THE ENTIRE ESTATE EXCEED THE TOTAL VALUE OF THE PORTIONS OF THE ESTATE BEING ADMINISTERED SEPARATELY AND THIS STATE IS NOT THE STATE OF THE DECEDENT'S LAST DOMICILE, THE CLAIMS ALLOWED IN THIS STATE SHALL BE PAID THEIR PROPORTION IF LOCAL ASSETS ARE ADEQUATE FOR THE PURPOSE, AND THE BALANCE OF LOCAL ASSETS SHALL BE TRANSFERRED TO THE DOMICILIARY PERSONAL REPRESENTATIVE. IF LOCAL ASSETS ARE NOT SUFFICIENT TO PAY ALL CLAIMS ALLOWED IN THIS STATE THE AMOUNT TO WHICH THEY ARE ENTITLED, LOCAL ASSETS SHALL BE MARSHALLED SO THAT EACH CLAIM ALLOWED IN THIS STATE IS PAID ITS PROPORTION AS FAR AS POSSIBLE, AFTER TAKING INTO ACCOUNT ALL DIVIDENDS ON CLAIMS ALLOWED IN THIS STATE FROM ASSETS IN OTHER JURISDICTIONS.

**14-3816. Final distribution to domiciliary representative**

THE ESTATE OF A NONRESIDENT DECEDENT BEING ADMINISTERED BY A PERSONAL REPRESENTATIVE APPOINTED IN THIS STATE SHALL, IF THERE IS A PERSONAL REPRESENTATIVE OF THE DECEDENT'S DOMICILE WILLING TO RECEIVE IT, BE DISTRIBUTED TO THE DOMICILIARY PERSONAL REPRESENTATIVE FOR THE BENEFIT OF THE SUCCESSORS OF THE DECEDENT UNLESS ANY OF THE FOLLOWING APPLY:

1. BY VIRTUE OF THE DECEDENT'S WILL, IF ANY, AND APPLICABLE CHOICE OF LAW RULES, THE SUCCESSORS ARE IDENTIFIED PURSUANT TO THE LOCAL LAW OF THIS STATE WITHOUT REFERENCE TO THE LOCAL LAW OF THE DECEDENT'S DOMICILE.
2. THE PERSONAL REPRESENTATIVE OF THIS STATE, AFTER REASONABLE INQUIRY, IS UNAWARE OF THE EXISTENCE OR IDENTITY OF A DOMICILIARY PERSONAL REPRESENTATIVE.
3. THE COURT ORDERS OTHERWISE IN A PROCEEDING FOR A CLOSING ORDER UNDER SECTION 14-3931 OR INCIDENT TO THE CLOSING OF A SUPERVISED ADMINISTRATION.

IN OTHER CASES, DISTRIBUTION OF THE ESTATE OF A DECEDENT SHALL BE MADE IN ACCORDANCE WITH THE OTHER ARTICLES OF THIS CHAPTER.

## LAWS OF ARIZONA

ARTICLE 9. SPECIAL PROVISIONS RELATING  
TO DISTRIBUTION14-3901. **Successors' rights if no administration**

IN THE ABSENCE OF ADMINISTRATION, THE HEIRS AND DEVISEES ARE ENTITLED TO THE ESTATE IN ACCORDANCE WITH THE TERMS OF A PROBATED WILL OR THE LAWS OF INTESTATE SUCCESSION. DEVISEES MAY ESTABLISH TITLE BY THE PROBATED WILL TO DEVISED PROPERTY. PERSONS ENTITLED TO PROPERTY BY ALLOWANCE IN LIEU OF HOMESTEAD, EXEMPTION OR INTESTACY MAY ESTABLISH TITLE THERETO BY PROOF OF THE DECEDENT'S OWNERSHIP, HIS DEATH AND THEIR RELATIONSHIP TO THE DECEDENT. SUCCESSORS TAKE SUBJECT TO ALL CHARGES INCIDENT TO ADMINISTRATION, INCLUDING THE CLAIMS OF CREDITORS AND ALLOWANCES OF SURVIVING SPOUSE AND DEPENDENT CHILDREN, AND SUBJECT TO THE RIGHTS OF OTHERS RESULTING FROM ABATEMENT, RETAINER, ADVANCEMENT AND ADEMPMENT.

14-3902. **Distribution; order in which assets appropriated; abatement**

A. EXCEPT AS PROVIDED IN SUBSECTION B, SHARES OF DISTRIBUTIBLES ABATE, WITHOUT ANY PREFERENCE OR PRIORITY AS BETWEEN REAL AND PERSONAL PROPERTY, IN THE FOLLOWING ORDER:

1. PROPERTY NOT DISPOSED OF BY THE WILL.
2. RESIDUARY DEVISES.
3. GENERAL DEVISES.
4. SPECIFIC DEVISES.

FOR PURPOSES OF ABATEMENT, A GENERAL DEVISE CHARGED ON ANY SPECIFIC PROPERTY OR FUND IS A SPECIFIC DEVISE TO THE EXTENT OF THE VALUE OF THE PROPERTY ON WHICH IT IS CHARGED, AND UPON THE FAILURE OR INSUFFICIENCY OF THE PROPERTY ON WHICH IT IS CHARGED, A GENERAL DEVISE TO THE EXTENT OF THE FAILURE OR INSUFFICIENCY. ABATEMENT WITHIN EACH CLASSIFICATION IS IN PROPORTION TO THE AMOUNTS OF PROPERTY EACH OF THE BENEFICIARIES WOULD HAVE RECEIVED IF FULL DISTRIBUTION OF THE PROPERTY HAD BEEN MADE IN ACCORDANCE WITH THE TERMS OF THE WILL.

## LAWS OF ARIZONA

B. IF THE WILL EXPRESSES AN ORDER OF ABATEMENT, OR IF THE TESTAMENTARY PLAN OR THE EXPRESS OR IMPLIED PURPOSE OF THE DEVISE WOULD BE DEFEATED BY THE ORDER OF ABATEMENT STATED IN SUBSECTION A, THE SHARES OF THE DISTRIBUTEES ABATE AS MAY BE FOUND NECESSARY TO GIVE EFFECT TO THE INTENTION OF THE TESTATOR.

C. IF AN ESTATE OF A DECEDENT CONSISTS PARTLY OF SEPARATE PROPERTY AND PARTLY OF COMMUNITY PROPERTY:

1. COMMUNITY DEBTS SHALL BE CHARGED AGAINST COMMUNITY PROPERTY.

2. SEPARATE DEBTS SHALL BE CHARGED AGAINST SEPARATE PROPERTY AND AGAINST THE BALANCE OF DECEDENT'S HALF OF COMMUNITY PROPERTY.

3. EXPENSES OF ADMINISTRATION SHALL BE CHARGED AGAINST SEPARATE PROPERTY AND DECEDENT'S HALF OF COMMUNITY PROPERTY IN PROPORTION TO THE RELATIVE VALUE THEREOF, BUT ANY SPECIAL EXPENSES ATTRIBUTABLE TO MANAGEMENT OF COMMUNITY PROPERTY MAY BE CHARGED AGAINST THE ENTIRE COMMUNITY PROPERTY.

D. IF THE SUBJECT OF A PREFERRED DEVISE IS SOLD OR USED INCIDENT TO ADMINISTRATION, ABATEMENT SHALL BE ACHIEVED BY APPROPRIATE ADJUSTMENTS IN, OR CONTRIBUTION FROM, OTHER INTERESTS IN THE REMAINING ASSETS.

14-3903. **Right of retainer**

THE AMOUNT OF A NONCONTINGENT INDEBTEDNESS OF A SUCCESSOR TO THE ESTATE IF DUE, OR ITS PRESENT VALUE IF NOT DUE, SHALL BE OFFSET AGAINST THE SUCCESSOR'S INTEREST, BUT THE SUCCESSOR HAS THE BENEFIT OF ANY DEFENSE WHICH WOULD BE AVAILABLE TO HIM IN A DIRECT PROCEEDING FOR RECOVERY OF THE DEBT.

14-3904. **Interest on general pecuniary devise**

UNLESS A CONTRARY INTENTION IS INDICATED BY THE WILL, GENERAL PECUNIARY DEVISES BEAR INTEREST AT THE LEGAL RATE BEGINNING ONE YEAR AFTER THE FIRST APPOINTMENT OF A PERSONAL REPRESENTATIVE UNTIL PAYMENT.

## LAWS OF ARIZONA

**14-3905. Penalty clause for contest**

A PROVISION IN A WILL PURPORTING TO PENALIZE ANY INTERESTED PERSON FOR CONTESTING THE WILL OR INSTITUTING OTHER PROCEEDINGS RELATING TO THE ESTATE IS UNENFORCEABLE IF PROBABLE CAUSE EXISTS FOR CONTESTING THE WILL OR INSTITUTING OTHER PROCEEDINGS.

**14-3906. Distribution in kind; valuation; method**

A. UNLESS A CONTRARY INTENTION IS INDICATED BY THE WILL, THE DISTRIBUTABLE ASSETS OF A DECEDENT'S ESTATE SHALL BE DISTRIBUTED IN KIND TO THE EXTENT POSSIBLE THROUGH APPLICATION OF THE FOLLOWING PROVISIONS:

1. A SPECIFIC DEVISEE IS ENTITLED TO DISTRIBUTION OF THE THING DEVISED TO HIM, AND A SPOUSE OR CHILD WHO HAS SELECTED PARTICULAR ASSETS OF AN ESTATE AS PROVIDED IN SECTION 14-2402 SHALL RECEIVE THE ITEMS SELECTED.

2. ANY ALLOWANCE IN LIEU OF HOMESTEAD OR FAMILY ALLOWANCE OR DEVISE PAYABLE IN MONEY MAY BE SATISFIED BY VALUE IN KIND IF:

(a) THE PERSON ENTITLED TO THE PAYMENT HAS NOT DEMANDED PAYMENT IN CASH.

(b) THE PROPERTY DISTRIBUTED IN KIND IS VALUED AT FAIR MARKET VALUE AS OF THE DATE OF ITS DISTRIBUTION.

(c) NO RESIDUARY DEVISEE HAS REQUESTED THAT THE ASSET IN QUESTION REMAIN A PART OF THE RESIDUE OF THE ESTATE.

3. FOR THE PURPOSE OF VALUATION UNDER PARAGRAPH 2 OF THIS SECTION SECURITIES REGULARLY TRADED ON RECOGNIZED EXCHANGES, IF DISTRIBUTED IN KIND, ARE VALUED AT THE PRICE FOR THE LAST SALE OF LIKE SECURITIES TRADED ON THE BUSINESS DAY PRIOR TO DISTRIBUTION, OR IF THERE WAS NO SALE ON THAT DAY, AT THE MEDIAN BETWEEN AMOUNTS BID AND OFFERED AT THE CLOSE OF THAT DAY. ASSETS CONSISTING OF SUMS OWED THE DECEDENT OR THE ESTATE BY SOLVENT DEBTORS AS TO WHICH THERE IS NO KNOWN DISPUTE OR DEFENSE ARE VALUED AT THE SUM DUE WITH ACCRUED INTEREST OR DISCOUNTED TO THE DATE OF

## LAWS OF ARIZONA

DISTRIBUTION. FOR ASSETS WHICH DO NOT HAVE READILY ASCERTAINABLE VALUES, A VALUATION AS OF A DATE NOT MORE THAN THIRTY DAYS PRIOR TO THE DATE OF DISTRIBUTION, IF OTHERWISE REASONABLE, CONTROLS. FOR PURPOSES OF FACILITATING DISTRIBUTION, THE PERSONAL REPRESENTATIVE MAY ASCERTAIN THE VALUE OF THE ASSETS AS OF THE TIME OF THE PROPOSED DISTRIBUTION IN ANY REASONABLE WAY, INCLUDING THE EMPLOYMENT OF QUALIFIED APPRAISERS, EVEN IF THE ASSETS MAY HAVE BEEN PREVIOUSLY APPRAISED.

4. THE RESIDUARY ESTATE SHALL BE DISTRIBUTED IN KIND IF THERE IS NO OBJECTION TO THE PROPOSED DISTRIBUTION AND IT IS PRACTICABLE TO DISTRIBUTE UNDIVIDED INTERESTS. IN OTHER CASES, RESIDUARY PROPERTY MAY BE CONVERTED INTO CASH FOR DISTRIBUTION.

B. AFTER THE PROBABLE CHARGES AGAINST THE ESTATE ARE KNOWN, THE PERSONAL REPRESENTATIVE MAY MAIL OR DELIVER A PROPOSAL FOR DISTRIBUTION TO ALL PERSONS WHO HAVE A RIGHT TO OBJECT TO THE PROPOSED DISTRIBUTION. THE RIGHT OF ANY DISTRIBUTEE TO OBJECT TO THE PROPOSED DISTRIBUTION ON THE BASIS OF THE KIND OR VALUE OF ASSET HE IS TO RECEIVE, IF NOT WAIVED EARLIER IN WRITING, TERMINATES IF HE FAILS TO OBJECT IN WRITING RECEIVED BY THE PERSONAL REPRESENTATIVE WITHIN THIRTY DAYS AFTER MAILING OR DELIVERY OF THE PROPOSAL.

14-3907. **Distribution in kind; evidence**

IF DISTRIBUTION IN KIND IS MADE, THE PERSONAL REPRESENTATIVE SHALL EXECUTE AN INSTRUMENT OR DEED OF DISTRIBUTION ASSIGNING, TRANSFERRING OR RELEASING THE ASSETS TO THE DISTRIBUTEE AS EVIDENCE OF THE DISTRIBUTEE'S TITLE TO THE PROPERTY.

14-3908. **Distribution; right or title of distributee**

PROOF THAT A DISTRIBUTEE HAS RECEIVED AN INSTRUMENT OR DEED OF DISTRIBUTION OF ASSETS IN KIND, OR PAYMENT IN DISTRIBUTION FROM A PERSONAL REPRESENTATIVE, IS CONCLUSIVE EVIDENCE THAT THE DISTRIBUTEE HAS SUCCEEDED TO THE INTEREST OF THE ESTATE IN THE DISTRIBUTED ASSETS, AS AGAINST ALL PERSONS INTERESTED IN THE ESTATE, EXCEPT

## LAWS OF ARIZONA

THAT THE PERSONAL REPRESENTATIVE MAY RECOVER UNDER SECTION 14-3909 THE ASSETS OR THEIR VALUE IF THE DISTRIBUTION WAS IMPROPER.

**14-3909. Improper distribution; liability of distributee**

UNLESS THE DISTRIBUTION OR PAYMENT NO LONGER CAN BE QUESTIONED BECAUSE OF ADJUDICATION, ESTOPPEL OR LIMITATION, A DISTRIBUTEE OF PROPERTY OR MONEY IMPROPERLY DISTRIBUTED OR PAID, OR A CLAIMANT WHO WAS IMPROPERLY PAID, IS LIABLE TO RETURN THE PROPERTY IMPROPERLY RECEIVED AND ITS INCOME SINCE DISTRIBUTION IF HE HAS THE PROPERTY. IF SUCH A DISTRIBUTEE DOES NOT HAVE THE PROPERTY, HE IS LIABLE TO RETURN THE VALUE AS OF THE DATE OF DISPOSITION OF THE PROPERTY IMPROPERLY RECEIVED AND ITS INCOME AND GAIN RECEIVED BY HIM.

**14-3910. Purchasers from distributees protected**

IF PROPERTY DISTRIBUTED IN KIND OR A SECURITY INTEREST THEREIN IS ACQUIRED FOR VALUE BY A PURCHASER FROM OR LENDER TO A DISTRIBUTEE WHO HAS RECEIVED AN INSTRUMENT OR DEED OF DISTRIBUTION FROM THE PERSONAL REPRESENTATIVE, THE PURCHASER OR LENDER TAKES TITLE FREE OF RIGHTS OF ANY PERSON INTERESTED IN THE ESTATE AND INCURS NO PERSONAL LIABILITY TO THE ESTATE, WHETHER OR NOT THE DISTRIBUTION WAS PROPER AND WHETHER OR NOT THE AUTHORITY OF THE PERSONAL REPRESENTATIVE WAS TERMINATED PRIOR TO EXECUTION OF THE INSTRUMENT OR DEED. THIS SECTION PROTECTS A PURCHASER OR LENDER FROM A DISTRIBUTEE WHO AS PERSONAL REPRESENTATIVE HAS EXECUTED A DEED OF DISTRIBUTION TO HIMSELF, AS WELL AS FROM ANY OTHER DISTRIBUTEE. TO BE PROTECTED UNDER THIS PROVISION, A PURCHASER OR LENDER NEED NOT INQUIRE WHETHER A PERSONAL REPRESENTATIVE ACTED PROPERLY IN MAKING THE DISTRIBUTION IN KIND, EVEN IF THE PERSONAL REPRESENTATIVE AND THE DISTRIBUTEE ARE THE SAME PERSON, OR WHETHER THE AUTHORITY OF THE PERSONAL REPRESENTATIVE HAD TERMINATED PRIOR TO THE DISTRIBUTION.

**14-3911. Partition for purpose of distribution**

WHEN TWO OR MORE HEIRS OR DEVISEES ARE ENTITLED TO DISTRIBUTION OF UNDIVIDED INTERESTS IN ANY REAL OR

## LAWS OF ARIZONA

PERSONAL PROPERTY OF THE ESTATE, THE PERSONAL REPRESENTATIVE OR ONE OR MORE OF THE HEIRS OR DEVISEES MAY PETITION THE COURT PRIOR TO THE FORMAL OR INFORMAL CLOSING OF THE ESTATE, TO MAKE PARTITION. AFTER NOTICE TO THE INTERESTED HEIRS OR DEVISEES, THE COURT SHALL PARTITION THE PROPERTY IN THE SAME MANNER AS PROVIDED BY THE LAW FOR CIVIL ACTIONS OF PARTITION. THE COURT MAY DIRECT THE PERSONAL REPRESENTATIVE TO SELL ANY PROPERTY WHICH CANNOT BE PARTITIONED WITHOUT PREJUDICE TO THE OWNERS AND WHICH CANNOT CONVENIENTLY BE ALLOTTED TO ANY ONE PARTY.

14-3912. **Private agreements among successors to decedent binding on personal representative**

SUBJECT TO THE RIGHTS OF CREDITORS AND TAXING AUTHORITIES, COMPETENT SUCCESSORS MAY AGREE AMONG THEMSELVES TO ALTER THE INTERESTS, SHARES, OR AMOUNTS TO WHICH THEY ARE ENTITLED UNDER THE WILL OF THE DECEDENT OR UNDER THE LAWS OF INTESTACY, IN ANY WAY THAT THEY PROVIDE IN A WRITTEN CONTRACT EXECUTED BY ALL WHO ARE AFFECTED BY ITS PROVISIONS. THE PERSONAL REPRESENTATIVE SHALL ABIDE BY THE TERMS OF THE AGREEMENT SUBJECT TO HIS OBLIGATION TO ADMINISTER THE ESTATE FOR THE BENEFIT OF CREDITORS, TO PAY ALL TAXES AND EXPENSES OF ADMINISTRATION, AND TO CARRY OUT THE RESPONSIBILITIES OF HIS OFFICE FOR THE BENEFIT OF ANY SUCCESSORS OF THE DECEDENT WHO ARE NOT PARTIES. PERSONAL REPRESENTATIVES OF DECEDENTS' ESTATES ARE NOT REQUIRED TO SEE TO THE PERFORMANCE OF TRUSTS IF THE TRUSTEE THEREOF IS ANOTHER PERSON WHO IS WILLING TO ACCEPT THE TRUST. ACCORDINGLY, TRUSTEES OF A TESTAMENTARY TRUST ARE SUCCESSORS FOR THE PURPOSES OF THIS SECTION. THIS SECTION DOES NOT RELIEVE TRUSTEES OF ANY DUTIES OWED TO BENEFICIARIES OF TRUSTS.

14-3913. **Distributions to trustee**

A. BEFORE DISTRIBUTING TO A TRUSTEE, THE PERSONAL REPRESENTATIVE MAY REQUIRE THAT THE TRUSTEE INFORM THE BENEFICIARIES AS PROVIDED IN SECTION 14-7303, AND IF THE STATE IN WHICH IT IS TO BE ADMINISTERED PROVIDES FOR REGISTRATION, THAT THE TRUST BE REGISTERED.

## LAWS OF ARIZONA

B. IF THE TRUST INSTRUMENT DOES NOT EXCUSE THE TRUSTEE FROM GIVING BOND, THE PERSONAL REPRESENTATIVE MAY PETITION THE APPROPRIATE COURT TO REQUIRE THAT THE TRUSTEE POST BOND IF HE APPREHENDS THAT DISTRIBUTION MIGHT JEOPARDIZE THE INTERESTS OF PERSONS WHO ARE NOT ABLE TO PROTECT THEMSELVES, AND HE MAY WITHHOLD DISTRIBUTION UNTIL THE COURT HAS ACTED.

C. NO INFERENCE OF NEGLIGENCE ON THE PART OF THE PERSONAL REPRESENTATIVE SHALL BE DRAWN FROM HIS FAILURE TO EXERCISE THE AUTHORITY CONFERRED BY SUBSECTIONS A AND B OF THIS SECTION.

14-3914. **Disposition of unclaimed assets**

A. IF AN HEIR, DEVISEE OR CLAIMANT CANNOT BE FOUND, THE PERSONAL REPRESENTATIVE SHALL DISTRIBUTE THE SHARE OF THE MISSING PERSON TO HIS CONSERVATOR, IF ANY, OTHERWISE IN CASH TO THE ESTATE TAX COMMISSIONER FOR DEPOSIT INTO THE TREASURY OF THE STATE TO BE CREDITED TO THE PERMANENT SCHOOL FUND.

B. IF A PERSON LATER APPEARS AND CLAIMS AS THE MISSING PERSON, HE SHALL PROCEED IN THE SAME MANNER AS AN HEIR, DEVISEE OR LEGATEE CLAIMING ESCHEATED PROPERTY UNDER SECTION 12-886 AND JUDGMENT AND PAYMENT SHALL BE MADE IN THE SAME MANNER AS FOR ESCHEATED PROPERTY UNDER SECTION 12-887.

14-3915. **Distribution to person under disability**

A PERSONAL REPRESENTATIVE MAY DISCHARGE HIS OBLIGATION TO DISTRIBUTE TO ANY PERSON UNDER LEGAL DISABILITY BY DISTRIBUTING TO HIS CONSERVATOR, OR ANY OTHER PERSON AUTHORIZED BY THIS TITLE OR OTHERWISE TO GIVE A VALID RECEIPT AND DISCHARGE FOR THE DISTRIBUTION.

## 14-3916. (Blank)

## ARTICLE 10. CLOSING ESTATES

14-3931. **Formal proceedings terminating administration; testate or intestate; order of general protection**

## LAWS OF ARIZONA

A. A PERSONAL REPRESENTATIVE OR ANY INTERESTED PERSON MAY PETITION FOR AN ORDER OF COMPLETE SETTLEMENT OF THE ESTATE. THE PERSONAL REPRESENTATIVE MAY PETITION AT ANY TIME, AND ANY OTHER INTERESTED PERSON MAY PETITION AFTER ONE YEAR FROM THE APPOINTMENT OF THE ORIGINAL PERSONAL REPRESENTATIVE EXCEPT THAT NO PETITION UNDER THIS SECTION MAY BE ENTERTAINED UNTIL THE TIME FOR PRESENTING CLAIMS WHICH AROSE PRIOR TO THE DEATH OF THE DECEDENT HAS EXPIRED. THE PETITION MAY REQUEST THE COURT TO DETERMINE TESTACY, IF NOT PREVIOUSLY DETERMINED, TO CONSIDER THE FINAL ACCOUNT OR COMPEL OR APPROVE AN ACCOUNTING AND DISTRIBUTION, TO CONSTRUE ANY WILL OR DETERMINE HEIRS AND ADJUDICATE THE FINAL SETTLEMENT AND DISTRIBUTION OF THE ESTATE. NOTICE MUST BE GIVEN TO ALL INTERESTED PERSONS, AND A COPY OF THE FINAL ACCOUNT MUST ALSO BE SENT TO THE DISTRIBUTEES WHOSE INTERESTS ARE AFFECTED THEREBY. AFTER HEARING THE COURT MAY ENTER AN ORDER OR ORDERS, ON APPROPRIATE CONDITIONS, DETERMINING THE PERSONS ENTITLED TO DISTRIBUTION OF THE ESTATE, AND, AS CIRCUMSTANCES REQUIRE, APPROVING SETTLEMENT AND DIRECTING, APPROVING OR DECREERING DISTRIBUTION OF THE ESTATE AND DISCHARGING THE PERSONAL REPRESENTATIVE FROM FURTHER CLAIM OR DEMAND OF ANY INTERESTED PERSON.

B. IF ONE OR MORE HEIRS OR DEVISEES WERE OMITTED AS PARTIES IN, OR WERE NOT GIVEN NOTICE OF, A PREVIOUS FORMAL TESTACY PROCEEDING, THE COURT, ON PROPER PETITION FOR AN ORDER OF COMPLETE SETTLEMENT OF THE ESTATE UNDER THIS SECTION, AND AFTER NOTICE TO THE OMITTED OR UNNOTIFIED PERSONS AND OTHER INTERESTED PARTIES DETERMINED TO BE INTERESTED ON THE ASSUMPTION THAT THE PREVIOUS ORDER CONCERNING TESTACY IS CONCLUSIVE AS TO THOSE GIVEN NOTICE OF THE EARLIER PROCEEDING, MAY DETERMINE TESTACY AS IT AFFECTS THE OMITTED PERSONS AND CONFIRM OR ALTER THE PREVIOUS ORDER OF TESTACY AS IT AFFECTS ALL INTERESTED PERSONS AS APPROPRIATE IN THE LIGHT OF THE NEW PROOFS. IN THE ABSENCE OF OBJECTION BY AN OMITTED OR UNNOTIFIED PERSON, EVIDENCE RECEIVED IN THE ORIGINAL TESTACY PROCEEDING SHALL CONSTITUTE PRIMA FACIE PROOF OF DUE EXECUTION OF ANY WILL PREVIOUSLY ADMITTED TO PROBATE, OR OF THE FACT THAT THE DECEDENT LEFT NO VALID WILL IF THE PRIOR PROCEEDINGS DETERMINED THIS FACT.

## LAWS OF ARIZONA

**14-3932. Formal proceedings terminating testate administration; order construing will without adjudicating testacy**

A PERSONAL REPRESENTATIVE ADMINISTERING AN ESTATE UNDER AN INFORMALLY PROBATED WILL OR ANY DEVISEE UNDER AN INFORMALLY PROBATED WILL MAY PETITION FOR AN ORDER OF SETTLEMENT OF THE ESTATE WHICH WILL NOT ADJUDICATE THE TESTACY STATUS OF THE DECEDENT. THE PERSONAL REPRESENTATIVE MAY PETITION AT ANY TIME, AND A DEVISEE MAY PETITION AFTER ONE YEAR FROM THE APPOINTMENT OF THE ORIGINAL PERSONAL REPRESENTATIVE, EXCEPT THAT NO PETITION UNDER THIS SECTION MAY BE ENTERTAINED UNTIL THE TIME FOR PRESENTING CLAIMS WHICH AROSE PRIOR TO THE DEATH OF THE DECEDENT HAS EXPIRED. THE PETITION MAY REQUEST THE COURT TO CONSIDER THE FINAL ACCOUNT OR COMPEL OR APPROVE AN ACCOUNTING AND DISTRIBUTION, TO CONSTRUE THE WILL AND ADJUDICATE FINAL SETTLEMENT AND DISTRIBUTION OF THE ESTATE. AFTER NOTICE TO ALL DEVISEES AND THE PERSONAL REPRESENTATIVE AND HEARING, THE COURT MAY ENTER AN ORDER OR ORDERS, ON APPROPRIATE CONDITIONS, DETERMINING THE PERSONS ENTITLED TO DISTRIBUTION OF THE ESTATE UNDER THE WILL, AND, AS CIRCUMSTANCES REQUIRE, APPROVING SETTLEMENT AND DIRECTING, APPROVING OR DECREERING DISTRIBUTION OF THE ESTATE AND DISCHARGING THE PERSONAL REPRESENTATIVE FROM FURTHER CLAIM OR DEMAND OF ANY DEVISEE WHO IS A PARTY TO THE PROCEEDING AND THOSE HE REPRESENTS. IF IT APPEARS THAT A PART OF THE ESTATE IS INTESTATE, THE PROCEEDINGS SHALL BE DISMISSED OR AMENDMENTS MADE TO MEET THE PROVISIONS OF SECTION 14-3931.

**14-3933. Closing estates; by sworn statement of personal representative**

A. UNLESS PROHIBITED BY ORDER OF THE COURT AND EXCEPT FOR ESTATES BEING ADMINISTERED IN SUPERVISED ADMINISTRATION PROCEEDINGS, A PERSONAL REPRESENTATIVE MAY CLOSE AN ESTATE BY FILING WITH THE COURT NO EARLIER THAN FOUR MONTHS AFTER THE DATE OF ORIGINAL APPOINTMENT OF A GENERAL PERSONAL REPRESENTATIVE FOR THE ESTATE, A VERIFIED STATEMENT STATING THAT HE, OR A PRIOR PERSONAL REPRESENTATIVE WHOM HE HAS SUCCEEDED, HAS:

## LAWS OF ARIZONA

1. PUBLISHED NOTICE TO CREDITORS AS PROVIDED BY SECTION 14-3801 AND THAT THE FIRST PUBLICATION OCCURRED MORE THAN FOUR MONTHS PRIOR TO THE DATE OF THE STATEMENT.

2. FULLY ADMINISTERED THE ESTATE OF THE DECEDENT BY MAKING PAYMENT, SETTLEMENT OR OTHER DISPOSITION OF ALL CLAIMS WHICH WERE PRESENTED, EXPENSES OF ADMINISTRATION AND ESTATE, INHERITANCE AND OTHER DEATH TAXES, EXCEPT AS SPECIFIED IN THE STATEMENT, AND THAT THE ASSETS OF THE ESTATE HAVE BEEN DISTRIBUTED TO THE PERSONS ENTITLED. IF ANY CLAIMS REMAIN UNDISCHARGED, THE STATEMENT SHALL STATE WHETHER THE PERSONAL REPRESENTATIVE HAS DISTRIBUTED THE ESTATE SUBJECT TO POSSIBLE LIABILITY WITH THE AGREEMENT OF THE DISTRIBUTEES OR IT SHALL STATE IN DETAIL OTHER ARRANGEMENTS WHICH HAVE BEEN MADE TO ACCOMMODATE OUTSTANDING LIABILITIES.

3. SENT A COPY THEREOF TO ALL DISTRIBUTEES OF THE ESTATE AND TO ALL CREDITORS OR OTHER CLAIMANTS OF WHOM HE IS AWARE WHOSE CLAIMS ARE NEITHER PAID NOR BARRED AND HAS FURNISHED A FULL ACCOUNT IN WRITING OF HIS ADMINISTRATION TO THE DISTRIBUTEES WHOSE INTERESTS ARE AFFECTED THEREBY, INCLUDING GUARDIANS AD LITEM APPOINTED PURSUANT TO SECTION 14-1403, PARAGRAPH 4, CONSERVATORS AND GUARDIANS.

B. IF NO PROCEEDINGS INVOLVING THE PERSONAL REPRESENTATIVE ARE PENDING IN THE COURT ONE YEAR AFTER THE CLOSING STATEMENT IS FILED, THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE TERMINATES.

14-3934. **Liability of distributees to claimants**

AFTER ASSETS OF AN ESTATE HAVE BEEN DISTRIBUTED AND SUBJECT TO SECTION 14-3936, AN UNDISCHARGED CLAIM NOT BARRED MAY BE PROSECUTED IN A PROCEEDING AGAINST ONE OR MORE DISTRIBUTEES. NO DISTRIBUTEE SHALL BE LIABLE TO CLAIMANTS FOR AMOUNTS IN EXCESS OF THE VALUE OF HIS DISTRIBUTION AS OF THE TIME OF DISTRIBUTION. AS BETWEEN DISTRIBUTEES, EACH SHALL BEAR THE COST OF SATISFACTION OF UNBARRED CLAIMS AS IF THE CLAIM HAD BEEN SATISFIED IN THE COURSE OF ADMINISTRATION. ANY DISTRIBUTEE WHO

## LAWS OF ARIZONA

SHALL HAVE FAILED TO NOTIFY OTHER DISTRIBUTEES OF THE DEMAND MADE UPON HIM BY THE CLAIMANT IN SUFFICIENT TIME TO PERMIT THEM TO JOIN IN ANY PROCEEDING IN WHICH THE CLAIM WAS ASSERTED AGAINST HIM LOSES HIS RIGHT OF CONTRIBUTION AGAINST OTHER DISTRIBUTEES.

**14-3935. Limitations on proceedings against personal representative**

UNLESS PREVIOUSLY BARRED BY ADJUDICATION AND EXCEPT AS PROVIDED IN THE CLOSING STATEMENT, THE RIGHTS OF SUCCESSORS AND OF CREDITORS WHOSE CLAIMS AGAINST THE PERSONAL REPRESENTATIVE FOR BREACH OF FIDUCIARY DUTY HAVE NOT OTHERWISE BEEN BARRED ARE BARRED UNLESS A PROCEEDING TO ASSERT THE SAME IS COMMENCED WITHIN SIX MONTHS AFTER THE FILING OF THE CLOSING STATEMENT. THE RIGHTS THUS BARRED DO NOT INCLUDE RIGHTS TO RECOVER FROM A PERSONAL REPRESENTATIVE FOR FRAUD, MISREPRESENTATION OR INADEQUATE DISCLOSURE RELATED TO THE SETTLEMENT OF THE DECEDENT'S ESTATE.

**14-3936. Limitations on actions and proceedings against distributees**

UNLESS PREVIOUSLY ADJUDICATED IN A FORMAL TESTACY PROCEEDING OR IN A PROCEEDING SETTLING THE ACCOUNTS OF A PERSONAL REPRESENTATIVE OR OTHERWISE BARRED, THE CLAIM OF ANY CLAIMANT TO RECOVER FROM A DISTRIBUTEE WHO IS LIABLE TO PAY THE CLAIM, AND THE RIGHT OF ANY HEIR OR DEVISEE OR OF A SUCCESSOR PERSONAL REPRESENTATIVE ACTING IN THEIR BEHALF, TO RECOVER PROPERTY IMPROPERLY DISTRIBUTED OR THE VALUE THEREOF FROM ANY DISTRIBUTEE IS FOREVER BARRED AT THE LATER OF:

1. THREE YEARS AFTER THE DECEDENT'S DEATH.
2. ONE YEAR AFTER THE TIME OF DISTRIBUTION THEREOF.

THIS SECTION DOES NOT BAR AN ACTION TO RECOVER PROPERTY OR VALUE RECEIVED AS THE RESULT OF FRAUD.

**14-3937. Certificate discharging liens securing fiduciary performance**

AFTER HIS APPOINTMENT HAS TERMINATED, THE PERSONAL REPRESENTATIVE, HIS SURETIES OR ANY SUCCESSOR OF EITHER, UPON THE FILING OF A VERIFIED APPLICATION

## LAWS OF ARIZONA

SHOWING, SO FAR AS IS KNOWN BY THE APPLICANT, THAT NO ACTION CONCERNING THE ESTATE IS PENDING IN ANY COURT, IS ENTITLED TO RECEIVE A CERTIFICATE FROM THE REGISTRAR THAT THE PERSONAL REPRESENTATIVE APPEARS TO HAVE FULLY ADMINISTERED THE ESTATE IN QUESTION. THE CERTIFICATE EVIDENCES DISCHARGE OF ANY LIEN ON ANY PROPERTY GIVEN TO SECURE THE OBLIGATION OF THE PERSONAL REPRESENTATIVE IN LIEU OF BOND OR ANY SURETY, BUT DOES NOT PRECLUDE ACTION AGAINST THE PERSONAL REPRESENTATIVE OR THE SURETY.

**14-3938. Subsequent administration**

IF OTHER PROPERTY OF THE ESTATE IS DISCOVERED AFTER AN ESTATE HAS BEEN SETTLED AND THE PERSONAL REPRESENTATIVE DISCHARGED OR AFTER ONE YEAR AFTER A CLOSING STATEMENT HAS BEEN FILED, THE COURT UPON PETITION OF ANY INTERESTED PERSON AND UPON NOTICE AS IT DIRECTS MAY APPOINT THE SAME OR A SUCCESSOR PERSONAL REPRESENTATIVE TO ADMINISTER THE SUBSEQUENTLY DISCOVERED ESTATE. IF A NEW APPOINTMENT IS MADE, UNLESS THE COURT ORDERS OTHERWISE, THE PROVISIONS OF THIS TITLE APPLY AS APPROPRIATE, BUT NO CLAIM PREVIOUSLY BARRED MAY BE ASSERTED IN THE SUBSEQUENT ADMINISTRATION.

## ARTICLE 11. COMPROMISE OF CONTROVERSIES

**14-3951. Effect of approval of agreements involving trusts, inalienable interests, or interests of third persons**

A COMPROMISE OF ANY CONTROVERSY AS TO ADMISSION TO PROBATE OF ANY INSTRUMENT OFFERED FOR FORMAL PROBATE AS THE WILL OF A DECEDENT, THE CONSTRUCTION, VALIDITY OR EFFECT OF ANY PROBATED WILL, THE RIGHTS OR INTERESTS IN THE ESTATE OF THE DECEDENT, OF ANY SUCCESSOR, OR THE ADMINISTRATION OF THE ESTATE, IF APPROVED IN A FORMAL PROCEEDING IN THE COURT FOR THAT PURPOSE, IS BINDING ON ALL THE PARTIES THERETO INCLUDING THOSE UNBORN, UNASCERTAINED OR WHO COULD NOT BE LOCATED. AN APPROVED COMPROMISE IS BINDING EVEN THOUGH IT MAY AFFECT A TRUST OR AN INALIENABLE INTEREST. A COMPROMISE DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR OF TAXING AUTHORITIES WHO ARE NOT PARTIES TO IT.

## LAWS OF ARIZONA

## 14-3952. Procedure for securing court approval of compromise

THE PROCEDURE FOR SECURING COURT APPROVAL OF A COMPROMISE IS AS FOLLOWS:

1. THE TERMS OF THE COMPROMISE SHALL BE SET FORTH IN AN AGREEMENT IN WRITING WHICH SHALL BE EXECUTED BY ALL COMPETENT PERSONS AND PARENTS ACTING FOR ANY MINOR CHILD HAVING BENEFICIAL INTERESTS OR HAVING CLAIMS WHICH WILL OR MAY BE AFFECTED BY THE COMPROMISE. EXECUTION IS NOT REQUIRED BY ANY PERSON WHOSE IDENTITY CANNOT BE ASCERTAINED OR WHOSE WHEREABOUTS IS UNKNOWN AND CANNOT REASONABLY BE ASCERTAINED.

2. ANY INTERESTED PERSON, INCLUDING THE PERSONAL REPRESENTATIVE OR A TRUSTEE, THEN MAY SUBMIT THE AGREEMENT TO THE COURT FOR ITS APPROVAL AND FOR EXECUTION BY THE PERSONAL REPRESENTATIVE, THE TRUSTEE OF EVERY AFFECTED TESTAMENTARY TRUST AND OTHER FIDUCIARIES AND REPRESENTATIVES.

3. AFTER NOTICE TO ALL INTERESTED PERSONS OR THEIR REPRESENTATIVES, INCLUDING THE PERSONAL REPRESENTATIVE OF THE ESTATE AND ALL AFFECTED TRUSTEES OF TRUSTS, THE COURT, IF IT FINDS THAT THE CONTEST OR CONTROVERSY IS IN GOOD FAITH AND THAT THE EFFECT OF THE AGREEMENT UPON THE INTERESTS OF PERSONS REPRESENTED BY FIDUCIARIES OR OTHER REPRESENTATIVES IS JUST AND REASONABLE, SHALL MAKE AN ORDER APPROVING THE AGREEMENT AND DIRECTING ALL FIDUCIARIES UNDER ITS SUPERVISION TO EXECUTE THE AGREEMENT. MINOR CHILDREN REPRESENTED ONLY BY THEIR PARENTS MAY BE BOUND ONLY IF THEIR PARENTS JOIN WITH OTHER COMPETENT PERSONS IN EXECUTION OF THE COMPROMISE. UPON THE MAKING OF THE ORDER AND THE EXECUTION OF THE AGREEMENT, ALL FURTHER DISPOSITION OF THE ESTATE IS IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT.

ARTICLE 12. COLLECTION OF PERSONAL PROPERTY  
BY AFFIDAVIT AND SUMMARY ADMINISTRATION PROCEDURE

## 14-3971. Collection of personal property by affidavit

A. THIRTY DAYS AFTER THE DEATH OF A DECEDENT, ANY PERSON INDEBTED TO THE DECEDENT OR HAVING POSSESSION

## LAWS OF ARIZONA

OF TANGIBLE PERSONAL PROPERTY OR AN INSTRUMENT EVIDENCING A DEBT, OBLIGATION, STOCK OR CHOSE IN ACTION BELONGING TO THE DECEDENT SHALL MAKE PAYMENT OF THE INDEBTEDNESS OR DELIVER THE TANGIBLE PERSONAL PROPERTY OR AN INSTRUMENT EVIDENCING A DEBT, OBLIGATION, STOCK OR CHOSE IN ACTION TO A PERSON CLAIMING TO BE THE SUCCESSOR OF THE DECEDENT UPON BEING PRESENTED AN AFFIDAVIT MADE BY OR ON BEHALF OF THE SUCCESSOR STATING THAT:

1. THE VALUE OF THE ENTIRE ESTATE, WHEREVER LOCATED, LESS LIENS AND ENCUMBRANCES, DOES NOT EXCEED FIVE THOUSAND DOLLARS.

2. THIRTY DAYS HAVE ELAPSED SINCE THE DEATH OF THE DECEDENT.

3. NO APPLICATION OR PETITION FOR THE APPOINTMENT OF A PERSONAL REPRESENTATIVE IS PENDING OR HAS BEEN GRANTED IN ANY JURISDICTION.

4. THE CLAIMING SUCCESSOR IS ENTITLED TO PAYMENT OR DELIVERY OF THE PROPERTY.

B. A TRANSFER AGENT OF ANY SECURITY SHALL CHANGE THE REGISTERED OWNERSHIP ON THE BOOKS OF A CORPORATION FROM THE DECEDENT TO THE SUCCESSOR OR SUCCESSORS UPON THE PRESENTATION OF AN AFFIDAVIT AS PROVIDED IN SUBSECTION A.

14-3972. **Effect of affidavit**

THE PERSON PAYING, DELIVERING, TRANSFERRING OR ISSUING PERSONAL PROPERTY OR THE EVIDENCE THEREOF PURSUANT TO AFFIDAVIT IS DISCHARGED AND RELEASED TO THE SAME EXTENT AS IF HE DEALT WITH A PERSONAL REPRESENTATIVE OF THE DECEDENT. HE IS NOT REQUIRED TO SEE TO THE APPLICATION OF THE PERSONAL PROPERTY OR EVIDENCE THEREOF OR TO INQUIRE INTO THE TRUTH OF ANY STATEMENT IN THE AFFIDAVIT. IF ANY PERSON TO WHOM AN AFFIDAVIT IS DELIVERED REFUSES TO PAY, DELIVER, TRANSFER OR ISSUE ANY PERSONAL PROPERTY OR EVIDENCE THEREOF, IT MAY BE RECOVERED OR ITS PAYMENT, DELIVERY, TRANSFER OR ISSUANCE COMPELLED UPON PROOF OF THEIR RIGHT IN A

## LAWS OF ARIZONA

PROCEEDING BROUGHT FOR THE PURPOSE BY OR ON BEHALF OF THE PERSONS ENTITLED THERETO. ANY PERSON TO WHOM PAYMENT, DELIVERY, TRANSFER OR ISSUANCE IS MADE IS ANSWERABLE AND ACCOUNTABLE THEREFOR TO ANY PERSONAL REPRESENTATIVE OF THE ESTATE OR TO ANY OTHER PERSON HAVING A SUPERIOR RIGHT.

**14-3973. Small estates; summary administrative procedure**

IF IT APPEARS FROM THE INVENTORY AND APPRAISAL THAT THE VALUE OF THE ENTIRE ESTATE, LESS LIENS AND ENCUMBRANCES, DOES NOT EXCEED ALLOWANCE IN LIEU OF HOMESTEAD, EXEMPT PROPERTY, FAMILY ALLOWANCE, COSTS AND EXPENSES OF ADMINISTRATION, REASONABLE FUNERAL EXPENSES, AND REASONABLE AND NECESSARY MEDICAL AND HOSPITAL EXPENSES OF THE LAST ILLNESS OF THE DECEDENT, THE PERSONAL REPRESENTATIVE, WITHOUT GIVING NOTICE TO CREDITORS, MAY IMMEDIATELY DISBURSE AND DISTRIBUTE THE ESTATE TO THE PERSONS ENTITLED THERETO AND FILE A CLOSING STATEMENT AS PROVIDED IN SECTION 14-3974.

**14-3974. Small estates; closing by sworn statement of personal representative**

A. UNLESS PROHIBITED BY ORDER OF THE COURT AND EXCEPT FOR ESTATES BEING ADMINISTERED BY SUPERVISED PERSONAL REPRESENTATIVES, A PERSONAL REPRESENTATIVE MAY CLOSE AN ESTATE ADMINISTERED UNDER THE SUMMARY PROCEDURES OF SECTION 14-3973 BY FILING WITH THE COURT, AT ANY TIME AFTER DISBURSEMENT AND DISTRIBUTION OF THE ESTATE, A VERIFIED STATEMENT STATING THAT:

1. TO THE BEST KNOWLEDGE OF THE PERSONAL REPRESENTATIVE, THE VALUE OF THE ENTIRE ESTATE, LESS LIENS AND ENCUMBRANCES, DID NOT EXCEED ALLOWANCE IN LIEU OF HOMESTEAD, EXEMPT PROPERTY, FAMILY ALLOWANCE, COSTS AND EXPENSES OF ADMINISTRATION, REASONABLE FUNERAL EXPENSES AND REASONABLE, NECESSARY MEDICAL AND HOSPITAL EXPENSES OF THE LAST ILLNESS OF THE DECEDENT.
2. THE PERSONAL REPRESENTATIVE HAS FULLY ADMINISTERED THE ESTATE BY DISBURSING AND DISTRIBUTING IT TO THE PERSONS ENTITLED THERETO.

## LAWS OF ARIZONA

3. THE PERSONAL REPRESENTATIVE HAS SENT A COPY OF THE CLOSING STATEMENT TO ALL DISTRIBUTEES OF THE ESTATE AND TO ALL CREDITORS OR OTHER CLAIMANTS OF WHOM HE IS AWARE WHOSE CLAIMS ARE NEITHER PAID NOR BARRED AND HAS FURNISHED A FULL ACCOUNT IN WRITING OF HIS ADMINISTRATION TO THE DISTRIBUTEES WHOSE INTERESTS ARE AFFECTED.

B. IF NO ACTIONS OR PROCEEDINGS INVOLVING THE PERSONAL REPRESENTATIVE ARE PENDING IN THE COURT ONE YEAR AFTER THE CLOSING STATEMENT IS FILED, THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE TERMINATES.

C. A CLOSING STATEMENT FILED UNDER THIS SECTION HAS THE SAME EFFECT AS ONE FILED UNDER SECTION 14-3933.

CHAPTER 4  
FOREIGN PERSONAL REPRESENTATIVES;  
ANCILLARY ADMINISTRATION  
ARTICLE 1. DEFINITIONS

14-4101. **Definitions**

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "LOCAL ADMINISTRATION" MEANS ADMINISTRATION BY A PERSONAL REPRESENTATIVE APPOINTED IN THIS STATE PURSUANT TO APPOINTMENT PROCEEDINGS DESCRIBED IN CHAPTER 3.

2. "LOCAL PERSONAL REPRESENTATIVE" INCLUDES ANY PERSONAL REPRESENTATIVE APPOINTED IN THIS STATE PURSUANT TO APPOINTMENT PROCEEDINGS DESCRIBED IN CHAPTER 3 AND EXCLUDES FOREIGN PERSONAL REPRESENTATIVES WHO ACQUIRE THE POWER OF A LOCAL PERSONAL REPRESENTATIVE PURSUANT TO SECTION 14-4205.

3. "RESIDENT CREDITOR" MEANS A PERSON DOMICILED IN, OR DOING BUSINESS IN THIS STATE, WHO IS, OR COULD BE, A CLAIMANT AGAINST AN ESTATE OF A NONRESIDENT DECEDENT.

ARTICLE 2. POWERS OF FOREIGN  
PERSONAL REPRESENTATIVES

## LAWS OF ARIZONA

**14-4201. Payment of debt and delivery of property to domiciliary foreign personal representative without local administration**

AT ANY TIME AFTER THE EXPIRATION OF SIXTY DAYS FROM THE DEATH OF A NONRESIDENT DECEDENT, ANY PERSON INDEBTED TO THE ESTATE OF THE NONRESIDENT DECEDENT OR HAVING POSSESSION OR CONTROL OF PERSONAL PROPERTY, OR OF AN INSTRUMENT EVIDENCING A DEBT, OBLIGATION, STOCK OR CHOSE IN ACTION BELONGING TO THE ESTATE OF THE NONRESIDENT DECEDENT MAY PAY THE DEBT, DELIVER THE PERSONAL PROPERTY, OR THE INSTRUMENT EVIDENCING THE DEBT, OBLIGATION, STOCK OR CHOSE IN ACTION, TO THE DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE OF THE NONRESIDENT DECEDENT UPON BEING PRESENTED WITH PROOF OF HIS APPOINTMENT AND AN AFFIDAVIT MADE BY OR ON BEHALF OF THE REPRESENTATIVE STATING:

1. THE DATE OF THE DEATH OF THE NONRESIDENT DECEDENT.
2. THAT NO LOCAL ADMINISTRATION, OR APPLICATION OR PETITION THEREFOR, IS PENDING IN THIS STATE.
3. THAT THE DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE IS ENTITLED TO PAYMENT OR DELIVERY.

THE PROVISIONS OF THIS SECTION ARE IN ADDITION TO, AND ARE NOT EXCLUSIVE OF, ANY OTHER PROVISION OF LAW PERMITTING PAYMENT OF AN OBLIGATION OR DELIVERY OF PROPERTY TO A DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE.

**14-4202. Payment or delivery discharges**

PAYMENT OR DELIVERY MADE IN GOOD FAITH ON THE BASIS OF THE PROOF OF AUTHORITY AND AFFIDAVIT RELEASES THE DEBTOR OR PERSON HAVING POSSESSION OF THE PERSONAL PROPERTY TO THE SAME EXTENT AS IF PAYMENT OR DELIVERY HAD BEEN MADE TO A LOCAL PERSONAL REPRESENTATIVE.

**14-4203. Resident creditor notice**

PAYMENT OR DELIVERY UNDER SECTION 14-4201 MAY NOT BE MADE IF A RESIDENT CREDITOR OF THE NONRESIDENT DECEDENT HAS NOTIFIED THE DEBTOR OF THE NONRESIDENT

## LAWS OF ARIZONA

DECEDENT OR THE PERSON HAVING POSSESSION OF THE PERSONAL PROPERTY BELONGING TO THE NONRESIDENT DECEDENT THAT THE DEBT SHOULD NOT BE PAID NOR THE PROPERTY DELIVERED TO THE DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE.

**14-4204. Proof of authority-bond**

IF NO LOCAL ADMINISTRATION OR APPLICATION OR PETITION THEREFOR IS PENDING IN THIS STATE, A DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE MAY FILE WITH A COURT IN THIS STATE IN A COUNTY IN WHICH PROPERTY BELONGING TO THE DECEDENT IS LOCATED, AUTHENTICATED COPIES OF HIS APPOINTMENT AND ANY OFFICIAL BOND REQUIRED BY CHAPTER 3, WHICH BOND SHALL BE IN AN AMOUNT EQUAL TO THE VALUE OF ALL PROPERTY OF THE DECEDENT IN THIS STATE.

**14-4205. Powers**

A DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE WHO HAS COMPLIED WITH SECTION 14-4204 MAY EXERCISE AS TO ASSETS IN THIS STATE ALL POWERS OF A LOCAL PERSONAL REPRESENTATIVE AND MAY MAINTAIN ACTIONS AND PROCEEDINGS IN THIS STATE SUBJECT TO ANY CONDITIONS IMPOSED UPON NONRESIDENT PARTIES GENERALLY.

**14-4206. Power of representatives in transition**

THE POWER OF A DOMICILIARY FOREIGN PERSONAL REPRESENTATIVE UNDER SECTION 14-4201 OR SECTION 14-4205 SHALL BE EXERCISED ONLY IF THERE IS NO ADMINISTRATION OR APPLICATION THEREFOR PENDING IN THIS STATE. AN APPLICATION OR PETITION FOR LOCAL ADMINISTRATION OF THE ESTATE TERMINATES THE POWER OF THE FOREIGN PERSONAL REPRESENTATIVE TO ACT UNDER SECTION 14-4205, BUT THE LOCAL COURT MAY ALLOW THE FOREIGN PERSONAL REPRESENTATIVE TO EXERCISE LIMITED POWERS TO PRESERVE THE ESTATE. NO PERSON WHO, BEFORE RECEIVING ACTUAL NOTICE OF A PENDING LOCAL ADMINISTRATION, HAS CHANGED HIS POSITION IN RELIANCE UPON THE POWERS OF A FOREIGN PERSONAL REPRESENTATIVE SHALL BE PREJUDICED BY REASON OF THE APPLICATION OR PETITION FOR, OR GRANT OF, LOCAL ADMINISTRATION. THE LOCAL PERSONAL REPRESENTATIVE IS SUBJECT TO

## LAW OF ARIZONA

ALL DUTIES AND OBLIGATIONS WHICH HAVE ACCRUED BY VIRTUE OF THE EXERCISE OF THE POWERS BY THE FOREIGN PERSONAL REPRESENTATIVE AND MAY BE SUBSTITUTED FOR HIM IN ANY ACTION OR PROCEEDINGS IN THIS STATE.

**14-4207. Ancillary and other local administrations; provisions governing**

IN RESPECT TO A NONRESIDENT DECEDENT, THE PROVISIONS OF CHAPTER 3 OF THIS TITLE GOVERN BOTH:

1. PROCEEDINGS, IF ANY, IN A COURT OF THIS STATE FOR PROBATE OF THE WILL, APPOINTMENT, REMOVAL, SUPERVISION AND DISCHARGE OF THE LOCAL PERSONAL REPRESENTATIVE, AND ANY OTHER ORDER CONCERNING THE ESTATE.
2. THE STATUS, POWERS, DUTIES AND LIABILITIES OF ANY LOCAL PERSONAL REPRESENTATIVE AND THE RIGHTS OF CLAIMANTS, PURCHASERS, DISTRIBUTEES AND OTHERS IN REGARD TO A LOCAL ADMINISTRATION.

ARTICLE 3. JURISDICTION OVER  
FOREIGN REPRESENTATIVES

**14-4301. Jurisdiction by act of foreign personal representative**

A FOREIGN PERSONAL REPRESENTATIVE SUBMITS HIMSELF TO THE JURISDICTION OF THE COURTS OF THIS STATE, IN ANY PROCEEDING RELATING TO THE ESTATE, BY ANY OF THE FOLLOWING:

1. FILING AUTHENTICATED COPIES OF HIS APPOINTMENT AS PROVIDED IN SECTION 14-4204.
2. RECEIVING PAYMENT OF MONEY OR TAKING DELIVERY OF PERSONAL PROPERTY UNDER SECTION 14-4201.
3. DOING ANY ACT AS A PERSONAL REPRESENTATIVE IN THIS STATE WHICH WOULD HAVE GIVEN THE STATE JURISDICTION OVER HIM AS AN INDIVIDUAL.

JURISDICTION UNDER PARAGRAPH 2 OF THIS SUBSECTION IS LIMITED TO THE MONEY OR VALUE OF PERSONAL PROPERTY COLLECTED.

## LAWS OF ARIZONA

**14-4302. Jurisdiction by act of decedent**

IN ADDITION TO JURISDICTION CONFERRED BY SECTION 14-4301, A FOREIGN PERSONAL REPRESENTATIVE IS SUBJECT TO THE JURISDICTION OF THE COURTS OF THIS STATE TO THE SAME EXTENT THAT HIS DECEDENT WAS SUBJECT TO JURISDICTION IMMEDIATELY PRIOR TO DEATH.

**14-4303. Service on foreign personal representative**

A. SERVICE OF PROCESS MAY BE MADE UPON THE FOREIGN PERSONAL REPRESENTATIVE BY REGISTERED OR CERTIFIED MAIL, ADDRESSED TO HIS LAST REASONABLY ASCERTAINABLE ADDRESS, REQUESTING A RETURN RECEIPT SIGNED BY ADDRESSEE ONLY. NOTICE BY ORDINARY FIRST CLASS MAIL IS SUFFICIENT IF REGISTERED OR CERTIFIED MAIL SERVICE TO THE ADDRESSEE IS UNAVAILABLE. SERVICE MAY BE MADE UPON A FOREIGN PERSONAL REPRESENTATIVE IN THE MANNER IN WHICH SERVICE COULD HAVE BEEN MADE UNDER OTHER LAWS OF THIS STATE ON EITHER THE FOREIGN PERSONAL REPRESENTATIVE OR HIS DECEDENT IMMEDIATELY PRIOR TO DEATH.

B. IF SERVICE IS MADE UPON A FOREIGN PERSONAL REPRESENTATIVE AS PROVIDED IN SUBSECTION A, HE SHALL BE ALLOWED AT LEAST THIRTY DAYS WITHIN WHICH TO APPEAR OR RESPOND.

ARTICLE 4. JUDGMENTS AND  
PERSONAL REPRESENTATIVE**14-4401. Effect of adjudication for or against personal representative**

AN ADJUDICATION RENDERED IN ANY JURISDICTION IN FAVOR OF OR AGAINST ANY PERSONAL REPRESENTATIVE OF THE ESTATE IS AS BINDING ON THE LOCAL PERSONAL REPRESENTATIVE AS IF HE WERE A PARTY TO THE ADJUDICATION.

CHAPTER 5  
PROTECTION OF PERSONS UNDER DISABILITY  
AND THEIR PROPERTY  
ARTICLE 1. GENERAL PROVISIONS**14-5101. Definitions and use of terms**

## LAWS OF ARIZONA

IN THIS TITLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "INCAPACITATED PERSON" MEANS ANY PERSON WHO IS IMPAIRED BY REASON OF MENTAL ILLNESS, MENTAL DEFICIENCY, PHYSICAL ILLNESS OR DISABILITY, ADVANCED AGE, CHRONIC USE OF DRUGS, CHRONIC INTOXICATION OR OTHER CAUSE, EXCEPT MINORITY, TO THE EXTENT THAT HE LACKS SUFFICIENT UNDERSTANDING OR CAPACITY TO MAKE OR COMMUNICATE RESPONSIBLE DECISIONS CONCERNING HIS PERSON.
2. "PROTECTED PERSON" IS A MINOR OR OTHER PERSON FOR WHOM A CONSERVATOR HAS BEEN APPOINTED OR OTHER PROTECTIVE ORDER HAS BEEN MADE.
3. "PROTECTIVE PROCEEDING" IS A PROCEEDING UNDER THE PROVISIONS OF SECTION 14-5401 TO DETERMINE THAT A PERSON CANNOT EFFECTIVELY MANAGE OR APPLY HIS ESTATE TO NECESSARY ENDS, EITHER BECAUSE HE LACKS THE ABILITY OR IS OTHERWISE INCONVENIENCED, OR BECAUSE HE IS A MINOR, AND TO SECURE ADMINISTRATION OF HIS ESTATE BY A CONSERVATOR OR OTHER APPROPRIATE RELIEF.
4. "WARD" IS A PERSON FOR WHOM A GUARDIAN HAS BEEN APPOINTED. A "MINOR WARD" IS A MINOR FOR WHOM A GUARDIAN HAS BEEN APPOINTED SOLELY BECAUSE OF MINORITY.

**14-5102. Jurisdiction of subject matter; consolidation of proceedings**

A. THE COURT HAS JURISDICTION OVER PROTECTIVE PROCEEDINGS AND GUARDIANSHIP PROCEEDINGS.

B. WHEN BOTH GUARDIANSHIP AND PROTECTIVE PROCEEDINGS AS TO THE SAME PERSON ARE COMMENCED OR PENDING IN THE SAME COURT, THE PROCEEDINGS MAY BE CONSOLIDATED.

**14-5103. Facility of payment or delivery**

ANY PERSON UNDER A DUTY TO PAY OR DELIVER MONEY OR PERSONAL PROPERTY TO A MINOR MAY PERFORM THIS DUTY, IN AMOUNTS NOT EXCEEDING FIVE THOUSAND DOLLARS PER ANNUM, BY PAYING OR DELIVERING THE MONEY OR PROPERTY TO ANY OF THE FOLLOWING:

## LAWS OF ARIZONA

1. THE MINOR, IF HE IS MARRIED.
2. ANY PERSON HAVING THE CARE AND CUSTODY OF THE MINOR AND WITH WHOM THE MINOR RESIDES.
3. THE GUARDIAN OF THE MINOR.
4. A FINANCIAL INSTITUTION INCIDENT TO A DEPOSIT IN A FEDERALLY INSURED SAVINGS ACCOUNT IN THE SOLE NAME OF THE MINOR AND GIVING NOTICE OF THE DEPOSIT TO THE MINOR.

THIS SECTION DOES NOT APPLY IF THE PERSON MAKING PAYMENT OR DELIVERY HAS ACTUAL KNOWLEDGE THAT A CONSERVATOR HAS BEEN APPOINTED OR PROCEEDINGS FOR APPOINTMENT OF A CONSERVATOR OF THE ESTATE OF THE MINOR ARE PENDING. THE PERSONS, OTHER THAN THE MINOR OR ANY FINANCIAL INSTITUTION UNDER PARAGRAPH 4, RECEIVING MONEY OR PROPERTY FOR A MINOR ARE OBLIGATED TO APPLY THE MONEY TO THE SUPPORT AND EDUCATION OF THE MINOR, BUT MAY NOT PAY THEMSELVES EXCEPT BY WAY OF REIMBURSEMENT FOR OUT-OF-POCKET EXPENSES FOR GOODS AND SERVICES NECESSARY FOR THE MINOR'S SUPPORT. ANY EXCESS SUMS SHALL BE PRESERVED FOR FUTURE SUPPORT OF THE MINOR AND ANY BALANCE NOT SO USED AND ANY PROPERTY RECEIVED FOR THE MINOR MUST BE TURNED OVER TO THE MINOR WHEN HE ATTAINS MAJORITY. PERSONS WHO PAY OR DELIVER IN ACCORDANCE WITH PROVISIONS OF THIS SECTION ARE NOT RESPONSIBLE FOR THE PROPER APPLICATION THEREOF.

**14-5104. Delegation of powers by parent or guardian**

A PARENT OR A GUARDIAN OF A MINOR OR INCAPACITATED PERSON, BY A PROPERLY EXECUTED POWER OF ATTORNEY, MAY DELEGATE TO ANOTHER PERSON, FOR A PERIOD NOT EXCEEDING SIX MONTHS, ANY POWERS HE MAY HAVE REGARDING CARE, CUSTODY OR PROPERTY OF THE MINOR CHILD OR WARD, EXCEPT POWER TO CONSENT TO MARRIAGE OR ADOPTION OF THE MINOR.

**14-5105. Bond of guardian**

GUARDIANS COMING INTO THE POSSESSION OR CONTROL OF FUNDS OR OTHER PROPERTY OF PERSONS UNDER DISABILITY

## LAWS OF ARIZONA

MAY BE REQUIRED BY THE COURT TO FURNISH A BOND IN AN AMOUNT AND UNDER THE CONDITIONS SET FORTH FOR CONSERVATORS IN SECTION 14-5411 and 14-5412.

## ARTICLE 2. GUARDIANS OF MINORS

14-5201. **Status of guardian of minor; general**

A PERSON BECOMES A GUARDIAN OF A MINOR BY ACCEPTANCE OF A TESTAMENTARY APPOINTMENT OR UPON APPOINTMENT BY THE COURT. THE GUARDIANSHIP STATUS CONTINUES UNTIL TERMINATED, WITHOUT REGARD TO THE LOCATION FROM TIME TO TIME OF THE GUARDIAN AND MINOR WARD.

14-5202. **Testamentary appointment of guardian of minor**

THE PARENT OF A MINOR MAY APPOINT BY WILL A GUARDIAN OF AN UNMARRIED MINOR. SUBJECT TO THE RIGHT OF THE MINOR UNDER SECTION 14-5203, A TESTAMENTARY APPOINTMENT BECOMES EFFECTIVE UPON FILING THE GUARDIAN'S ACCEPTANCE IN THE COURT IN WHICH THE WILL IS PROBATED, IF BEFORE ACCEPTANCE, BOTH PARENTS ARE DEAD OR THE SURVIVING PARENT IS ADJUDGED INCAPACITATED. IF BOTH PARENTS ARE DEAD, AN EFFECTIVE APPOINTMENT BY THE PARENT WHO DIED LATER HAS PRIORITY. THIS STATE RECOGNIZES A TESTAMENTARY APPOINTMENT EFFECTED BY FILING THE GUARDIAN'S ACCEPTANCE UNDER A WILL PROBATED IN ANOTHER STATE WHICH IS THE TESTATOR'S DOMICILE. UPON ACCEPTANCE OF APPOINTMENT, WRITTEN NOTICE OF ACCEPTANCE MUST BE GIVEN BY THE GUARDIAN TO THE MINOR AND ALSO TO EITHER THE PERSON HAVING HIS CARE OR HIS NEAREST ADULT RELATION.

14-5203. **Objection by minor of fourteen or older to testamentary appointment**

A MINOR OF FOURTEEN OR MORE YEARS MAY PREVENT AN APPOINTMENT OF HIS TESTAMENTARY GUARDIAN FROM BECOMING EFFECTIVE, OR MAY CAUSE A PREVIOUSLY ACCEPTED APPOINTMENT TO TERMINATE, BY FILING WITH THE COURT IN WHICH THE WILL IS PROBATED A WRITTEN OBJECTION TO THE APPOINTMENT BEFORE IT IS ACCEPTED OR WITHIN THIRTY DAYS AFTER NOTICE OF ITS ACCEPTANCE. AN OBJECTION MAY BE WITHDRAWN. AN OBJECTION DOES NOT PRECLUDE APPOINT-

## LAWS OF ARIZONA

MENT BY THE COURT IN A PROPER PROCEEDING OF THE TESTAMENTARY NOMINEE OR ANY OTHER SUITABLE PERSON.

**14-5204. Court appointment of guardian of minor; conditions for appointment**

THE COURT MAY APPOINT A GUARDIAN FOR AN UNMARRIED MINOR IF ALL PARENTAL RIGHTS OF CUSTODY HAVE BEEN TERMINATED OR SUSPENDED BY CIRCUMSTANCES OR PRIOR COURT ORDER. A GUARDIAN APPOINTED BY WILL AS PROVIDED IN SECTION 14-5202 WHOSE APPOINTMENT HAS NOT BEEN PREVENTED OR NULLIFIED UNDER SECTION 14-5203 HAS PRIORITY OVER ANY GUARDIAN WHO MAY BE APPOINTED BY THE COURT BUT THE COURT MAY PROCEED WITH AN APPOINTMENT UPON A FINDING THAT THE TESTAMENTARY GUARDIAN HAS FAILED TO ACCEPT THE TESTAMENTARY APPOINTMENT WITHIN THIRTY DAYS AFTER NOTICE OF THE GUARDIANSHIP PROCEEDING.

**14-5205. Court appointment of guardian of minor; venue**

THE VENUE FOR GUARDIANSHIP PROCEEDINGS FOR A MINOR IS IN THE PLACE WHERE THE MINOR RESIDES OR IS PRESENT.

**14-5206. Court appointment of guardian of minor; qualifications; priority of minor's nominee**

THE COURT SHALL APPOINT AS GUARDIAN ANY PERSON WHOSE APPOINTMENT WOULD BE IN THE BEST INTERESTS OF THE MINOR. THE COURT MAY APPOINT A PERSON NOMINATED BY THE MINOR, IF THE MINOR IS FOURTEEN YEARS OF AGE OR OLDER, UNLESS THE COURT FINDS THE APPOINTMENT CONTRARY TO THE BEST INTERESTS OF THE MINOR.

**14-5207. Court appointment of guardian of minor; procedure**

A. NOTICE OF THE TIME AND PLACE OF HEARING OF A PETITION FOR THE APPOINTMENT OF A GUARDIAN OF A MINOR IS TO BE GIVEN BY THE PETITIONER IN THE MANNER PRESCRIBED BY SECTION 14-1401 TO THE FOLLOWING:

1. THE MINOR, IF HE IS FOURTEEN OR MORE YEARS OF AGE.
2. THE PERSON WHO HAS HAD THE PRINCIPAL CARE AND

## LAWS OF ARIZONA

CUSTODY OF THE MINOR DURING THE SIXTY DAYS PRECEDING THE DATE OF THE PETITION.

3. ANY LIVING PARENT OF THE MINOR.

B. UPON HEARING, IF THE COURT FINDS THAT A QUALIFIED PERSON SEEKS APPOINTMENT, VENUE IS PROPER, THE REQUIRED NOTICES HAVE BEEN GIVEN, THE REQUIREMENTS OF SECTION 14-5204 HAVE BEEN MET AND THE WELFARE AND BEST INTERESTS OF THE MINOR WILL BE SERVED BY THE REQUESTED APPOINTMENT, IT SHALL MAKE THE APPOINTMENT. IN OTHER CASES THE COURT MAY DISMISS THE PROCEEDINGS OR MAKE ANY OTHER DISPOSITION OF THE MATTER THAT WILL BEST SERVE THE INTERESTS OF THE MINOR.

C. IF NECESSARY, THE COURT MAY APPOINT A TEMPORARY GUARDIAN, WITH THE STATUS OF AN ORDINARY GUARDIAN OF A MINOR, BUT THE AUTHORITY OF A TEMPORARY GUARDIAN SHALL NOT LAST LONGER THAN SIX MONTHS.

D. IF, AT ANY TIME IN THE PROCEEDING, THE COURT DETERMINES THAT THE INTERESTS OF THE MINOR ARE OR MAY BE INADEQUATELY REPRESENTED, IT MAY APPOINT AN ATTORNEY TO REPRESENT THE MINOR, GIVING CONSIDERATION TO THE PREFERENCE OF THE MINOR IF THE MINOR IS FOURTEEN YEARS OF AGE OR OLDER.

14-5208. **Consent to service by acceptance of appointment; notice**

BY ACCEPTING A TESTAMENTARY OR COURT APPOINTMENT AS GUARDIAN, A GUARDIAN SUBMITS PERSONALLY TO THE JURISDICTION OF THE COURT IN ANY PROCEEDING RELATING TO THE GUARDIANSHIP THAT MAY BE INSTITUTED BY ANY INTERESTED PERSON. NOTICE OF ANY PROCEEDING SHALL BE DELIVERED TO THE GUARDIAN, OR MAILED TO HIM BY ORDINARY MAIL AT HIS ADDRESS AS LISTED IN THE COURT RECORDS AND TO HIS ADDRESS AS THEN KNOWN TO THE PETITIONER. LETTERS OF GUARDIANSHIP MUST INDICATE WHETHER THE GUARDIAN WAS APPOINTED BY WILL OR BY COURT ORDER.

14-5209. **Powers and duties of guardian of minor**

A GUARDIAN OF A MINOR HAS THE POWERS AND RESPONSIBILITIES OF A PARENT WHO HAS NOT BEEN DEPRIVED OF CUSTODY

## LAWS OF ARIZONA

OF HIS UNEMANCIPATED MINOR CHILD, EXCEPT THAT A GUARDIAN IS NOT LEGALLY OBLIGATED TO PROVIDE FROM HIS OWN FUNDS FOR THE WARD AND IS NOT LIABLE TO THIRD PERSONS FOR ACTS OF THE WARD SOLELY BY REASON OF THE GUARDIANSHIP. IN PARTICULAR, AND WITHOUT QUALIFYING THE FOREGOING, A GUARDIAN HAS THE FOLLOWING POWERS AND DUTIES:

1. HE MUST TAKE REASONABLE CARE OF HIS WARD'S PERSONAL EFFECTS AND COMMENCE PROTECTIVE PROCEEDINGS IF NECESSARY TO PROTECT OTHER PROPERTY OF THE WARD.

2. HE MAY RECEIVE MONEY PAYABLE FOR THE SUPPORT OF THE WARD TO THE WARD'S PARENT, GUARDIAN OR CUSTODIAN UNDER THE TERMS OF ANY STATUTORY BENEFIT OR INSURANCE SYSTEM, OR ANY PRIVATE CONTRACT, DEVISE, TRUST, CONSERVATORSHIP OR CUSTODIANSHIP. HE ALSO MAY RECEIVE MONEY OR PROPERTY OF THE WARD PAID OR DELIVERED BY VIRTUE OF SECTION 14-5103. ANY SUMS SO RECEIVED SHALL BE APPLIED TO THE WARD'S CURRENT NEEDS FOR SUPPORT, CARE AND EDUCATION. HE MUST EXERCISE DUE CARE TO CONSERVE ANY EXCESS FOR THE WARD'S FUTURE NEEDS UNLESS A CONSERVATOR HAS BEEN APPOINTED FOR THE ESTATE OF THE WARD, IN WHICH CASE EXCESS SHALL BE PAID OVER AT LEAST ANNUALLY TO THE CONSERVATOR. SUMS SO RECEIVED BY THE GUARDIAN ARE NOT TO BE USED FOR COMPENSATION FOR HIS SERVICES EXCEPT AS APPROVED BY ORDER OF COURT OR AS DETERMINED BY A DULY APPOINTED CONSERVATOR OTHER THAN THE GUARDIAN. A GUARDIAN MAY INSTITUTE PROCEEDINGS TO COMPEL THE PERFORMANCE BY ANY PERSON OF A DUTY TO SUPPORT THE WARD OR TO PAY SUMS FOR THE WELFARE OF THE WARD.

3. THE GUARDIAN IS EMPOWERED TO FACILITATE THE WARD'S EDUCATION, SOCIAL OR OTHER ACTIVITIES AND TO AUTHORIZE MEDICAL OR OTHER PROFESSIONAL CARE, TREATMENT OR ADVICE. A GUARDIAN IS NOT LIABLE BY REASON OF THIS CONSENT FOR INJURY TO THE WARD RESULTING FROM THE NEGLIGENCE OR ACTS OF THIRD PERSONS UNLESS IT WOULD HAVE BEEN ILLEGAL FOR A PARENT TO HAVE CONSENTED. A GUARDIAN MAY CONSENT TO THE MARRIAGE OR ADOPTION OF HIS WARD.

4. A GUARDIAN MUST REPORT THE CONDITION OF HIS WARD AND OF THE WARD'S ESTATE WHICH HAS BEEN SUBJECT TO HIS

## LAWS OF ARIZONA

POSSESSION OR CONTROL, AS ORDERED BY COURT ON PETITION OF ANY PERSON INTERESTED IN THE MINOR'S WELFARE OR AS REQUIRED BY COURT RULE.

**14-5210. Termination of appointment of guardian; general**

A GUARDIAN'S AUTHORITY AND RESPONSIBILITY TERMINATES UPON THE DEATH, RESIGNATION OR REMOVAL OF THE GUARDIAN OR UPON THE MINOR'S DEATH, ADOPTION, MARRIAGE OR ATTAINMENT OF MAJORITY, BUT TERMINATION DOES NOT AFFECT HIS LIABILITY FOR PRIOR ACTS, NOR HIS OBLIGATION TO ACCOUNT FOR FUNDS AND ASSETS OF HIS WARD. RESIGNATION OF A GUARDIAN DOES NOT TERMINATE THE GUARDIANSHIP UNTIL IT HAS BEEN APPROVED BY THE COURT. A TESTAMENTARY APPOINTMENT UNDER AN INFORMALLY PROBATED WILL TERMINATES IF THE WILL IS LATER DENIED PROBATE IN A FORMAL PROCEEDING.

**14-5211. Proceedings subsequent to appointment; venue**

A. THE COURT WHERE THE WARD RESIDES HAS CONCURRENT JURISDICTION WITH THE COURT WHICH APPOINTED THE GUARDIAN, OR IN WHICH ACCEPTANCE OF A TESTAMENTARY APPOINTMENT WAS FILED, OVER RESIGNATION, REMOVAL, ACCOUNTING AND OTHER PROCEEDINGS RELATING TO THE GUARDIANSHIP.

B. IF THE COURT LOCATED WHERE THE WARD RESIDES IS NOT THE COURT IN WHICH ACCEPTANCE OF APPOINTMENT IS FILED, THE COURT IN WHICH PROCEEDINGS SUBSEQUENT TO APPOINTMENT ARE COMMENCED SHALL IN ALL APPROPRIATE CASES NOTIFY THE OTHER COURT, IN THIS OR ANOTHER STATE, AND AFTER CONSULTATION WITH THAT COURT DETERMINE WHETHER TO RETAIN JURISDICTION OR TRANSFER THE PROCEEDINGS TO THE OTHER COURT, WHICHEVER IS IN THE BEST INTERESTS OF THE WARD. A COPY OF ANY ORDER ACCEPTING A RESIGNATION OR REMOVING A GUARDIAN SHALL BE SENT TO THE COURT IN WHICH ACCEPTANCE OF APPOINTMENT IS FILED.

**14-5212. Resignation or removal proceedings**

A. ANY PERSON INTERESTED IN THE WELFARE OF A WARD OR THE WARD, IF FOURTEEN OR MORE YEARS OF AGE, MAY PETITION FOR REMOVAL OF A GUARDIAN ON THE GROUND

## LAWS OF ARIZONA

THAT REMOVAL WOULD BE IN THE BEST INTERESTS OF THE WARD. A GUARDIAN MAY PETITION FOR PERMISSION TO RESIGN. A PETITION FOR REMOVAL OR FOR PERMISSION TO RESIGN MAY, BUT NEED NOT, INCLUDE A REQUEST FOR APPOINTMENT OF A SUCCESSOR GUARDIAN.

B. AFTER NOTICE AND HEARING ON A PETITION FOR REMOVAL OR FOR PERMISSION TO RESIGN, THE COURT MAY TERMINATE THE GUARDIANSHIP AND MAKE ANY FURTHER ORDER THAT MAY BE APPROPRIATE.

C. IF, AT ANY TIME IN THE PROCEEDING, THE COURT DETERMINES THAT THE INTERESTS OF THE WARD ARE, OR MAY BE, INADEQUATELY REPRESENTED, IT MAY APPOINT AN ATTORNEY TO REPRESENT THE MINOR, GIVING CONSIDERATION TO THE PREFERENCE OF THE MINOR IF THE MINOR IS FOURTEEN OR MORE YEARS OF AGE.

## ARTICLE 3. GUARDIANS OF INCAPACITATED PERSONS

## 14-5301. Testamentary appointment of guardian for incapacitated person

A. THE PARENT OF AN INCAPACITATED PERSON MAY BY WILL APPOINT A GUARDIAN OF THE INCAPACITATED PERSON. A TESTAMENTARY APPOINTMENT BY A PARENT BECOMES EFFECTIVE WHEN, AFTER HAVING GIVEN SEVEN DAYS PRIOR WRITTEN NOTICE OF INTENTION TO DO SO TO THE INCAPACITATED PERSON AND ALSO TO THE PERSON HAVING HIS CARE OR HIS NEAREST ADULT RELATIVE, THE GUARDIAN FILES ACCEPTANCE OF APPOINTMENT IN THE COURT IN WHICH THE WILL IS INFORMALLY OR FORMALLY PROBATED, IF PRIOR THERETO BOTH PARENTS ARE DEAD OR THE SURVIVING PARENT IS ADJUDGED INCAPACITATED. IF BOTH PARENTS ARE DEAD, AN EFFECTIVE APPOINTMENT BY THE PARENT WHO DIED LATER HAS PRIORITY UNLESS IT IS TERMINATED BY THE DENIAL OF PROBATE IN FORMAL PROCEEDINGS.

B. THE SPOUSE OF A MARRIED INCAPACITATED PERSON MAY BY WILL APPOINT A GUARDIAN OF THE INCAPACITATED PERSON. THE APPOINTMENT BECOMES EFFECTIVE WHEN, AFTER HAVING GIVEN SEVEN DAYS PRIOR WRITTEN NOTICE OF INTENTION TO DO SO TO THE INCAPACITATED PERSON AND ALSO TO THE PERSON HAVING HIS CARE OR HIS NEAREST ADULT RELATIVE, THE GUARDIAN FILES ACCEPTANCE OF APPOINT-

## LAWS OF ARIZONA

MENT IN THE COURT IN WHICH THE WILL IS INFORMALLY OR FORMALLY PROBATED. AN EFFECTIVE APPOINTMENT BY A SPOUSE HAS PRIORITY OVER AN APPOINTMENT BY A PARENT UNLESS APPOINTMENT BY THE SPOUSE IS TERMINATED BY THE DENIAL OF PROBATE IN FORMAL PROCEEDINGS.

C. THIS STATE SHALL RECOGNIZE A TESTAMENTARY APPOINTMENT EFFECTED BY FILING ACCEPTANCE UNDER A WILL PROBATED AT THE TESTATOR'S DOMICILE IN ANOTHER STATE.

D. ON THE FILING WITH THE COURT IN WHICH THE WILL WAS PROBATED OF WRITTEN OBJECTION TO THE APPOINTMENT BY THE PERSON FOR WHOM A TESTAMENTARY APPOINTMENT OF GUARDIAN HAS BEEN MADE, THE APPOINTMENT IS TERMINATED. AN OBJECTION DOES NOT PREVENT APPOINTMENT BY THE COURT IN A PROPER PROCEEDING OF THE TESTAMENTARY NOMINEE OR ANY OTHER SUITABLE PERSON UPON AN ADJUDICATION OF INCAPACITY IN PROCEEDINGS UNDER THE SUCCEEDING SECTIONS OF THIS ARTICLE.

14-5302. **Venue**

THE VENUE FOR GUARDIANSHIP PROCEEDINGS FOR AN INCAPACITATED PERSON IS IN THE COUNTY WHERE THE INCAPACITATED PERSON RESIDES OR IS PRESENT. IF THE INCAPACITATED PERSON IS ADMITTED TO AN INSTITUTION PURSUANT TO ORDER OF A COURT OF COMPETENT JURISDICTION, VENUE IS ALSO IN THE COUNTY IN WHICH THAT COURT SITS.

14-5303. **Procedure for court appointment of a guardian of an incapacitated person**

A. THE INCAPACITATED PERSON OR ANY PERSON INTERESTED IN HIS WELFARE MAY PETITION FOR A FINDING OF INCAPACITY AND APPOINTMENT OF A GUARDIAN.

B. UPON THE FILING OF A PETITION, THE COURT SHALL SET A DATE FOR HEARING ON THE ISSUES OF INCAPACITY AND UNLESS THE ALLEGEDLY INCAPACITATED PERSON HAS COUNSEL OF HIS OWN CHOICE, IT SHALL APPOINT AN APPROPRIATE OFFICIAL OR ATTORNEY TO REPRESENT HIM IN THE PROCEEDING, WHO SHALL HAVE THE POWERS AND DUTIES OF A GUARDIAN AD LITEM. THE PERSON ALLEGED TO BE INCAPACITATED SHALL BE BOTH EXAMINED BY A PHYSICIAN APPOINTED BY THE

## LAWS OF ARIZONA

COURT, WHO SHALL SUBMIT HIS REPORT IN WRITING TO THE COURT AND INTERVIEWED BY A VISITOR SENT BY THE COURT. THE VISITOR ALSO SHALL INTERVIEW THE PERSON SEEKING APPOINTMENT AS GUARDIAN, VISIT THE PRESENT PLACE OF ABODE OF THE PERSON ALLEGED TO BE INCAPACITATED AND THE PLACE WHERE IT IS PROPOSED THAT HE WILL BE DETAINED OR RESIDE IF THE REQUESTED APPOINTMENT IS MADE, AND SUBMIT A REPORT IN WRITING TO THE COURT. THE PERSON ALLEGED TO BE INCAPACITATED IS ENTITLED TO BE PRESENT AT THE HEARING IN PERSON, AND TO SEE OR HEAR ALL EVIDENCE BEARING UPON HIS CONDITION. HE IS ENTITLED TO BE REPRESENTED BY COUNSEL, TO PRESENT EVIDENCE, TO CROSS-EXAMINE WITNESSES, INCLUDING THE COURT-APPOINTED PHYSICIAN AND THE VISITOR, AND TO TRIAL BY JURY. THE ISSUE MAY BE DETERMINED AT A CLOSED HEARING WITHOUT A JURY IF THE PERSON ALLEGED TO BE INCAPACITATED OR HIS COUNSEL SO REQUESTS.

**14-5304. Findings; order of appointment**

THE COURT MAY APPOINT A GUARDIAN AS REQUESTED IF IT IS SATISFIED THAT THE PERSON FOR WHOM A GUARDIAN IS SOUGHT IS INCAPACITATED AND THAT THE APPOINTMENT IS NECESSARY OR DESIRABLE AS A MEANS OF PROVIDING CONTINUING CARE AND SUPERVISION OF THE PERSON OF THE INCAPACITATED PERSON. ALTERNATIVELY, THE COURT MAY DISMISS THE PROCEEDING OR ENTER ANY OTHER APPROPRIATE ORDER. THE GUARDIAN SHALL FILE ACCEPTANCE OF APPOINTMENT IN THE APPOINTING COURT.

**14-5305. Acceptance of appointment; consent to jurisdiction**

BY ACCEPTING APPOINTMENT, A GUARDIAN SUBMITS PERSONALLY TO THE JURISDICTION OF THE COURT IN ANY PROCEEDING RELATING TO THE GUARDIANSHIP THAT MAY BE INSTITUTED BY ANY INTERESTED PERSON. NOTICE OF ANY PROCEEDING SHALL BE DELIVERED TO THE GUARDIAN OR MAILED TO HIM BY ORDINARY MAIL AT HIS ADDRESS AS LISTED IN THE COURT RECORDS AND TO HIS ADDRESS AS THEN KNOWN TO THE PETITIONER.

**14-5306. Termination of guardianship for incapacitated person**

THE AUTHORITY AND RESPONSIBILITY OF A GUARDIAN FOR AN INCAPACITATED PERSON TERMINATES UPON THE DEATH OF

## LAWS OF ARIZONA

THE GUARDIAN OR WARD, A DETERMINATION OF INCAPACITY OF THE GUARDIAN, OR UPON REMOVAL OR RESIGNATION AS PROVIDED IN SECTION 14-5307. TESTAMENTARY APPOINTMENT UNDER AN INFORMALLY PROBATED WILL TERMINATES IF THE WILL IS LATER DENIED PROBATE IN A FORMAL PROCEEDING. TERMINATION DOES NOT AFFECT HIS LIABILITY FOR PRIOR ACTS NOR HIS OBLIGATION TO ACCOUNT FOR FUNDS AND ASSETS OF HIS WARD.

**14-5307. Removal or resignation of guardian; termination of incapacity**

A. ON PETITION OF THE WARD OR ANY PERSON INTERESTED IN HIS WELFARE, THE COURT MAY REMOVE A GUARDIAN AND APPOINT A SUCCESSOR IF IN THE BEST INTERESTS OF THE WARD. ON PETITION OF THE GUARDIAN, THE COURT MAY ACCEPT A RESIGNATION AND MAKE ANY OTHER ORDER WHICH MAY BE APPROPRIATE.

B. AN ORDER ADJUDICATING INCAPACITY MAY SPECIFY A MINIMUM PERIOD, NOT EXCEEDING ONE YEAR, DURING WHICH NO PETITION FOR AN ADJUDICATION THAT THE WARD IS NO LONGER INCAPACITATED MAY BE FILED WITHOUT SPECIAL LEAVE. SUBJECT TO THIS RESTRICTION, THE WARD OR ANY PERSON INTERESTED IN HIS WELFARE MAY PETITION FOR AN ORDER THAT THE WARD IS NO LONGER INCAPACITATED, AND FOR REMOVAL OR RESIGNATION OF THE GUARDIAN. A REQUEST FOR THIS ORDER MAY BE MADE BY INFORMAL LETTER TO THE COURT OR JUDGE AND ANY PERSON WHO KNOWINGLY INTERFERES WITH TRANSMISSION OF THIS KIND OF REQUEST TO THE COURT OR JUDGE MAY BE ADJUDGED GUILTY OF CONTEMPT OF COURT.

C. BEFORE REMOVING A GUARDIAN, ACCEPTING THE RESIGNATION OF A GUARDIAN, OR ORDERING THAT A WARD'S INCAPACITY HAS TERMINATED, THE COURT, FOLLOWING THE SAME PROCEDURES TO SAFEGUARD THE RIGHTS OF THE WARD AS APPLY TO A PETITION FOR APPOINTMENT OF A GUARDIAN, MAY SEND A VISITOR TO THE RESIDENCE OF THE PRESENT GUARDIAN AND TO THE PLACE WHERE THE WARD RESIDES OR IS DETAINED, TO OBSERVE CONDITIONS AND REPORT IN WRITING TO THE COURT.

**14-5308. Visitor in guardianship proceeding**

## LAWS OF ARIZONA

A VISITOR IS, WITH RESPECT TO GUARDIANSHIP PROCEEDINGS, A PERSON WHO IS TRAINED IN LAW, NURSING OR SOCIAL WORK AND IS AN OFFICER, EMPLOYEE OR SPECIAL APPOINTEE OF THE COURT WITH NO PERSONAL INTEREST IN THE PROCEEDINGS.

**14-5309. Notices in guardianship proceedings**

A. IN A PROCEEDING FOR THE APPOINTMENT OR REMOVAL OF A GUARDIAN OF AN INCAPACITATED PERSON OTHER THAN THE APPOINTMENT OF A TEMPORARY GUARDIAN OR TEMPORARY SUSPENSION OF A GUARDIAN, NOTICE OF HEARING SHALL BE GIVEN TO EACH OF THE FOLLOWING:

1. THE WARD OR THE PERSON ALLEGED TO BE INCAPACITATED AND HIS SPOUSE, PARENTS AND ADULT CHILDREN.
2. ANY PERSON WHO IS SERVING AS HIS GUARDIAN OR CONSERVATOR OR WHO HAS HIS CARE AND CUSTODY.
3. IN CASE NO OTHER PERSON IS NOTIFIED UNDER PARAGRAPH 1 OF THIS SUBSECTION, AT LEAST ONE OF HIS CLOSEST ADULT RELATIVES, IF ANY CAN BE FOUND.

B. NOTICE SHALL BE SERVED PERSONALLY ON THE ALLEGED INCAPACITATED PERSON, AND HIS SPOUSE AND PARENTS IF THEY CAN BE FOUND WITHIN THE STATE. NOTICE TO THE SPOUSE AND PARENTS, IF THEY CANNOT BE FOUND WITHIN THE STATE, AND TO ALL OTHER PERSONS EXCEPT THE ALLEGED INCAPACITATED PERSON SHALL BE GIVEN AS PROVIDED IN SECTION 14-1401. WAIVER OF NOTICE BY THE PERSON ALLEGED TO BE INCAPACITATED IS NOT EFFECTIVE UNLESS HE ATTENDS THE HEARING OR HIS WAIVER OF NOTICE IS CONFIRMED IN AN INTERVIEW WITH THE VISITOR. REPRESENTATION OF THE ALLEGED INCAPACITATED PERSON BY A GUARDIAN AD LITEM IS NOT NECESSARY.

**14-5310. Temporary guardians**

IF AN INCAPACITATED PERSON HAS NO GUARDIAN AND AN EMERGENCY EXISTS, THE COURT MAY EXERCISE THE POWER OF A GUARDIAN PENDING NOTICE AND HEARING. IF AN APPOINTED GUARDIAN IS NOT EFFECTIVELY PERFORMING HIS DUTIES AND THE COURT FURTHER FINDS THAT THE WELFARE OF THE INCAPACITATED PERSON REQUIRES IMMEDIATE ACTION, IT

## LAWS OF ARIZONA

MAY, WITH OR WITHOUT NOTICE, APPOINT A TEMPORARY GUARDIAN FOR THE INCAPACITATED PERSON FOR A SPECIFIED PERIOD NOT TO EXCEED SIX MONTHS. A TEMPORARY GUARDIAN IS ENTITLED TO THE CARE AND CUSTODY OF THE WARD AND THE AUTHORITY OF ANY PERMANENT GUARDIAN PREVIOUSLY APPOINTED BY THE COURT IS SUSPENDED SO LONG AS A TEMPORARY GUARDIAN HAS AUTHORITY. A TEMPORARY GUARDIAN MAY BE REMOVED AT ANY TIME. A TEMPORARY GUARDIAN SHALL MAKE ANY REPORT THE COURT REQUIRES. IN OTHER RESPECTS THE PROVISIONS OF THIS TITLE CONCERNING GUARDIANS APPLY TO TEMPORARY GUARDIANS.

**14-5311. Who may be guardian; priorities**

A. ANY COMPETENT PERSON MAY BE APPOINTED GUARDIAN OF AN INCAPACITATED PERSON.

B. PERSONS WHO ARE NOT DISQUALIFIED HAVE PRIORITY FOR APPOINTMENT AS GUARDIAN IN THE FOLLOWING ORDER:

1. THE SPOUSE OF THE INCAPACITATED PERSON.
2. AN ADULT CHILD OF THE INCAPACITATED PERSON.
3. A PARENT OF THE INCAPACITATED PERSON, INCLUDING A PERSON NOMINATED BY WILL OR OTHER WRITING SIGNED BY A DECEASED PARENT.
4. ANY RELATIVE OF THE INCAPACITATED PERSON WITH WHOM HE HAS RESIDED FOR MORE THAN SIX MONTHS PRIOR TO THE FILING OF THE PETITION.
5. THE NOMINEE OF A PERSON WHO IS CARING FOR THE INCAPACITATED PERSON OR PAYING BENEFITS TO HIM.

**14-5312. General powers and duties of guardian**

A. A GUARDIAN OF AN INCAPACITATED PERSON HAS THE SAME POWERS, RIGHTS AND DUTIES RESPECTING HIS WARD THAT A PARENT HAS RESPECTING HIS UNEMANCIPATED MINOR CHILD EXCEPT THAT A GUARDIAN IS NOT LIABLE TO THIRD PERSONS FOR ACTS OF THE WARD SOLELY BY REASON OF THE GUARDIANSHIP. IN PARTICULAR, AND WITHOUT QUALIFYING THE FOREGOING, A GUARDIAN HAS THE FOLLOWING POWERS AND DUTIES, EXCEPT AS MODIFIED BY ORDER OF THE COURT:

## LAWS OF ARIZONA

1. TO THE EXTENT THAT IT IS CONSISTENT WITH THE TERMS OF ANY ORDER BY A COURT OF COMPETENT JURISDICTION RELATING TO DETENTION OR COMMITMENT OF THE WARD, HE IS ENTITLED TO CUSTODY OF THE PERSON OF HIS WARD AND MAY ESTABLISH THE WARD'S PLACE OF ABODE WITHIN OR WITHOUT THIS STATE.

2. IF ENTITLED TO CUSTODY OF HIS WARD HE SHALL MAKE PROVISION FOR THE CARE, COMFORT AND MAINTENANCE OF HIS WARD AND, WHENEVER APPROPRIATE, ARRANGE FOR HIS TRAINING AND EDUCATION. WITHOUT REGARD TO CUSTODIAL RIGHTS OF THE WARD'S PERSON, HE SHALL TAKE REASONABLE CARE OF HIS WARD'S CLOTHING, FURNITURE, VEHICLES AND OTHER PERSONAL EFFECTS AND COMMENCE PROTECTIVE PROCEEDINGS IF OTHER PROPERTY OF HIS WARD IS IN NEED OF PROTECTION.

3. A GUARDIAN MAY GIVE ANY CONSENTS OR APPROVALS THAT MAY BE NECESSARY TO ENABLE THE WARD TO RECEIVE MEDICAL OR OTHER PROFESSIONAL CARE, COUNSEL, TREATMENT OR SERVICE.

4. IF NO CONSERVATOR FOR THE ESTATE OF THE WARD HAS BEEN APPOINTED, HE MAY:

(a) INSTITUTE PROCEEDINGS TO COMPEL ANY PERSON UNDER A DUTY TO SUPPORT THE WARD OR TO PAY SUMS FOR THE WELFARE OF THE WARD TO PERFORM HIS DUTY.

(b) RECEIVE MONEY AND TANGIBLE PROPERTY DELIVERABLE TO THE WARD AND APPLY THE MONEY AND PROPERTY FOR SUPPORT, CARE AND EDUCATION OF THE WARD, BUT HE MAY NOT USE FUNDS FROM HIS WARD'S ESTATE FOR ROOM AND BOARD WHICH HE, HIS SPOUSE, PARENT OR CHILD HAVE FURNISHED THE WARD UNLESS A CHARGE FOR THE SERVICE IS APPROVED BY ORDER OF THE COURT MADE UPON NOTICE TO AT LEAST ONE OF THE NEXT OF KIN OF THE WARD, IF NOTICE IS POSSIBLE. HE MUST EXERCISE CARE TO CONSERVE ANY EXCESS FOR THE WARD'S NEEDS.

5. A GUARDIAN IS REQUIRED TO REPORT THE CONDITION OF HIS WARD AND OF THE ESTATE WHICH HAS BEEN SUBJECT TO HIS POSSESSION OR CONTROL, AS REQUIRED BY THE COURT OR COURT RULE.

## LAWS OF ARIZONA

6. IF A CONSERVATOR HAS BEEN APPOINTED, ALL OF THE WARD'S ESTATE RECEIVED BY THE GUARDIAN IN EXCESS OF THOSE FUNDS EXPENDED TO MEET CURRENT EXPENSES FOR SUPPORT, CARE AND EDUCATION OF THE WARD MUST BE PAID TO THE CONSERVATOR FOR MANAGEMENT AS PROVIDED IN THIS CHAPTER AND THE GUARDIAN MUST ACCOUNT TO THE CONSERVATOR FOR FUNDS EXPENDED.

B. ANY GUARDIAN OF ONE FOR WHOM A CONSERVATOR ALSO HAS BEEN APPOINTED SHALL CONTROL THE CUSTODY AND CARE OF THE WARD, AND IS ENTITLED TO RECEIVE REASONABLE SUMS FOR HIS SERVICES AND FOR ROOM AND BOARD FURNISHED TO THE WARD AS AGREED UPON BETWEEN HIM AND THE CONSERVATOR IF THE AMOUNTS AGREED UPON ARE REASONABLE UNDER THE CIRCUMSTANCES. THE GUARDIAN MAY REQUEST THE CONSERVATOR TO EXPEND THE WARD'S ESTATE BY PAYMENT TO THIRD PERSONS OR INSTITUTIONS FOR THE WARD'S CARE AND MAINTENANCE.

14-5313. **Proceedings subsequent to appointment; venue**

A. THE COURT WHERE THE WARD RESIDES HAS CONCURRENT JURISDICTION WITH THE COURT IN WHICH ACCEPTANCE OF APPOINTMENT IS FILED, OVER RESIGNATION, REMOVAL, ACCOUNTING AND OTHER PROCEEDINGS RELATING TO THE GUARDIANSHIP.

B. IF THE COURT LOCATED WHERE THE WARD RESIDES IS NOT THE COURT IN WHICH ACCEPTANCE OF APPOINTMENT IS FILED, THE COURT IN WHICH PROCEEDINGS SUBSEQUENT TO APPOINTMENT ARE COMMENCED SHALL IN ALL APPROPRIATE CASES NOTIFY THE OTHER COURT, IN THIS OR ANOTHER STATE, AND AFTER CONSULTATION WITH THAT COURT DETERMINE WHETHER TO RETAIN JURISDICTION OR TRANSFER THE PROCEEDINGS TO THE OTHER COURT, WHICHEVER MAY BE IN THE BEST INTERESTS OF THE WARD. A COPY OF ANY ORDER ACCEPTING A RESIGNATION OR REMOVING A GUARDIAN SHALL BE SENT TO THE COURT IN WHICH ACCEPTANCE OF APPOINTMENT IS FILED.

ARTICLE 4. PROTECTION OF PROPERTY OF PERSONS  
UNDER DISABILITY AND MINORS

14-5401. **Protective proceedings**

## LAW OF ARIZONA

UPON PETITION AND AFTER NOTICE AND HEARING IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE, THE COURT MAY APPOINT A CONSERVATOR OR MAKE OTHER PROTECTIVE ORDER FOR CAUSE AS FOLLOWS:

1. APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE ORDER MAY BE MADE IN RELATION TO THE ESTATE AND AFFAIRS OF A MINOR IF THE COURT DETERMINES THAT A MINOR OWNS MONEY OR PROPERTY THAT REQUIRES MANAGEMENT OR PROTECTION WHICH CANNOT OTHERWISE BE PROVIDED, HAS OR MAY HAVE BUSINESS AFFAIRS WHICH MAY BE JEOPARDIZED OR PREVENTED BY HIS MINORITY, OR THAT FUNDS ARE NEEDED FOR HIS SUPPORT AND EDUCATION AND THAT PROTECTION IS NECESSARY OR DESIRABLE TO OBTAIN OR PROVIDE FUNDS.

2. APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE ORDER MAY BE MADE IN RELATION TO THE ESTATE AND AFFAIRS OF A PERSON IF THE COURT DETERMINES THAT BOTH:

(a) THE PERSON IS UNABLE TO MANAGE HIS PROPERTY AND AFFAIRS EFFECTIVELY FOR REASONS SUCH AS MENTAL ILLNESS, MENTAL DEFICIENCY, PHYSICAL ILLNESS OR DISABILITY, ADVANCED AGE, CHRONIC USE OF DRUGS, CHRONIC INTOXICATION, CONFINEMENT, DETENTION BY A FOREIGN POWER OR DISAPPEARANCE.

(b) THE PERSON HAS PROPERTY WHICH WILL BE WASTED OR DISSIPATED UNLESS PROPER MANAGEMENT IS PROVIDED, OR THAT FUNDS ARE NEEDED FOR THE SUPPORT, CARE AND WELFARE OF THE PERSON OR THOSE ENTITLED TO BE SUPPORTED BY HIM AND THAT PROTECTION IS NECESSARY OR DESIRABLE TO OBTAIN OR PROVIDE FUNDS.

14-5402. **Protective proceedings; jurisdiction of affairs of protected persons**

AFTER THE SERVICE OF NOTICE IN A PROCEEDING SEEKING THE APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE ORDER AND UNTIL TERMINATION OF THE PROCEEDING, THE COURT IN WHICH THE PETITION IS FILED HAS:

1. EXCLUSIVE JURISDICTION TO DETERMINE THE NEED FOR A CONSERVATOR OR OTHER PROTECTIVE ORDER UNTIL THE PROCEEDINGS ARE TERMINATED.

## LAWS OF ARIZONA

2. EXCLUSIVE JURISDICTION TO DETERMINE HOW THE ESTATE OF THE PROTECTED PERSON WHICH IS SUBJECT TO THE LAWS OF THIS STATE SHALL BE MANAGED, EXPENDED OR DISTRIBUTED TO OR FOR THE USE OF THE PROTECTED PERSON OR ANY OF HIS DEPENDENTS.

3. CONCURRENT JURISDICTION TO DETERMINE THE VALIDITY OF CLAIMS AGAINST THE PERSON OR ESTATE OF THE PROTECTED PERSON AND HIS TITLE TO ANY PROPERTY OR CLAIM.

14-5403. **Venue**

VENUE FOR PROCEEDINGS UNDER THIS ARTICLE IS:

1. IN THE COUNTY IN THIS STATE WHERE THE PERSON TO BE PROTECTED RESIDES WHETHER OR NOT A GUARDIAN HAS BEEN APPOINTED IN ANOTHER PLACE.

2. IF THE PERSON TO BE PROTECTED DOES NOT RESIDE IN THIS STATE, IN ANY COUNTY WHERE HE HAS PROPERTY.

14-5404. **Original petition for appointment or protective order**

A. THE PERSON TO BE PROTECTED, ANY PERSON WHO IS INTERESTED IN HIS ESTATE, AFFAIRS OR WELFARE INCLUDING HIS PARENT, GUARDIAN OR CUSTODIAN, OR ANY PERSON WHO WOULD BE ADVERSELY AFFECTED BY LACK OF EFFECTIVE MANAGEMENT OF HIS PROPERTY AND AFFAIRS MAY PETITION FOR THE APPOINTMENT OF A CONSERVATOR OR FOR OTHER APPROPRIATE PROTECTIVE ORDER.

B. THE PETITION SHALL SET FORTH, TO THE EXTENT KNOWN:

1. THE INTEREST OF THE PETITIONER.

2. THE NAME, AGE, RESIDENCE AND ADDRESS OF THE PERSON TO BE PROTECTED.

3. THE NAME AND ADDRESS OF THE GUARDIAN, IF ANY, OF THE PERSON TO BE PROTECTED.

4. THE NAME AND ADDRESS OF THE NEAREST RELATIVE KNOWN TO THE PETITIONER.

## LAWS OF ARIZONA

5. A GENERAL STATEMENT OF THE PROPERTY OF THE PERSON TO BE PROTECTED WITH AN ESTIMATE OF THE VALUE THEREOF, INCLUDING ANY COMPENSATION, INSURANCE, PENSION OR ALLOWANCE TO WHICH HE IS ENTITLED.

6. THE REASON WHY APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE ORDER IS NECESSARY.

IF THE APPOINTMENT OF A CONSERVATOR IS REQUESTED, THE PETITION ALSO SHALL SET FORTH THE NAME AND ADDRESS OF THE PERSON WHOSE APPOINTMENT IS SOUGHT AND THE BASIS OF HIS PRIORITY FOR APPOINTMENT.

14-5405. **Notice**

A. ON A PETITION FOR APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE ORDER, THE PERSON TO BE PROTECTED AND HIS SPOUSE OR, IF NONE, HIS PARENTS, MUST BE SERVED PERSONALLY WITH NOTICE OF THE PROCEEDING AT LEAST FOURTEEN DAYS BEFORE THE DATE OF HEARING IF THEY CAN BE FOUND WITHIN THE STATE, OR, IF THEY CANNOT BE FOUND WITHIN THE STATE, THEY MUST BE GIVEN NOTICE IN ACCORDANCE WITH SECTION 14-1401. WAIVER BY THE PERSON TO BE PROTECTED IS NOT EFFECTIVE UNLESS HE ATTENDS THE HEARING OR, UNLESS MINORITY IS THE REASON FOR THE PROCEEDING, WAIVER IS CONFIRMED IN AN INTERVIEW WITH THE VISITOR.

B. NOTICE OF A PETITION FOR APPOINTMENT OF A CONSERVATOR OR OTHER INITIAL PROTECTIVE ORDER, AND OF ANY SUBSEQUENT HEARING, MUST BE GIVEN TO ANY PERSON WHO HAS FILED A REQUEST FOR NOTICE UNDER SECTION 14-5406 AND TO INTERESTED PERSONS AND OTHER PERSONS AS THE COURT MAY DIRECT. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION A OF THIS SECTION, NOTICE SHALL BE GIVEN IN ACCORDANCE WITH SECTION 14-1401.

14-5406. **Protective proceedings; request for notice; interested person**

ANY INTERESTED PERSON WHO DESIRES TO BE NOTIFIED BEFORE ANY ORDER IS MADE IN A PROTECTIVE PROCEEDING MAY FILE WITH THE CLERK A REQUEST FOR NOTICE SUBSEQUENT TO PAYMENT OF ANY FEE REQUIRED BY STATUTE OR COURT RULE. THE CLERK SHALL MAIL A COPY OF THE DEMAND

## LAWS OF ARIZONA

TO THE CONSERVATOR IF ONE HAS BEEN APPOINTED. A REQUEST IS NOT EFFECTIVE UNLESS IT CONTAINS A STATEMENT SHOWING THE INTEREST OF THE PERSON MAKING IT AND HIS ADDRESS, OR THAT OF HIS ATTORNEY, AND IS EFFECTIVE ONLY AS TO MATTERS OCCURRING AFTER THE FILING. ANY GOVERNMENTAL AGENCY PAYING OR PLANNING TO PAY BENEFITS TO THE PERSON TO BE PROTECTED IS AN INTERESTED PERSON IN PROTECTIVE PROCEEDINGS.

**14-5407 Procedure concerning hearing and order on original petition**

A. UPON RECEIPT OF A PETITION FOR APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE ORDER BECAUSE OF MINORITY, THE COURT SHALL SET A DATE FOR HEARING ON THE MATTERS ALLEGED IN THE PETITION. IF, AT ANY TIME IN THE PROCEEDING, THE COURT DETERMINES THAT THE INTERESTS OF THE MINOR ARE OR MAY BE INADEQUATELY REPRESENTED, IT MAY APPOINT AN ATTORNEY TO REPRESENT THE MINOR, GIVING CONSIDERATION TO THE CHOICE OF THE MINOR IF FOURTEEN YEARS OF AGE OR OLDER. A LAWYER APPOINTED BY THE COURT TO REPRESENT A MINOR HAS THE POWERS AND DUTIES OF A GUARDIAN AD LITEM.

B. UPON RECEIPT OF A PETITION FOR APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE ORDER FOR REASONS OTHER THAN MINORITY, THE COURT SHALL SET A DATE FOR HEARING. AFTER HEARING, UPON FINDING THAT A BASIS FOR THE APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE ORDER HAS BEEN ESTABLISHED, THE COURT SHALL MAKE AN APPOINTMENT OR OTHER APPROPRIATE PROTECTIVE ORDER. UNLESS THE PERSON TO BE PROTECTED HAS COUNSEL OF HIS OWN CHOICE, THE COURT MUST APPOINT A LAWYER TO REPRESENT HIM WHO THEN HAS THE POWERS AND DUTIES OF A GUARDIAN AD LITEM. IF THE ALLEGED DISABILITY IS MENTAL ILLNESS, MENTAL DEFICIENCY, PHYSICAL ILLNESS OR DISABILITY, ADVANCED AGE, CHRONIC USE OF DRUGS, OR CHRONIC INTOXICATION, THE COURT MAY DIRECT THAT THE PERSON TO BE PROTECTED BE EXAMINED BY A PHYSICIAN DESIGNATED BY THE COURT, PREFERABLY A PHYSICIAN WHO IS NOT CONNECTED WITH ANY INSTITUTION IN WHICH THE PERSON IS A PATIENT OR IS DETAINED. THE COURT MAY SEND A VISITOR TO INTERVIEW THE PERSON TO BE PROTECTED. THE VISITOR MAY BE A GUARDIAN AD LITEM OR AN OFFICER OR EMPLOYEE OF THE COURT.

## LAWS OF ARIZONA

C. IN ANY CASE WHERE THE VETERANS ADMINISTRATION IS OR MAY BE AN INTERESTED PARTY, A CERTIFICATE OF AN AUTHORIZED OFFICIAL OF THE VETERANS ADMINISTRATION THAT THE PERSON TO BE PROTECTED HAS BEEN FOUND INCAPABLE OF HANDLING THE BENEFITS PAYABLE, ON EXAMINATION IN ACCORDANCE WITH THE LAWS AND REGULATIONS GOVERNING THE VETERANS ADMINISTRATION, SHALL BE PRIMA FACIE EVIDENCE OF THE NECESSITY FOR APPOINTMENT OF A CONSERVATOR.

14-5408. Permissible court orders

THE COURT HAS THE FOLLOWING POWERS WHICH MAY BE EXERCISED DIRECTLY OR THROUGH A CONSERVATOR IN RESPECT TO THE ESTATE AND AFFAIRS OF PROTECTED PERSONS:

1. WHILE A PETITION FOR APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE ORDER IS PENDING AND AFTER PRELIMINARY HEARING AND WITHOUT NOTICE TO OTHERS, THE COURT HAS POWER TO PRESERVE AND APPLY THE PROPERTY OF THE PERSON TO BE PROTECTED AS MAY BE REQUIRED FOR HIS BENEFIT OR THE BENEFIT OF HIS DEPENDENTS.
2. AFTER HEARING AND UPON DETERMINING THAT A BASIS FOR AN APPOINTMENT OR OTHER PROTECTIVE ORDER EXISTS WITH RESPECT TO A MINOR WITHOUT OTHER DISABILITY, THE COURT HAS ALL THOSE POWERS OVER THE ESTATE AND AFFAIRS OF THE MINOR WHICH ARE OR MIGHT BE NECESSARY FOR THE BEST INTERESTS OF THE MINOR, HIS FAMILY AND MEMBERS OF HIS HOUSEHOLD.
3. AFTER HEARING AND UPON DETERMINING THAT A BASIS FOR AN APPOINTMENT OR OTHER PROTECTIVE ORDER EXISTS WITH RESPECT TO A PERSON FOR REASONS OTHER THAN MINORITY, THE COURT HAS, FOR THE BENEFIT OF THE PERSON AND MEMBERS OF HIS HOUSEHOLD, ALL THE POWERS OVER HIS ESTATE AND AFFAIRS WHICH HE COULD EXERCISE IF PRESENT AND NOT UNDER DISABILITY, EXCEPT THE POWER TO MAKE A WILL OR TO MAKE GIFTS OTHER THAN THOSE AUTHORIZED BY THIS SECTION.
4. THE COURT HAS POWER TO MAKE GIFTS TO SUCH DONEES AND IN SUCH AMOUNTS AS WOULD CONTINUE A PROGRAM OF GIVING ESTABLISHED BY THE PROTECTED PERSON PRIOR TO

## LAWS OF ARIZONA

DISABILITY, IF, AFTER NOTICE AND HEARING, THE COURT IS SATISFIED THAT THE MAKING OF GIFTS IS IN THE BEST INTERESTS OF THE PROTECTED PERSON AND THAT HE EITHER IS INCAPABLE OF CONSENTING OR HAS CONSENTED TO THE PROPOSED GIFTS.

5. AN ORDER MADE PURSUANT TO THIS SECTION DETERMINING THAT A BASIS FOR APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE ORDER EXISTS, HAS NO EFFECT ON THE CAPACITY OF THE PROTECTED PERSON.

14-5409. **Protective arrangements and single transactions authorized**

A. IF IT IS ESTABLISHED IN A PROPER PROCEEDING THAT A BASIS EXISTS AS DESCRIBED IN SECTION 14-5401 FOR AFFECTING THE PROPERTY AND AFFAIRS OF A PERSON THE COURT, WITHOUT APPOINTING A CONSERVATOR, MAY AUTHORIZE, DIRECT OR RATIFY ANY TRANSACTION NECESSARY OR DESIRABLE TO ACHIEVE ANY SECURITY, SERVICE OR CARE ARRANGEMENT MEETING THE FORESEEABLE NEEDS OF THE PROTECTED PERSON. PROTECTIVE ARRANGEMENTS INCLUDE, BUT ARE NOT LIMITED TO, PAYMENT, DELIVERY, DEPOSIT OR RETENTION OF FUNDS OR PROPERTY, SALE, MORTGAGE, LEASE OR OTHER TRANSFER OF PROPERTY, ENTRY INTO AN ANNUITY CONTRACT, A CONTRACT FOR LIFE CARE, A DEPOSIT CONTRACT, A CONTRACT FOR TRAINING AND EDUCATION, OR ADDITION TO OR ESTABLISHMENT OF A SUITABLE TRUST.

B. WHEN IT HAS BEEN ESTABLISHED IN A PROPER PROCEEDING THAT A BASIS EXISTS AS DESCRIBED IN SECTION 14-5401 FOR AFFECTING THE PROPERTY AND AFFAIRS OF A PERSON THE COURT, WITHOUT APPOINTING A CONSERVATOR, MAY AUTHORIZE, DIRECT OR RATIFY ANY CONTRACT, TRUST OR OTHER TRANSACTION RELATING TO THE PROTECTED PERSON'S FINANCIAL AFFAIRS OR INVOLVING HIS ESTATE IF THE COURT DETERMINES THAT THE TRANSACTION IS IN THE BEST INTERESTS OF THE PROTECTED PERSON.

C. BEFORE APPROVING A PROTECTIVE ARRANGEMENT OR OTHER TRANSACTION UNDER THIS SECTION, THE COURT SHALL CONSIDER THE INTERESTS OF CREDITORS AND DEPENDENTS OF THE PROTECTED PERSON AND, IN VIEW OF HIS DISABILITY, WHETHER THE PROTECTED PERSON NEEDS THE CONTINUING PROTECTION OF A CONSERVATOR. THE COURT MAY APPOINT A

## LAWS OF ARIZONA

SPECIAL CONSERVATOR TO ASSIST IN THE ACCOMPLISHMENT OF ANY PROTECTIVE ARRANGEMENT OR OTHER TRANSACTION AUTHORIZED UNDER THIS SECTION WHO SHALL HAVE THE AUTHORITY CONFERRED BY THE ORDER AND SERVE UNTIL DISCHARGED BY ORDER AFTER REPORT TO THE COURT OF ALL MATTERS DONE PURSUANT TO THE ORDER OF APPOINTMENT.

14-5410. **Who may be appointed conservator; priorities**

A. THE COURT MAY APPOINT AN INDIVIDUAL OR A CORPORATION, WITH GENERAL POWER TO SERVE AS TRUSTEE, AS CONSERVATOR OF THE ESTATE OF A PROTECTED PERSON. THE FOLLOWING ARE ENTITLED TO CONSIDERATION FOR APPOINTMENT IN THE ORDER LISTED:

1. A CONSERVATOR, GUARDIAN OF PROPERTY OR OTHER LIKE FIDUCIARY APPOINTED OR RECOGNIZED BY THE APPROPRIATE COURT OF ANY OTHER JURISDICTION IN WHICH THE PROTECTED PERSON RESIDES.

2. AN INDIVIDUAL OR CORPORATION NOMINATED BY THE PROTECTED PERSON IF HE IS FOURTEEN OR MORE YEARS OF AGE AND HAS, IN THE OPINION OF THE COURT, SUFFICIENT MENTAL CAPACITY TO MAKE AN INTELLIGENT CHOICE.

3. THE SPOUSE OF THE PROTECTED PERSON.

4. AN ADULT CHILD OF THE PROTECTED PERSON.

5. A PARENT OF THE PROTECTED PERSON, OR A PERSON NOMINATED BY THE WILL OF A DECEASED PARENT.

6. ANY RELATIVE OF THE PROTECTED PERSON WITH WHOM HE HAS RESIDED FOR MORE THAN SIX MONTHS PRIOR TO THE FILING OF THE PETITION.

7. THE NOMINEE OF A PERSON WHO IS CARING FOR THE PROTECTED PERSON OR PAYING BENEFITS TO HIM.

B. A PERSON IN PRIORITIES 1, 3, 4, 5 OR 6 MAY NOMINATE IN WRITING A PERSON TO SERVE IN HIS STEAD. WITH RESPECT TO PERSONS HAVING EQUAL PRIORITY, THE COURT IS TO SELECT THE ONE WHO IS BEST QUALIFIED OF THOSE WILLING TO SERVE. THE COURT, FOR GOOD CAUSE, MAY PASS OVER A PERSON HAVING PRIORITY AND APPOINT A PERSON HAVING LESS PRIORITY OR NO PRIORITY.

## LAWS OF ARIZONA

14-5411. **Bond**

A. THE COURT SHALL REQUIRE A CONSERVATOR TO FURNISH A BOND CONDITIONED UPON FAITHFUL DISCHARGE OF ALL DUTIES OF THE TRUST ACCORDING TO LAW, WITH SURETIES AS IT SHALL SPECIFY. UNLESS OTHERWISE DIRECTED, THE BOND SHALL BE IN THE AMOUNT OF THE AGGREGATE CAPITAL VALUE OF THE PROPERTY OF THE ESTATE IN HIS CONTROL PLUS ONE YEAR'S ESTIMATED INCOME MINUS THE VALUE OF SECURITIES DEPOSITED UNDER ARRANGEMENTS REQUIRING AN ORDER OF THE COURT FOR THEIR REMOVAL AND THE VALUE OF ANY LAND WHICH THE FIDUCIARY, BY EXPRESS LIMITATION OF POWER, LACKS POWER TO SELL OR CONVEY WITHOUT COURT AUTHORIZATION. THE COURT IN LIEU OF SURETIES ON A BOND, MAY ACCEPT OTHER SECURITY FOR THE PERFORMANCE OF THE BOND, INCLUDING A PLEDGE OF SECURITIES OR A MORTGAGE OF LAND.

B. IF THE VETERANS ADMINISTRATION IS PAYING OR PLANNING TO PAY BENEFITS TO A PERSON TO BE PROTECTED, THE COURT SHALL, UPON THE REQUEST OF THE VETERANS ADMINISTRATION, REQUIRE A BOND, PREFERABLY A CORPORATE SURETY BOND, CONDITIONED UPON FAITHFUL DISCHARGE OF ALL DUTIES OF THE TRUST ACCORDING TO LAW, WITH SURETIES IT SHALL SPECIFY.

14-5412. **Terms and requirements of bonds**

A. THE FOLLOWING REQUIREMENTS AND PROVISIONS APPLY TO ANY BOND REQUIRED UNDER SECTION 14-5411:

1. UNLESS OTHERWISE PROVIDED BY THE TERMS OF THE APPROVED BOND, SURETIES ARE JOINTLY AND SEVERALLY LIABLE WITH THE CONSERVATOR AND WITH EACH OTHER.

2. BY EXECUTING AN APPROVED BOND OF A CONSERVATOR, THE SURETY CONSENTS TO THE JURISDICTION OF THE COURT WHICH ISSUED LETTERS TO THE PRIMARY OBLIGOR IN ANY PROCEEDING PERTAINING TO THE FIDUCIARY DUTIES OF THE CONSERVATOR AND NAMING THE SURETY AS A PARTY DEFENDANT. NOTICE OF ANY PROCEEDING SHALL BE DELIVERED TO THE SURETY OR MAILED TO HIM BY REGISTERED OR CERTIFIED MAIL AT HIS ADDRESS AS LISTED WITH THE COURT WHERE THE BOND IS FILED AND TO HIS ADDRESS AS THEN KNOWN TO THE PETITIONER.

## LAWS OF ARIZONA

3. ON PETITION OF A SUCCESSOR CONSERVATOR OR ANY INTERESTED PERSON, A PROCEEDING MAY BE INITIATED AGAINST A SURETY FOR BREACH OF THE OBLIGATION OF THE BOND OF THE CONSERVATOR.

4. THE BOND OF THE CONSERVATOR IS NOT VOID AFTER THE FIRST RECOVERY BUT MAY BE PROCEEDED AGAINST FROM TIME TO TIME UNTIL THE WHOLE PENALTY IS EXHAUSTED.

B. NO PROCEEDING MAY BE COMMENCED AGAINST THE SURETY ON ANY MATTER AS TO WHICH AN ACTION OR PROCEEDING AGAINST THE PRIMARY OBLIGOR IS BARRED BY ADJUDICATION OR LIMITATION.

**14-5413. Acceptance of appointment; consent to jurisdiction**

BY ACCEPTING APPOINTMENT, A CONSERVATOR SUBMITS PERSONALLY TO THE JURISDICTION OF THE COURT IN ANY PROCEEDING RELATING TO THE ESTATE THAT MAY BE INSTITUTED BY ANY INTERESTED PERSON. NOTICE OF ANY PROCEEDING SHALL BE DELIVERED TO THE CONSERVATOR, OR MAILED TO HIM BY REGISTERED OR CERTIFIED MAIL AT HIS ADDRESS AS LISTED IN THE PETITION FOR APPOINTMENT OR AS THEREAFTER REPORTED TO THE COURT AND TO HIS ADDRESS AS THEN KNOWN TO THE PETITIONER.

**14-5414. Compensation and expenses**

IF NOT OTHERWISE COMPENSATED FOR SERVICES RENDERED, ANY VISITOR, LAWYER, PHYSICIAN, CONSERVATOR OR SPECIAL CONSERVATOR APPOINTED IN A PROTECTIVE PROCEEDING IS ENTITLED TO REASONABLE COMPENSATION FROM THE ESTATE.

**14-5415. Death, resignation or removal of conservator**

THE COURT MAY REMOVE A CONSERVATOR FOR GOOD CAUSE, UPON NOTICE AND HEARING, OR ACCEPT THE RESIGNATION OF A CONSERVATOR. AFTER HIS DEATH, RESIGNATION OR REMOVAL THE COURT MAY APPOINT ANOTHER CONSERVATOR. A CONSERVATOR SO APPOINTED SUCCEEDS TO THE TITLE AND POWERS OF HIS PREDECESSOR.

**14-5416. Petitions for orders subsequent to appointment**

## LAW OF ARIZONA

A. ANY PERSON INTERESTED IN THE WELFARE OF A PERSON FOR WHOM A CONSERVATOR HAS BEEN APPOINTED MAY FILE A PETITION IN THE APPOINTING COURT FOR AN ORDER:

1. REQUIRING BOND OR SECURITY OR ADDITIONAL BOND OR SECURITY, OR REDUCING BOND.
2. REQUIRING AN ACCOUNTING FOR THE ADMINISTRATION OF THE TRUST.
3. DIRECTING DISTRIBUTION.
4. REMOVING THE CONSERVATOR AND APPOINTING A TEMPORARY OR SUCCESSOR CONSERVATOR.
5. GRANTING OTHER APPROPRIATE RELIEF, INCLUDING REQUIRING COMPLIANCE WITH THE PROCEEDING SET FORTH FOR PERSONAL REPRESENTATIVES UNDER SECTIONS 14-3506 AND 14-3507.

B. A CONSERVATOR MAY PETITION THE APPOINTING COURT FOR INSTRUCTIONS CONCERNING HIS FIDUCIARY RESPONSIBILITY.

C. UPON NOTICE TO THE PERSON FOR WHOM A CONSERVATOR HAS BEEN APPOINTED AND TO SUCH OTHER PERSONS AS THE COURT MAY DESIGNATE AND UPON HEARING, THE COURT MAY GIVE APPROPRIATE INSTRUCTIONS OR MAKE ANY APPROPRIATE ORDER.

D. WHEN A SURETY OF A CONSERVATOR DESIRES TO BE RELEASED FROM RESPONSIBILITY FOR FUTURE ACTS, HE MAY APPLY TO THE COURT FOR A RELEASE. THE COURT SHALL PROCEED IN THE SAME MANNER AS IN A PROCEEDINGS UNDER SECTION 14-3604, SUBSECTION B; NOTICE SHALL BE GIVEN TO THE CONSERVATOR AS PROVIDED IN SECTION 14-5413.

**14-5417. General duty of conservator**

IN THE EXERCISE OF HIS POWERS, A CONSERVATOR IS TO ACT AS A FIDUCIARY AND SHALL OBSERVE THE STANDARD OF CARE APPLICABLE TO TRUSTEES AS DESCRIBED BY SECTION 14-7302.

**14-5418. Inventory and records**

## LAWS OF ARIZONA

WITHIN NINETY DAYS AFTER HIS APPOINTMENT, EVERY CONSERVATOR SHALL PREPARE AND FILE WITH THE APPOINTING COURT A COMPLETE INVENTORY OF THE ESTATE OF THE PROTECTED PERSON TOGETHER WITH HIS OATH OR AFFIRMATION THAT IT IS COMPLETE AND ACCURATE SO FAR AS HE IS INFORMED. THE CONSERVATOR SHALL PROVIDE A COPY THEREOF TO THE PROTECTED PERSON IF HE CAN BE LOCATED, HAS ATTAINED THE AGE OF FOURTEEN YEARS, AND HAS SUFFICIENT MENTAL CAPACITY TO UNDERSTAND THESE MATTERS, AND TO ANY PARENT OR GUARDIAN WITH WHOM THE PROTECTED PERSON RESIDES. THE CONSERVATOR SHALL KEEP SUITABLE RECORDS OF HIS ADMINISTRATION AND EXHIBIT THE SAME ON REQUEST OF ANY INTERESTED PERSON.

## 14-5419. Accounts

A. EVERY CONSERVATOR MUST ACCOUNT TO THE COURT FOR HIS ADMINISTRATION OF THE TRUST NOT LESS THAN ANNUALLY ON THE ANNIVERSARY DATE OF HIS QUALIFICATION AS CONSERVATOR AND ALSO ON RESIGNATION OR REMOVAL, AND ON TERMINATION OF THE PROTECTED PERSON'S MINORITY OR DISABILITY; PROVIDED, HOWEVER, THAT FOR GOOD CAUSE SHOWN UPON THE APPLICATION OF AN INTERESTED PERSON, THE COURT MAY RELIEVE THE CONSERVATOR OF FILING ANNUAL OR OTHER ACCOUNTS BY AN ORDER ENTERED IN THE MINUTES. SUBJECT TO APPEAL OR VACATION WITHIN THE TIME PERMITTED, AN ORDER, MADE UPON NOTICE AND HEARING, ALLOWING AN INTERMEDIATE ACCOUNT OF A CONSERVATOR, ADJUDICATES AS TO HIS LIABILITIES CONCERNING THE MATTERS CONSIDERED IN CONNECTION THEREWITH. AN ORDER, MADE UPON NOTICE AND HEARING, ALLOWING A FINAL ACCOUNT ADJUDICATES AS TO ALL PREVIOUSLY UNSETTLED LIABILITIES OF THE CONSERVATOR TO THE PROTECTED PERSON OR HIS SUCCESSORS RELATING TO THE CONSERVATORSHIP. IN CONNECTION WITH ANY ACCOUNT, THE COURT MAY REQUIRE A CONSERVATOR TO SUBMIT TO A PHYSICAL CHECK OF THE ESTATE IN HIS CONTROL, TO BE MADE IN ANY MANNER THE COURT MAY SPECIFY.

B. IN ANY CASE IN WHICH THE ESTATE CONSISTS, IN WHOLE OR IN PART, OF BENEFITS PAID BY THE VETERANS ADMINISTRATION TO THE CONSERVATOR OR HIS PREDECESSOR FOR THE BENEFIT OF THE PROTECTED PERSON, THE VETERANS ADMINISTRATION OFFICE WHICH HAS JURISDICTION OVER THE

## LAWS OF ARIZONA

AREA IS ENTITLED TO A COPY OF ANY ACCOUNT FILED UNDER CHAPTER 5, ARTICLE 4 OF THIS TITLE. EACH YEAR IN WHICH AN ACCOUNT IS NOT FILED WITH THE COURT, THE CONSERVATOR SHALL, IF REQUESTED, SUBMIT AN ACCOUNT TO THE APPROPRIATE VETERANS ADMINISTRATION OFFICE. IF SUCH AN ACCOUNT IS NOT SUBMITTED AS REQUESTED, OR IF IT IS FOUND UNSATISFACTORY BY THE VETERANS ADMINISTRATION, THE COURT SHALL, UPON RECEIPT OF NOTICE THEREOF, REQUIRE THE CONSERVATOR FORTHWITH TO FILE AN ACCOUNT WITH THE COURT.

**14-5420. Conservators; title by appointment**

THE APPOINTMENT OF A CONSERVATOR VESTS IN HIM TITLE AS TRUSTEE TO ALL PROPERTY OF THE PROTECTED PERSON, PRESENTLY HELD OR THEREAFTER ACQUIRED, INCLUDING TITLE TO ANY PROPERTY PREVIOUSLY HELD FOR THE PROTECTED PERSON BY CUSTODIANS OR ATTORNEYS IN FACT. THE APPOINTMENT OF A CONSERVATOR IS NOT A TRANSFER OR ALIENATION WITHIN THE MEANING OF GENERAL PROVISIONS OF ANY FEDERAL OR STATE STATUTE OR REGULATION, INSURANCE POLICY, PENSION PLAN, CONTRACT, WILL OR TRUST INSTRUMENT, IMPOSING RESTRICTIONS UPON OR PENALTIES FOR TRANSFER OR ALIENATION BY THE PROTECTED PERSON OF HIS RIGHTS OR INTEREST, BUT THIS SECTION DOES NOT RESTRICT THE ABILITY OF PERSONS TO MAKE SPECIFIC PROVISION BY CONTRACT OR DISPOSITIVE INSTRUMENT RELATING TO A CONSERVATOR.

**14-5421. Recording of conservator's letters**

LETTERS OF CONSERVATORSHIP ARE EVIDENCE OF TRANSFER OF ALL ASSETS OF A PROTECTED PERSON TO THE CONSERVATOR. AN ORDER TERMINATING A CONSERVATORSHIP IS EVIDENCE OF TRANSFER OF ALL ASSETS OF THE ESTATE FROM THE CONSERVATOR TO THE PROTECTED PERSON, OR HIS SUCCESSORS. SUBJECT TO THE REQUIREMENTS OF GENERAL STATUTES GOVERNING THE FILING OR RECORDATION OF DOCUMENTS OF TITLE TO LAND OR OTHER PROPERTY, LETTERS OF CONSERVATORSHIP AND ORDERS TERMINATING CONSERVATORSHIPS MAY BE FILED OR RECORDED TO GIVE RECORD NOTICE OF TITLE AS BETWEEN THE CONSERVATOR AND THE PROTECTED PERSON.

## LAWS OF ARIZONA

**14-5422. Sale, encumbrance or transaction involving conflict of interest; voidable; exceptions**

ANY SALE OR ENCUMBRANCE TO A CONSERVATOR, HIS SPOUSE, AGENT OR ATTORNEY, OR ANY CORPORATION OR TRUST IN WHICH HE HAS A SUBSTANTIAL BENEFICIAL INTEREST, OR ANY TRANSACTION WHICH IS AFFECTED BY A SUBSTANTIAL CONFLICT OF INTEREST IS VOIDABLE UNLESS THE TRANSACTION IS APPROVED BY THE COURT AFTER NOTICE TO INTERESTED PERSONS AND OTHERS AS DIRECTED BY THE COURT.

**14-5423. Persons dealing with conservators; protection**

A PERSON WHO IN GOOD FAITH EITHER ASSISTS OR DEALS WITH ANOTHER PERSON ACTING AS A CONSERVATOR, ON THE BASIS OF A COPY OF LETTERS CERTIFIED BY OR UNDER THE DIRECTION OF THE COURT OR AN OFFICER THEREOF WITHIN SIXTY DAYS OF THE TRANSACTION, IS PROTECTED AS IF THE CONSERVATOR PROPERLY EXERCISED HIS POWER AND EVEN THOUGH THE AUTHORITY OF THAT PERSON AS CONSERVATOR HAS BEEN TERMINATED. THE FACT THAT A PERSON KNOWINGLY DEALS WITH ONE WHO PURPORTS TO ACT AS A CONSERVATOR DOES NOT ALONE REQUIRE THE PERSON TO INQUIRE INTO THE EXISTENCE OF A POWER, THE PROPRIETY OF ITS EXERCISE, OR THE CURRENT AUTHORITY OF THE PURPORTED PERSONAL REPRESENTATIVE, EXCEPT THAT RESTRICTIONS ON POWERS OF CONSERVATORS WHICH ARE ENDORSED ON LETTERS AS PROVIDED IN SECTION 14-5426 ARE EFFECTIVE AS TO THIRD PERSONS. A PERSON IS NOT BOUND TO SEE TO THE PROPER APPLICATION OF ESTATE ASSETS PAID OR DELIVERED TO A CONSERVATOR. THE PROTECTION HERE EXPRESSED EXTENDS TO INSTANCES IN WHICH SOME PROCEDURAL IRREGULARITY OR JURISDICTIONAL DEFECT OCCURRED IN PROCEEDINGS LEADING TO THE ISSUANCE OF LETTERS. THE PROTECTION HERE EXPRESSED IS NOT BY SUBSTITUTION FOR THAT PROVIDED BY COMPARABLE PROVISIONS OF THE LAWS RELATING TO COMMERCIAL TRANSACTIONS AND LAWS SIMPLIFYING TRANSFERS OF SECURITIES BY FIDUCIARIES. IF PROPERTY IS WRONGFULLY TRANSFERRED BY A PERSON ACTING AS A CONSERVATOR TO A PERSON WHO IS NOT IN GOOD FAITH, ANY PERSON WHO SUBSEQUENTLY PURCHASES THE PROPERTY IN GOOD FAITH IS PROTECTED AS IF THE ORIGINAL TRANSFEREE DEALT IN GOOD FAITH.

## LAWS OF ARIZONA

## 14-5424. Powers of conservator in administration

A. A CONSERVATOR HAS ALL THE POWERS CONFERRED HEREIN AND ANY ADDITIONAL POWERS CONFERRED BY LAW ON TRUSTEES IN THIS STATE. IN ADDITION, A CONSERVATOR OF THE ESTATE OF AN UNMARRIED MINOR, AS TO WHOM NO ONE HAS PARENTAL RIGHTS, HAS THE DUTIES AND POWERS OF A GUARDIAN OF A MINOR DESCRIBED IN SECTION 14-5209 UNTIL THE MINOR ATTAINS THE AGE OF MAJORITY OR MARRIES, BUT THE PARENTAL RIGHTS SO CONFERRED ON A CONSERVATOR DO NOT PRECLUDE APPOINTMENT OF A GUARDIAN AS PROVIDED BY ARTICLE 2.

B. A CONSERVATOR HAS POWER WITHOUT COURT AUTHORIZATION OR CONFIRMATION, TO INVEST AND REINVEST FUNDS OF THE ESTATE AS WOULD A TRUSTEE.

C. A CONSERVATOR, ACTING REASONABLY IN EFFORTS TO ACCOMPLISH THE PURPOSE FOR WHICH HE WAS APPOINTED, MAY ACT WITHOUT COURT AUTHORIZATION OR CONFIRMATION, TO:

1. COLLECT, HOLD AND RETAIN ASSETS OF THE ESTATE INCLUDING LAND IN ANOTHER STATE, UNTIL, IN HIS JUDGMENT, DISPOSITION OF THE ASSETS SHOULD BE MADE; AND ASSETS MAY BE RETAINED EVEN THOUGH THEY INCLUDE AN ASSET IN WHICH HE IS PERSONALLY INTERESTED.

2. RECEIVE ADDITIONS TO THE ESTATE.

3. CONTINUE OR PARTICIPATE IN THE OPERATION OF ANY BUSINESS OR OTHER ENTERPRISE.

4. ACQUIRE AN UNDIVIDED INTEREST IN AN ESTATE ASSET IN WHICH THE CONSERVATOR, IN ANY FIDUCIARY CAPACITY, HOLDS AN UNDIVIDED INTEREST.

5. INVEST AND REINVEST ESTATE ASSETS IN ACCORDANCE WITH SUBSECTION B OF THIS SECTION.

6. DEPOSIT ESTATE FUNDS IN A BANK INCLUDING A BANK OPERATED BY THE CONSERVATOR.

7. ACQUIRE OR DISPOSE OF AN ESTATE ASSET INCLUDING LAND IN ANOTHER STATE FOR CASH OR ON CREDIT, AT PUBLIC

## LAWS OF ARIZONA

OR PRIVATE SALE; AND MANAGE, DEVELOP, IMPROVE, EXCHANGE, PARTITION, CHANGE THE CHARACTER OF OR ABANDON AN ESTATE ASSET.

8. MAKE ORDINARY OR EXTRAORDINARY REPAIRS OR ALTERATIONS IN BUILDINGS OR OTHER STRUCTURES, DEMOLISH ANY IMPROVEMENTS AND RAZE EXISTING OR ERECT NEW PARTY WALLS OR BUILDINGS.

9. SUBDIVIDE, DEVELOP, OR DEDICATE LAND TO PUBLIC USE, MAKE OR OBTAIN THE VACATION OF PLATS AND ADJUST BOUNDARIES, ADJUST DIFFERENCES IN VALUATION ON EXCHANGE, PARTITION BY GIVING OR RECEIVING CONSIDERATIONS AND DEDICATE EASEMENTS TO PUBLIC USE WITHOUT CONSIDERATION.

10. ENTER FOR ANY PURPOSE INTO A LEASE AS LESSOR OR LESSEE WITH OR WITHOUT OPTION TO PURCHASE OR RENEW FOR A TERM WITHIN OR EXTENDING BEYOND THE TERM OF THE CONSERVATORSHIP.

11. ENTER INTO A LEASE OR ARRANGEMENT FOR EXPLORATION AND REMOVAL OF MINERALS OR OTHER NATURAL RESOURCES OR ENTER INTO A POOLING OR UNITIZATION AGREEMENT.

12. GRANT AN OPTION INVOLVING DISPOSITION OF AN ESTATE ASSET, OR TAKE AN OPTION FOR THE ACQUISITION OF ANY ASSET.

13. VOTE A SECURITY, IN PERSON OR BY GENERAL OR LIMITED PROXY.

14. PAY CALLS, ASSESSMENTS AND ANY OTHER SUMS CHARGEABLE OR ACCRUING AGAINST OR ON ACCOUNT OF SECURITIES.

15. SELL OR EXERCISE STOCK SUBSCRIPTION OR CONVERSION RIGHTS; CONSENT, DIRECTLY OR THROUGH A COMMITTEE OR OTHER AGENT, TO THE REORGANIZATION, CONSOLIDATION, MERGER, DISSOLUTION OR LIQUIDATION OF A CORPORATION OR OTHER BUSINESS ENTERPRISE.

16. HOLD A SECURITY IN THE NAME OF A NOMINEE OR IN OTHER FORM WITHOUT DISCLOSURE OF THE CONSERVATORSHIP SO THAT TITLE TO THE SECURITY MAY PASS BY DELIVERY,

## LAWS OF ARIZONA

BUT THE CONSERVATOR IS LIABLE FOR ANY ACT OF THE NOMINEE IN CONNECTION WITH THE STOCK SO HELD.

17. INSURE THE ASSETS OF THE ESTATE AGAINST DAMAGE OR LOSS, AND THE CONSERVATOR AGAINST LIABILITY WITH RESPECT TO THIRD PERSONS.

18. BORROW MONEY TO BE REPAYED FROM ESTATE ASSETS OR OTHERWISE; ADVANCE MONEY FOR THE PROTECTION OF THE ESTATE OR THE PROTECTED PERSON, AND FOR ALL EXPENSES, LOSSES, AND LIABILITY SUSTAINED IN THE ADMINISTRATION OF THE ESTATE OR BECAUSE OF THE HOLDING OR OWNERSHIP OF ANY ESTATE ASSETS, AND THE CONSERVATOR HAS A LIEN ON THE ESTATE AS AGAINST THE PROTECTED PERSON FOR ADVANCES SO MADE.

19. PAY OR CONTEST ANY CLAIM; SETTLE A CLAIM BY OR AGAINST THE ESTATE OR THE PROTECTED PERSON BY COMPROMISE, ARBITRATION, OR OTHERWISE; AND RELEASE, IN WHOLE OR IN PART, ANY CLAIM BELONGING TO THE ESTATE TO THE EXTENT THAT THE CLAIM IS UNCOLLECTIBLE.

20. PAY TAXES, ASSESSMENTS, COMPENSATION OF THE CONSERVATOR AND OTHER EXPENSES INCURRED IN THE COLLECTION, CARE, ADMINISTRATION AND PROTECTION OF THE ESTATE.

21. ALLOCATE ITEMS OF INCOME OR EXPENSE TO EITHER ESTATE INCOME OR PRINCIPAL, AS PROVIDED BY LAW, INCLUDING CREATION OF RESERVES OUT OF INCOME FOR DEPRECIATION, OBSOLESCENCE OR AMORTIZATION, OR FOR DEPLETION IN MINERAL OR TIMBER PROPERTIES.

22. PAY ANY SUM DISTRIBUTABLE TO A PROTECTED PERSON OR HIS DEPENDENT, WITHOUT LIABILITY TO THE CONSERVATOR, BY PAYING THE SUM TO THE DISTRIBUTEE OR BY PAYING THE SUM FOR THE USE OF THE DISTRIBUTEE EITHER TO HIS GUARDIAN OR IF NONE, TO A RELATIVE OR OTHER PERSON WITH CUSTODY OF HIS PERSON.

23. EMPLOY PERSONS INCLUDING ATTORNEYS, AUDITORS, INVESTMENT ADVISORS OR AGENTS, EVEN THOUGH THEY ARE ASSOCIATED WITH THE CONSERVATOR, TO ADVISE OR ASSIST HIM IN THE PERFORMANCE OF HIS ADMINISTRATIVE DUTIES;

LAWS OF ARIZONA

ACT UPON THEIR RECOMMENDATION WITHOUT INDEPENDENT INVESTIGATION; AND INSTEAD OF ACTING PERSONALLY, EMPLOY ONE OR MORE AGENTS TO PERFORM ANY ACT OF ADMINISTRATION, WHETHER OR NOT DISCRETIONARY.

24. PROSECUTE OR DEFEND ACTIONS, CLAIMS OR PROCEEDINGS IN ANY JURISDICTION FOR THE PROTECTION OF ESTATE ASSETS AND OF THE CONSERVATOR IN THE PERFORMANCE OF HIS DUTIES.

25. EXECUTE AND DELIVER ALL INSTRUMENTS WHICH WILL ACCOMPLISH OR FACILITATE THE EXERCISE OF THE POWERS VESTED IN THE CONSERVATOR.

14-5425. **Distributive duties and powers of conservator**

A. A CONSERVATOR MAY EXPEND OR DISTRIBUTE INCOME OR PRINCIPAL OF THE ESTATE WITHOUT COURT AUTHORIZATION OR CONFIRMATION FOR THE SUPPORT, EDUCATION, CARE OR BENEFIT OF THE PROTECTED PERSON AND HIS DEPENDENTS IN ACCORDANCE WITH THE FOLLOWING PRINCIPLES:

1. THE CONSERVATOR IS TO CONSIDER RECOMMENDATIONS RELATING TO THE APPROPRIATE STANDARD OF SUPPORT, EDUCATION AND BENEFIT FOR THE PROTECTED PERSON MADE BY A PARENT OR GUARDIAN, IF ANY. HE MAY NOT BE SURCHARGED FOR SUMS PAID TO PERSONS OR ORGANIZATIONS ACTUALLY FURNISHING SUPPORT, EDUCATION OR CARE TO THE PROTECTED PERSON PURSUANT TO THE RECOMMENDATIONS OF A PARENT OR GUARDIAN OF THE PROTECTED PERSON UNLESS HE KNOWS THAT THE PARENT OR GUARDIAN IS DERIVING PERSONAL FINANCIAL BENEFIT THEREFROM, INCLUDING RELIEF FROM ANY PERSONAL DUTY OF SUPPORT, OR UNLESS THE RECOMMENDATIONS ARE CLEARLY NOT IN THE BEST INTERESTS OF THE PROTECTED PERSON.

2. THE CONSERVATOR IS TO EXPEND OR DISTRIBUTE SUMS REASONABLY NECESSARY FOR THE SUPPORT, EDUCATION, CARE OR BENEFIT OF THE PROTECTED PERSON WITH DUE REGARD TO:

(a) THE SIZE OF THE ESTATE, THE PROBABLE DURATION OF THE CONSERVATORSHIP AND THE LIKELIHOOD THAT THE PROTECTED PERSON, AT SOME FUTURE TIME, MAY BE FULLY ABLE

## LAWS OF ARIZONA

TO MANAGE HIS AFFAIRS AND THE ESTATE WHICH HAS BEEN CONSERVED FOR HIM;

(b) THE ACCUSTOMED STANDARD OF LIVING OF THE PROTECTED PERSON AND MEMBERS OF HIS HOUSEHOLD;

(c) OTHER FUNDS OR SOURCES USED FOR THE SUPPORT OF THE PROTECTED PERSON.

3. THE CONSERVATOR MAY EXPEND FUNDS OF THE ESTATE FOR THE SUPPORT OF PERSONS LEGALLY DEPENDENT ON THE PROTECTED PERSON AND OTHERS WHO ARE MEMBERS OF THE PROTECTED PERSON'S HOUSEHOLD, WHO ARE UNABLE TO SUPPORT THEMSELVES, AND WHO ARE IN NEED OF SUPPORT. IF BENEFITS ARE BEING PAID BY THE VETERANS ADMINISTRATION TO THE CONSERVATOR, SUCH INCOME MAY BE EXPENDED ONLY FOR THE SUPPORT OF THE PROTECTED PERSON, HIS SPOUSE AND MINOR CHILDREN, EXCEPT UPON PETITION TO AND PRIOR ORDER OF THE COURT AFTER HEARING.

4. FUNDS EXPENDED UNDER THIS SUBSECTION MAY BE PAID BY THE CONSERVATOR TO ANY PERSON, INCLUDING THE PROTECTED PERSON, TO REIMBURSE FOR EXPENDITURES WHICH THE CONSERVATOR MIGHT HAVE MADE, OR IN ADVANCE FOR SERVICES TO BE RENDERED TO THE PROTECTED PERSON WHEN IT IS REASONABLE TO EXPECT THAT THEY WILL BE PERFORMED AND WHERE ADVANCE PAYMENTS ARE CUSTOMARY OR REASONABLY NECESSARY UNDER THE CIRCUMSTANCES.

B. WHEN A MINOR WHO HAS NOT BEEN ADJUDGED DISABLED UNDER SECTION 14-5401, PARAGRAPH 2, ATTAINS HIS MAJORITY, HIS CONSERVATOR, AFTER MEETING ALL PRIOR CLAIMS AND EXPENSES OF ADMINISTRATION, SHALL PAY OVER AND DISTRIBUTE ALL FUNDS AND PROPERTIES TO THE FORMER PROTECTED PERSON AS SOON AS POSSIBLE.

C. WHEN THE CONSERVATOR IS SATISFIED THAT A PROTECTED PERSON'S DISABILITY, OTHER THAN MINORITY, HAS CEASED, THE CONSERVATOR, AFTER MEETING ALL PRIOR CLAIMS AND EXPENSES OF ADMINISTRATION, SHALL PAY OVER AND DISTRIBUTE ALL FUNDS AND PROPERTIES TO THE FORMER PROTECTED PERSON AS SOON AS POSSIBLE.

## LAWS OF ARIZONA

D. IF A PROTECTED PERSON DIES, THE CONSERVATOR SHALL DELIVER TO THE COURT FOR SAFEKEEPING ANY WILL OF THE DECEASED PROTECTED PERSON WHICH MAY HAVE COME INTO HIS POSSESSION, INFORM THE EXECUTOR OR A BENEFICIARY NAMED THEREIN THAT HE HAS DONE SO, AND RETAIN THE ESTATE FOR DELIVERY TO A DULY APPOINTED PERSONAL REPRESENTATIVE OF THE DECEDENT OR OTHER PERSONS ENTITLED THERETO. IF AFTER FORTY DAYS FROM THE DEATH OF THE PROTECTED PERSON NO OTHER PERSON HAS BEEN APPOINTED PERSONAL REPRESENTATIVE AND NO APPLICATION OR PETITION FOR APPOINTMENT IS BEFORE THE COURT, THE CONSERVATOR MAY APPLY TO EXERCISE THE POWERS AND DUTIES OF A PERSONAL REPRESENTATIVE SO THAT HE MAY PROCEED TO ADMINISTER AND DISTRIBUTE THE DECEDENT'S ESTATE WITHOUT ADDITIONAL OR FURTHER APPOINTMENT. UPON APPLICATION FOR AN ORDER GRANTING THE POWERS OF A PERSONAL REPRESENTATIVE TO A CONSERVATOR, AFTER NOTICE TO ANY PERSON DEMANDING NOTICE UNDER SECTION 14-3204 AND TO ANY PERSON NOMINATED EXECUTOR IN ANY WILL OF WHICH THE APPLICANT IS AWARE, THE COURT MAY ORDER THE CONFERRAL OF THE POWER UPON DETERMINING THAT THERE IS NO OBJECTION, AND ENDORSE THE LETTERS OF THE CONSERVATOR TO NOTE THAT THE FORMERLY PROTECTED PERSON IS DECEASED AND THAT THE CONSERVATOR HAS ACQUIRED ALL OF THE POWERS AND DUTIES OF A PERSONAL REPRESENTATIVE. THE MAKING AND ENTRY OF AN ORDER UNDER THIS SECTION SHALL HAVE THE EFFECT OF AN ORDER OF APPOINTMENT OF A PERSONAL REPRESENTATIVE AS PROVIDED IN SECTION 14-3308 AND ARTICLES 6 THROUGH 10 OF CHAPTER 3 EXCEPT THAT ESTATE IN THE NAME OF THE CONSERVATOR, AFTER ADMINISTRATION, MAY BE DISTRIBUTED TO THE DECEDENT'S SUCCESSORS WITHOUT PRIOR RE-TRANSFER TO THE CONSERVATOR AS PERSONAL REPRESENTATIVE.

**14-5426. Enlargement or limitation of powers of conservator**

A. SUBJECT TO THE RESTRICTIONS IN SECTION 14-5408, PARAGRAPH 4, THE COURT MAY CONFER ON A CONSERVATOR AT THE TIME OF APPOINTMENT OR LATER, IN ADDITION TO THE POWERS CONFERRED ON HIM BY SECTIONS 14-5424 AND 14-5425, ANY POWER WHICH THE COURT ITSELF COULD EXERCISE UNDER SECTION 14-5408, PARAGRAPHS 2 AND 3. THE COURT MAY, AT THE TIME OF APPOINTMENT OR LATER, LIMIT THE

## LAWS OF ARIZONA

POWERS OF A CONSERVATOR OTHERWISE CONFERRED BY SECTIONS 14-5424 AND 14-5425, OR PREVIOUSLY CONFERRED BY THE COURT, AND MAY AT ANY TIME RELIEVE HIM OF ANY LIMITATION. IF THE COURT LIMITS ANY POWER CONFERRED ON THE CONSERVATOR BY SECTION 14-5424 OR 14-5425, THE LIMITATION SHALL BE ENDORSED UPON HIS LETTERS OF APPOINTMENT.

B. UPON APPOINTMENT OF A CONSERVATOR FOR A PROTECTED SPOUSE, THE COURT MAY DETERMINE WHETHER THE SPOUSE'S SHARE OF COMMUNITY PROPERTY SHALL BE MANAGED BY THE CONSERVATOR OR BY THE OTHER SPOUSE. IF THE COURT DETERMINES THAT THE COMMUNITY PROPERTY SHALL BE MANAGED BY THE OTHER SPOUSE, AND IF THE PROTECTED SPOUSE IS THE HUSBAND, THE WIFE MAY BECOME THE MANAGER OF THE COMMUNITY PROPERTY DURING THE CONSERVATORSHIP AND MAY DISPOSE OF COMMUNITY PERSONAL PROPERTY IN THE INTERESTS OF THE COMMUNITY.

**14-5427. Preservation of estate plan**

IN INVESTING THE ESTATE, AND IN SELECTING ASSETS OF THE ESTATE FOR DISTRIBUTION UNDER SECTION 14-5425, SUBSECTION A, IN UTILIZING POWERS OF REVOCATION OR WITHDRAWAL AVAILABLE FOR THE SUPPORT OF THE PROTECTED PERSON, AND EXERCISABLE BY THE CONSERVATOR OR THE COURT, THE CONSERVATOR AND THE COURT SHOULD TAKE INTO ACCOUNT ANY KNOWN ESTATE PLAN OF THE PROTECTED PERSON, INCLUDING HIS WILL, ANY REVOCABLE TRUST OF WHICH HE IS SETTLOR, AND ANY CONTRACT, TRANSFER OR JOINT OWNERSHIP ARRANGEMENT WITH PROVISIONS FOR PAYMENT OR TRANSFER OF BENEFITS OR INTERESTS AT HIS DEATH TO ANOTHER OR OTHERS WHICH HE MAY HAVE ORIGINATED. THE CONSERVATOR MAY EXAMINE THE WILL OF THE PROTECTED PERSON.

**14-5428. Claims against protected person; enforcement**

A. A CONSERVATOR MUST PAY FROM THE ESTATE ALL JUST CLAIMS AGAINST THE ESTATE AND AGAINST THE PROTECTED PERSON ARISING BEFORE OR AFTER THE CONSERVATORSHIP UPON THEIR PRESENTATION AND ALLOWANCE. A CLAIM MAY BE PRESENTED BY EITHER OF THE FOLLOWING METHODS:

## LAWS OF ARIZONA

1. THE CLAIMANT MAY DELIVER OR MAIL TO THE CONSERVATOR A WRITTEN STATEMENT OF THE CLAIM INDICATING ITS BASIS, THE NAME AND ADDRESS OF THE CLAIMANT AND THE AMOUNT CLAIMED.

2. THE CLAIMANT MAY FILE A WRITTEN STATEMENT OF THE CLAIM, IN THE FORM PRESCRIBED BY RULE, WITH THE CLERK OF THE COURT AND DELIVER OR MAIL A COPY OF THE STATEMENT TO THE CONSERVATOR.

A CLAIM IS DEEMED PRESENTED ON THE FIRST TO OCCUR OF RECEIPT OF THE WRITTEN STATEMENT OF CLAIM BY THE CONSERVATOR, OR THE FILING OF THE CLAIM WITH THE COURT. A PRESENTED CLAIM IS ALLOWED IF IT IS NOT DISALLOWED BY WRITTEN STATEMENT MAILED BY THE CONSERVATOR TO THE CLAIMANT WITHIN SIXTY DAYS AFTER ITS PRESENTATION. THE PRESENTATION OF A CLAIM TOLLS ANY STATUTE OF LIMITATION RELATING TO THE CLAIM UNTIL THIRTY DAYS AFTER ITS DISALLOWANCE.

B. A CLAIMANT WHOSE CLAIM HAS NOT BEEN PAID MAY PETITION THE COURT FOR DETERMINATION OF HIS CLAIM AT ANY TIME BEFORE IT IS BARRED BY THE APPLICABLE STATUTE OF LIMITATION AND, UPON DUE PROOF, PROCURE AN ORDER FOR ITS ALLOWANCE AND PAYMENT FROM THE ESTATE. IF A PROCEEDING IS PENDING AGAINST A PROTECTED PERSON AT THE TIME OF APPOINTMENT OF A CONSERVATOR OR IS INITIATED AGAINST THE PROTECTED PERSON THEREAFTER, THE MOVING PARTY MUST GIVE NOTICE OF THE PROCEEDING TO THE CONSERVATOR IF THE OUTCOME IS TO CONSTITUTE A CLAIM AGAINST THE ESTATE.

C. IF IT APPEARS THAT THE ESTATE IN CONSERVATORSHIP IS LIKELY TO BE EXHAUSTED BEFORE ALL EXISTING CLAIMS ARE PAID, PREFERENCE IS TO BE GIVEN TO PRIOR CLAIMS FOR THE CARE, MAINTENANCE AND EDUCATION OF THE PROTECTED PERSON OR HIS DEPENDENTS AND EXISTING CLAIMS FOR EXPENSES OF ADMINISTRATION.

14-5429. **Individual liability of conservator**

A. UNLESS OTHERWISE PROVIDED IN THE CONTRACT, A CONSERVATOR IS NOT INDIVIDUALLY LIABLE ON A CONTRACT PROPERLY ENTERED INTO IN HIS FIDUCIARY CAPACITY IN THE

## LAWS OF ARIZONA

COURSE OF ADMINISTRATION OF THE ESTATE UNLESS HE FAILS TO REVEAL HIS REPRESENTATIVE CAPACITY AND IDENTIFY THE ESTATE IN THE CONTRACT.

B. THE CONSERVATOR IS INDIVIDUALLY LIABLE FOR OBLIGATIONS ARISING FROM OWNERSHIP OR CONTROL OF PROPERTY OF THE ESTATE OR FOR TORTS COMMITTED IN THE COURSE OF ADMINISTRATION OF THE ESTATE ONLY IF HE IS PERSONALLY AT FAULT.

C. CLAIMS BASED ON CONTRACTS ENTERED INTO BY A CONSERVATOR IN HIS FIDUCIARY CAPACITY, ON OBLIGATIONS ARISING FROM OWNERSHIP OR CONTROL OF THE ESTATE, OR ON TORTS COMMITTED IN THE COURSE OF ADMINISTRATION OF THE ESTATE MAY BE ASSERTED AGAINST THE ESTATE BY PROCEEDING AGAINST THE CONSERVATOR IN HIS FIDUCIARY CAPACITY, WHETHER OR NOT THE CONSERVATOR IS INDIVIDUALLY LIABLE THEREFOR.

D. ANY QUESTION OF LIABILITY BETWEEN THE ESTATE AND THE CONSERVATOR INDIVIDUALLY MAY BE DETERMINED IN A PROCEEDING FOR ACCOUNTING, SURCHARGE OR INDEMNIFICATION, OR OTHER APPROPRIATE PROCEEDING OR ACTION.

14-5430. **Termination of proceeding**

THE PROTECTED PERSON, HIS PERSONAL REPRESENTATIVE, THE CONSERVATOR OR ANY OTHER INTERESTED PERSON MAY PETITION THE COURT TO TERMINATE THE CONSERVATORSHIP. A PROTECTED PERSON SEEKING TERMINATION IS ENTITLED TO THE SAME RIGHTS AND PROCEDURES AS IN AN ORIGINAL PROCEEDING FOR A PROTECTIVE ORDER. THE COURT, UPON DETERMINING AFTER NOTICE AND HEARING THAT THE MINORITY OR DISABILITY OF THE PROTECTED PERSON HAS CEASED, MAY TERMINATE THE CONSERVATORSHIP. UPON TERMINATION, TITLE TO ASSETS OF THE ESTATE PASSES TO THE FORMER PROTECTED PERSON OR TO HIS SUCCESSORS SUBJECT TO PROVISION IN THE ORDER FOR EXPENSES OF ADMINISTRATION OR TO CONVEYANCES FROM THE CONSERVATOR TO THE FORMER PROTECTED PERSON OR HIS SUCCESSORS, TO EVIDENCE THE TRANSFER.

14-5431. **Payment of debt and delivery of property to foreign conservator without local proceedings**

## LAWS OF ARIZONA

ANY PERSON INDEBTED TO A PROTECTED PERSON, OR HAVING POSSESSION OF PROPERTY OR OF AN INSTRUMENT EVIDENCING A DEBT, STOCK OR CHOSE IN ACTION BELONGING TO A PROTECTED PERSON MAY PAY OR DELIVER TO A CONSERVATOR, GUARDIAN OF THE ESTATE OR OTHER LIKE FIDUCIARY APPOINTED BY A COURT OF THE STATE OF RESIDENCE OF THE PROTECTED PERSON, UPON BEING PRESENTED WITH PROOF OF HIS APPOINTMENT AND AN AFFIDAVIT MADE BY HIM OR ON HIS BEHALF STATING BOTH:

1. THAT NO PROTECTIVE PROCEEDING RELATING TO THE PROTECTED PERSON IS PENDING IN THIS STATE.
2. THAT THE FOREIGN CONSERVATOR IS ENTITLED TO PAYMENT OR TO RECEIVE DELIVERY.

IF THE PERSON TO WHOM THE AFFIDAVIT IS PRESENTED IS NOT AWARE OF ANY PROTECTIVE PROCEEDING PENDING IN THIS STATE, PAYMENT OR DELIVERY IN RESPONSE TO THE DEMAND AND AFFIDAVIT DISCHARGES THE DEBTOR OR POSSESSOR.

**14-5432. Domiciliary foreign conservator; powers of local conservator**

IF NO LOCAL CONSERVATOR HAS BEEN APPOINTED AND NO PETITION IN A PROTECTIVE PROCEEDING IS PENDING IN THIS STATE, A DOMICILIARY FOREIGN CONSERVATOR MAY FILE WITH A COURT IN THIS STATE IN A COUNTY IN WHICH PROPERTY BELONGING TO THE PROTECTED PERSON IS LOCATED, AUTHENTICATED COPIES OF HIS APPOINTMENT AND OF ANY OFFICIAL BOND HE HAS GIVEN. THEREAFTER, HE MAY EXERCISE AS TO ASSETS IN THIS STATE ALL POWERS OF A LOCAL CONSERVATOR AND MAY MAINTAIN ACTIONS AND PROCEEDINGS IN THIS STATE SUBJECT TO ANY CONDITIONS IMPOSED UPON NON-RESIDENT PARTIES GENERALLY.

**ARTICLE 5. POWERS OF ATTORNEY**

**14-5501. When power of attorney not affected by disability**

WHENEVER A PRINCIPAL DESIGNATES ANOTHER HIS ATTORNEY-IN-FACT OR AGENT BY A POWER OF ATTORNEY IN WRITING AND THE WRITING CONTAINS THE WORDS "THIS POWER OF ATTORNEY SHALL NOT BE AFFECTED BY DISABILITY OF THE PRINCIPAL," OR "THIS POWER OF ATTORNEY SHALL

## LAWS OF ARIZONA

BECOME EFFECTIVE UPON THE DISABILITY OF THE PRINCIPAL," OR SIMILAR WORDS SHOWING THE INTENT OF THE PRINCIPAL THAT THE AUTHORITY CONFERRED SHALL BE EXERCISABLE NOTWITHSTANDING HIS DISABILITY, THE AUTHORITY OF THE ATTORNEY-IN-FACT OR AGENT IS EXERCISABLE BY HIM AS PROVIDED IN THE POWER ON BEHALF OF THE PRINCIPAL NOTWITHSTANDING LATER DISABILITY OR INCAPACITY OF THE PRINCIPAL AT LAW OR LATER UNCERTAINTY AS TO WHETHER THE PRINCIPAL IS DEAD OR ALIVE. ALL ACTS DONE BY THE ATTORNEY-IN-FACT OR AGENT PURSUANT TO THE POWER DURING ANY PERIOD OF DISABILITY OR INCOMPETENCE OR UNCERTAINTY AS TO WHETHER THE PRINCIPAL IS DEAD OR ALIVE HAVE THE SAME EFFECT AND INURE TO THE BENEFIT OF AND BIND THE PRINCIPAL OR HIS HEIRS, DEVISEES AND PERSONAL REPRESENTATIVE AS IF THE PRINCIPAL WERE ALIVE, COMPETENT AND NOT DISABLED. IF A CONSERVATOR THEREAFTER IS APPOINTED FOR THE PRINCIPAL, THE ATTORNEY-IN-FACT OR AGENT, DURING THE CONTINUANCE OF THE APPOINTMENT, SHALL ACCOUNT TO THE CONSERVATOR RATHER THAN THE PRINCIPAL. THE CONSERVATOR HAS THE SAME POWER THE PRINCIPAL WOULD HAVE HAD IF HE WERE NOT DISABLED OR INCOMPETENT, TO REVOKE, SUSPEND OR TERMINATE ALL OR ANY PART OF THE POWER OF ATTORNEY OR AGENCY.

**14-5502. Other powers of attorney not revoked until notice of death or disability**

A. THE DEATH, DISABILITY, OR INCOMPETENCE OF ANY PRINCIPAL WHO HAS EXECUTED A POWER OF ATTORNEY IN WRITING OTHER THAN A POWER AS DESCRIBED BY SECTION 14-5501, DOES NOT REVOKE OR TERMINATE THE AGENCY AS TO THE ATTORNEY-IN-FACT, AGENT OR OTHER PERSON WHO, WITHOUT ACTUAL KNOWLEDGE OF THE DEATH, DISABILITY OR INCOMPETENCE OF THE PRINCIPAL, ACTS IN GOOD FAITH UNDER THE POWER OF ATTORNEY OR AGENCY. ANY ACTION SO TAKEN, UNLESS OTHERWISE INVALID OR UNENFORCEABLE, BINDS THE PRINCIPAL AND HIS HEIRS, DEVISEES AND PERSONAL REPRESENTATIVES.

B. AN AFFIDAVIT, EXECUTED BY THE ATTORNEY-IN-FACT OR AGENT STATING THAT HE DID NOT HAVE, AT THE TIME OF DOING AN ACT PURSUANT TO THE POWER OF ATTORNEY, ACTUAL KNOWLEDGE OF THE REVOCATION OR TERMINATION OF THE POWER OF ATTORNEY BY DEATH, DISABILITY OR

## LAWS OF ARIZONA

INCOMPETENCE, IS, IN THE ABSENCE OF FRAUD, CONCLUSIVE PROOF OF THE NONREVOCATION OR NONTERMINATION OF THE POWER AT THAT TIME, IF THE EXERCISE OF THE POWER REQUIRES EXECUTION AND DELIVERY OF ANY INSTRUMENT WHICH IS RECORDABLE, THE AFFIDAVIT WHEN AUTHENTICATED FOR RECORD IS LIKEWISE RECORDABLE.

C. THIS SECTION SHALL NOT BE CONSTRUED TO ALTER OR AFFECT ANY PROVISION FOR REVOCATION OR TERMINATION CONTAINED IN THE POWER OF ATTORNEY.

## ARTICLE 6. PUBLIC GUARDIAN AND CONSERVATOR

14-5601. **Establishment of public guardian and conservator**

A. EACH COUNTY BOARD OF SUPERVISORS SHALL, BY RESOLUTION OR ORDINANCE, CREATE THE OFFICE OF AND APPOINT A PUBLIC GUARDIAN AND CONSERVATOR.

B. COSTS INCURRED IN CONDUCTING THE OFFICE OF PUBLIC GUARDIAN AND CONSERVATOR SHALL BE A CHARGE AGAINST THE COUNTY.

14-5602. **Duties of public guardian and conservator; appointment**

THE COURT SHALL APPOINT A PUBLIC GUARDIAN OR CONSERVATOR FOR THOSE PERSONS IN NEED OF GUARDIANSHIP OR CONSERVATORSHIP AND FOR WHOM THERE IS NO PERSON OR CORPORATION QUALIFIED AND WILLING TO ACT IN SUCH CAPACITY.

14-5603. **Deposit of funds**

ALL FUNDS COMING INTO THE CUSTODY OF THE PUBLIC GUARDIAN AND CONSERVATOR SHALL BE DEPOSITED IN THE COUNTY TREASURY AND DISBURSED BY ORDER OF THE COURT OR SHALL BE DEPOSITED IN ONE OR MORE INSURED BANKS AUTHORIZED TO DO BUSINESS IN THE COUNTY OR INVESTED IN ONE OR MORE INSURED SAVINGS AND LOAN ASSOCIATIONS AUTHORIZED TO DO BUSINESS IN THE COUNTY, AND IF THERE ARE NO SUCH INSURED BANKS OR SUCH INSURED SAVINGS AND LOAN ASSOCIATIONS IN THE COUNTY, THEN THE PUBLIC GUARDIAN AND CONSERVATOR MAY DEPOSIT SUCH FUNDS IN ANY INSURED BANK OR INVEST SUCH FUNDS IN ANY INSURED

## LAWS OF ARIZONA

SAVINGS AND LOAN ASSOCIATION IN THE STATE. MONEY DEPOSITED WITH THE COUNTY TREASURER OR WITH AN INSURED BANK OR INVESTED IN AN ACCOUNT OR ACCOUNTS IN AN INSURED SAVINGS AND LOAN ASSOCIATION MAY BE WITHDRAWN ONLY UPON AN ORDER OF THE COURT.

## 14-5604. Claim against estate for expenses

THE PUBLIC GUARDIAN AND CONSERVATOR SHALL HAVE A CLAIM AGAINST THE WARD'S ESTATE FOR HIS REASONABLE EXPENSES INCURRED IN THE EXECUTION OF THE CONSERVATORSHIP, AND SUCH COMPENSATION FOR HIS SERVICES AND THOSE OF HIS ATTORNEY AS THE COURT IN WHICH HIS ACCOUNTS ARE SETTLED DEEMS JUST AND REASONABLE. ALL SUCH FUNDS RECEIVED FOR EXPENSES AND COMPENSATION SHALL BE PAID INTO THE COUNTY TREASURY TO BE CREDITED TO THE GENERAL FUND OF THE COUNTY.

## CHAPTER 6.

## NONPROBATE TRANSFERS

## ARTICLE 1. MULTIPLE-PARTY ACCOUNTS

## 14-6101. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ACCOUNT" MEANS A CONTRACT OF DEPOSIT OF FUNDS BETWEEN A DEPOSITOR AND A FINANCIAL INSTITUTION, AND INCLUDES A CHECKING ACCOUNT, SAVINGS ACCOUNT, CERTIFICATE OF DEPOSIT, SHARE ACCOUNT AND OTHER LIKE ARRANGEMENT.
2. "BENEFICIARY" MEANS A PERSON NAMED IN A TRUST ACCOUNT AS ONE FOR WHOM A PARTY TO THE ACCOUNT IS NAMED AS TRUSTEE.
3. "FINANCIAL INSTITUTION" MEANS ANY ORGANIZATION AUTHORIZED TO DO BUSINESS UNDER STATE OR FEDERAL LAWS RELATING TO FINANCIAL INSTITUTIONS, INCLUDING, WITHOUT LIMITATION, BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, AND CREDIT UNIONS.
4. "JOINT ACCOUNT" MEANS AN ACCOUNT PAYABLE ON REQUEST TO ONE OR MORE OF TWO OR MORE PARTIES WHETHER OR NOT MENTION IS MADE OF ANY RIGHT OF SURVIVORSHIP.

## LAWS OF ARIZONA

5. "MULTIPLE-PARTY ACCOUNT" IS ANY OF THE FOLLOWING TYPES OF ACCOUNT:

- (a) A JOINT ACCOUNT.
- (b) A P.O.D. ACCOUNT.
- (c) A TRUST ACCOUNT.

IT DOES NOT INCLUDE ACCOUNTS ESTABLISHED FOR DEPOSIT OF FUNDS OF A PARTNERSHIP, JOINT VENTURE OR OTHER ASSOCIATION FOR BUSINESS PURPOSES, OR ACCOUNTS CONTROLLED BY ONE OR MORE PERSONS AS THE DULY AUTHORIZED AGENT OR TRUSTEE FOR A CORPORATION, UNINCORPORATED ASSOCIATION, CHARITABLE OR CIVIC ORGANIZATION OR A REGULAR FIDUCIARY OR TRUST ACCOUNT IF THE RELATIONSHIP IS ESTABLISHED OTHER THAN BY DEPOSIT AGREEMENT.

6. "NET CONTRIBUTION" OF A PARTY TO A JOINT ACCOUNT AS OF ANY GIVEN TIME IS THE SUM OF ALL DEPOSITS THERETO MADE BY OR FOR HIM, LESS ALL WITHDRAWALS MADE BY OR FOR HIM WHICH HAVE NOT BEEN PAID TO OR APPLIED TO THE USE OF ANY OTHER PARTY, PLUS A PRO RATA SHARE OF ANY INTEREST OR DIVIDENDS INCLUDED IN THE CURRENT BALANCE. THE TERM INCLUDES, IN ADDITION, ANY PROCEEDS OF DEPOSIT LIFE INSURANCE ADDED TO THE ACCOUNT BY REASON OF THE DEATH OF THE PARTY WHOSE NET CONTRIBUTION IS IN QUESTION.

7. "PARTY" MEANS A PERSON WHO, BY THE TERMS OF THE ACCOUNT, HAS A PRESENT RIGHT, SUBJECT TO REQUEST, TO PAYMENT FROM A MULTIPLE-PARTY ACCOUNT. A P.O.D. PAYEE OR BENEFICIARY OF A TRUST ACCOUNT IS A PARTY ONLY AFTER THE ACCOUNT BECOMES PAYABLE TO HIM BY REASON OF HIS SURVIVING THE ORIGINAL PAYEE OR TRUSTEE. UNLESS THE CONTEXT OTHERWISE REQUIRES, IT INCLUDES A GUARDIAN, CONSERVATOR, PERSONAL REPRESENTATIVE OR ASSIGNEE, INCLUDING AN ATTACHING CREDITOR, OF A PARTY, IT ALSO INCLUDES A PERSON IDENTIFIED AS A TRUSTEE OF AN ACCOUNT FOR ANOTHER WHETHER OR NOT A BENEFICIARY IS NAMED, BUT IT DOES NOT INCLUDE ANY NAMED BENEFICIARY UNLESS HE HAS A PRESENT RIGHT OF WITHDRAWAL.

## LAWS OF ARIZONA

8. "PAYMENT" OF SUMS ON DEPOSIT INCLUDES WITHDRAWAL, PAYMENT ON CHECK OR OTHER DIRECTIVE OF A PARTY, AND ANY PLEDGE OF SUMS ON DEPOSIT BY A PARTY AND ANY SET-OFF, OR REDUCTION OR OTHER DISPOSITION OF ALL OR PART OF AN ACCOUNT PURSUANT TO A PLEDGE.
9. "PROOF OF DEATH" INCLUDES A DEATH CERTIFICATE OR RECORD OR REPORT WHICH IS PRIMA FACIE PROOF OF DEATH UNDER SECTION 14-1107.
10. "P.O.D. ACCOUNT" MEANS AN ACCOUNT PAYABLE ON REQUEST TO ONE PERSON DURING LIFETIME AND ON HIS DEATH TO ONE OR MORE P.O.D. PAYEES, OR TO ONE OR MORE PERSONS DURING THEIR LIFETIMES AND ON THE DEATH OF ALL OF THEM TO ONE OR MORE P.O.D. PAYEES.
11. "P.O.D. PAYEE" MEANS A PERSON DESIGNATED ON A P.O.D. ACCOUNT AS ONE TO WHOM THE ACCOUNT IS PAYABLE ON REQUEST AFTER THE DEATH OF ONE OR MORE PERSONS.
12. "REQUEST" MEANS A PROPER REQUEST FOR WITHDRAWAL, OR A CHECK OR ORDER FOR PAYMENT, WHICH COMPLIES WITH ALL CONDITIONS OF THE ACCOUNT, INCLUDING SPECIAL REQUIREMENTS CONCERNING NECESSARY SIGNATURES AND REGULATIONS OF THE FINANCIAL INSTITUTION, BUT IF THE FINANCIAL INSTITUTION CONDITIONS WITHDRAWAL OR PAYMENT ON ADVANCE NOTICE, FOR PURPOSES OF THIS ARTICLE THE REQUEST FOR WITHDRAWAL OR PAYMENT IS TREATED AS IMMEDIATELY EFFECTIVE AND A NOTICE OF INTENT TO WITHDRAW IS TREATED AS A REQUEST FOR WITHDRAWAL.
13. "SUMS ON DEPOSIT" MEANS THE BALANCE PAYABLE ON A MULTIPLE-PARTY ACCOUNT INCLUDING INTEREST, DIVIDENDS AND IN ADDITION ANY DEPOSIT LIFE INSURANCE PROCEEDS ADDED TO THE ACCOUNT BY REASON OF THE DEATH OF A PARTY.
14. "TRUST ACCOUNT" MEANS AN ACCOUNT IN THE NAME OF ONE OR MORE PARTIES AS TRUSTEE FOR ONE OR MORE BENEFICIARIES WHERE THE RELATIONSHIP IS ESTABLISHED BY THE FORM OF THE ACCOUNT AND THE DEPOSIT AGREEMENT WITH THE FINANCIAL INSTITUTION AND THERE IS NO SUBJECT OF THE TRUST OTHER THAN THE SUMS ON DEPOSIT IN THE ACCOUNT. IN A TRUST ACCOUNT IT IS NOT ESSENTIAL THAT

## LAW OF ARIZONA

PAYMENT TO THE BENEFICIARY BE MENTIONED IN THE DEPOSIT AGREEMENT. A TRUST ACCOUNT DOES NOT INCLUDE A REGULAR TRUST ACCOUNT UNDER A TESTAMENTARY TRUST OR A TRUST AGREEMENT WHICH HAS SIGNIFICANCE APART FROM THE ACCOUNT, OR A FIDUCIARY ACCOUNT ARISING FROM A FIDUCIARY RELATION SUCH AS ATTORNEY-CLIENT.

15. "WITHDRAWAL" INCLUDES PAYMENT TO A THIRD PERSON PURSUANT TO CHECK OR OTHER DIRECTIVE OF A PARTY.

14-6102. **Ownership as between parties, and others; protection of financial institutions**

THE PROVISIONS OF SECTIONS 14-6103 THROUGH 14-6105 CONCERNING BENEFICIAL OWNERSHIP AS BETWEEN PARTIES, OR AS BETWEEN PARTIES AND P.O.D. PAYEES OR BENEFICIARIES OF MULTIPLE-PARTY ACCOUNTS, ARE RELEVANT ONLY TO CONTROVERSIES BETWEEN THESE PERSONS AND THEIR CREDITORS AND OTHER SUCCESSORS, AND HAVE NO BEARING ON THE POWER OF WITHDRAWAL OF THESE PERSONS AS DETERMINED BY THE TERMS OF ACCOUNT CONTRACTS. THE PROVISIONS OF SECTIONS 14-6108 THROUGH 14-6113 GOVERN THE LIABILITY OF FINANCIAL INSTITUTIONS WHO MAKE PAYMENTS PURSUANT THERETO, AND THEIR SET-OFF RIGHTS.

14-6103. **Ownership during lifetime**

A. A JOINT ACCOUNT BELONGS, DURING THE LIFETIME OF ALL PARTIES, TO THE PARTIES IN PROPORTION TO THE NET CONTRIBUTIONS BY EACH TO THE SUMS ON DEPOSIT, UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE OF A DIFFERENT INTENT.

B. A P.O.D. ACCOUNT BELONGS TO THE ORIGINAL PAYEE DURING HIS LIFETIME AND NOT TO THE P.O.D. PAYEE OR PAYEES. IF TWO OR MORE PARTIES ARE NAMED AS ORIGINAL PAYEES, DURING THEIR LIFETIMES RIGHTS AS BETWEEN THEM ARE GOVERNED BY SUBSECTION A.

C. UNLESS A CONTRARY INTENT IS MANIFESTED BY THE TERMS OF THE ACCOUNT OR THE DEPOSIT AGREEMENT OR THERE IS OTHER CLEAR AND CONVINCING EVIDENCE OF AN IRREVOCABLE TRUST, A TRUST ACCOUNT BELONGS BENEFICIALLY TO THE TRUSTEE DURING HIS LIFETIME, AND IF TWO OR

## LAWS OF ARIZONA

MORE PARTIES ARE NAMED AS TRUSTEE ON THE ACCOUNT, DURING THEIR LIFETIMES BENEFICIAL RIGHTS AS BETWEEN THEM ARE GOVERNED BY SUBSECTION A. IF THERE IS AN IRREVOCABLE TRUST, THE ACCOUNT BELONGS BENEFICIALLY TO THE BENEFICIARY.

**14-6104. Right of survivorship**

A. SUMS REMAINING ON DEPOSIT AT THE DEATH OF A PARTY TO A JOINT ACCOUNT BELONG TO THE SURVIVING PARTY OR PARTIES AS AGAINST THE ESTATE OF THE DECEDENT UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE OF A DIFFERENT INTENTION AT THE TIME THE ACCOUNT IS CREATED. IF THERE ARE TWO OR MORE SURVIVING PARTIES, THEIR RESPECTIVE OWNERSHIPS DURING LIFETIME SHALL BE IN PROPORTION TO THEIR PREVIOUS OWNERSHIP INTERESTS UNDER SECTION 14-6103 AUGMENTED BY AN EQUAL SHARE FOR EACH SURVIVOR OF ANY INTEREST THE DECEDENT MAY HAVE OWNED IN THE ACCOUNT IMMEDIATELY BEFORE HIS DEATH, AND THE RIGHT OF SURVIVORSHIP CONTINUES BETWEEN THE SURVIVING PARTIES.

B. IF THE ACCOUNT IS A P.O.D. ACCOUNT, ON DEATH OF THE ORIGINAL PAYEE OR OF THE SURVIVOR OF TWO OR MORE ORIGINAL PAYEES, ANY SUMS REMAINING ON DEPOSIT BELONG TO THE P.O.D. PAYEE OR PAYEES IF SURVIVING, OR TO THE SURVIVOR OF THEM IF ONE OR MORE DIE BEFORE THE ORIGINAL PAYEE. IF TWO OR MORE P.O.D. PAYEES SURVIVE, THERE IS NO RIGHT OF SURVIVORSHIP IN EVENT OF DEATH OF A P.O.D. PAYEE THEREAFTER UNLESS THE TERMS OF THE ACCOUNT OR DEPOSIT AGREEMENT EXPRESSLY PROVIDE FOR SURVIVORSHIP BETWEEN THEM.

C. IF THE ACCOUNT IS A TRUST ACCOUNT, ON DEATH OF THE TRUSTEE OR THE SURVIVOR OF TWO OR MORE TRUSTEES, ANY SUMS REMAINING ON DEPOSIT BELONG TO THE PERSON OR PERSONS NAMED AS BENEFICIARIES, IF SURVIVING, OR TO THE SURVIVOR OF THEM IF ONE OR MORE DIE BEFORE THE TRUSTEE, UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE OF A CONTRARY INTENT. IF TWO OR MORE BENEFICIARIES SURVIVE, THERE IS NO RIGHT OF SURVIVORSHIP IN EVENT OF DEATH OF ANY BENEFICIARY THEREAFTER UNLESS THE TERMS OF THE ACCOUNT OR DEPOSIT AGREEMENT EXPRESSLY PROVIDE FOR SURVIVORSHIP BETWEEN THEM.

## LAWS OF ARIZONA

D. IN OTHER CASES, THE DEATH OF ANY PARTY TO A MULTIPLE-PARTY ACCOUNT HAS NO EFFECT ON BENEFICIAL OWNERSHIP OF THE ACCOUNT OTHER THAN TO TRANSFER THE RIGHTS OF THE DECEDENT AS PART OF HIS ESTATE.

E. A RIGHT OF SURVIVORSHIP ARISING FROM THE EXPRESS TERMS OF THE ACCOUNT OR UNDER THIS SECTION, A BENEFICIARY DESIGNATION IN A TRUST ACCOUNT OR A P.O.D. PAYEE DESIGNATION CANNOT BE CHANGED BY WILL.

**14-6105. Effect of written notice to financial institution**

PRIOR TO DEATH OF A PARTY, THE FORM OF AN ACCOUNT MAY BE ALTERED BY WRITTEN ORDER TO CHANGE THE FORM OR TO STOP OR VARY PAYMENT UNDER THE TERMS OF THE ACCOUNT. THE ORDER MUST BE SIGNED BY A PARTY, RECEIVED BY THE FINANCIAL INSTITUTION PRIOR TO THE DEATH, AND NOT COUNTERMANDED BY OTHER WRITTEN ORDER OF THE SAME PARTY PRIOR TO THE DEATH. AT THE DEATH OF A PARTY, RIGHTS OF SURVIVORSHIP UNDER SECTION 14-6104 ARE DETERMINED BY THE FORM OF THE ACCOUNT AT THAT TIME.

**14-6106. Accounts and transfers nontestamentary**

ANY TRANSFERS RESULTING FROM THE APPLICATION OF SECTION 14-6104 ARE EFFECTIVE BY REASON OF THE ACCOUNT CONTRACTS INVOLVED AND THIS ARTICLE AND ARE NOT TO BE CONSIDERED AS TESTAMENTARY OR SUBJECT TO CHAPTERS 2 THROUGH 4 OF THIS TITLE.

**14-6107. Rights of creditors**

A. NO MULTIPLE-PARTY ACCOUNT WILL BE EFFECTIVE AGAINST AN ESTATE OF A DECEASED PARTY TO TRANSFER TO A SURVIVOR SUMS NEEDED TO PAY DEBTS, TAXES AND EXPENSES OF ADMINISTRATION, INCLUDING STATUTORY ALLOWANCES TO THE SURVIVING SPOUSE AND DEPENDENT CHILDREN, IF OTHER ASSETS OF THE ESTATE ARE INSUFFICIENT.

B. A SURVIVING PARTY, P.O.D. PAYEE OR BENEFICIARY WHO RECEIVES PAYMENT FROM A MULTIPLE-PARTY ACCOUNT AFTER THE DEATH OF A DECEASED PARTY SHALL BE LIABLE TO ACCOUNT TO THE DECEASED PARTY'S PERSONAL REPRESENTATIVE FOR AMOUNTS THE DECEDENT OWNED BENEFICIALLY

## LAWS OF ARIZONA

IMMEDIATELY BEFORE HIS DEATH TO THE EXTENT NECESSARY TO DISCHARGE THE CLAIMS AND CHARGES MENTIONED IN SUBSECTION A REMAINING UNPAID AFTER APPLICATION OF THE DECEDENT'S ESTATE. NO PROCEEDING TO ASSERT THIS LIABILITY SHALL BE COMMENCED UNLESS THE PERSONAL REPRESENTATIVE HAS RECEIVED A WRITTEN DEMAND BY A SURVIVING SPOUSE, A CREDITOR OR ONE ACTING FOR A DEPENDENT CHILD OF THE DECEDENT, AND NO PROCEEDING SHALL BE COMMENCED LATER THAN TWO YEARS FOLLOWING THE DEATH OF THE DECEDENT. SUMS RECOVERED BY THE PERSONAL REPRESENTATIVE SHALL BE ADMINISTERED AS PART OF THE DECEDENT'S ESTATE.

C. THIS SECTION SHALL NOT AFFECT THE RIGHT OF A FINANCIAL INSTITUTION TO MAKE PAYMENT ON MULTIPLE-PARTY ACCOUNTS ACCORDING TO THE TERMS THEREOF, OR MAKE IT LIABLE TO THE ESTATE OF A DECEASED PARTY UNLESS BEFORE PAYMENT THE INSTITUTION HAS BEEN SERVED WITH PROCESS IN A PROCEEDING BY THE PERSONAL REPRESENTATIVE.

**14-6108. Financial institution protection; payment on signature of one party**

FINANCIAL INSTITUTIONS MAY ENTER INTO MULTIPLE-PARTY ACCOUNTS TO THE SAME EXTENT THAT THEY MAY ENTER INTO SINGLE-PARTY ACCOUNTS. ANY MULTIPLE-PARTY ACCOUNT MAY BE PAID, ON REQUEST, TO ANY ONE OR MORE OF THE PARTIES. A FINANCIAL INSTITUTION SHALL NOT BE REQUIRED TO INQUIRE AS TO THE SOURCE OF FUNDS RECEIVED FOR DEPOSIT TO A MULTIPLE-PARTY ACCOUNT, OR TO INQUIRE AS TO THE PROPOSED APPLICATION OF ANY SUM WITHDRAWN FROM AN ACCOUNT, FOR PURPOSES OF ESTABLISHING NET CONTRIBUTIONS.

**14-6109. Financial institution protection; payment after death or disability; joint account**

ANY SUMS IN A JOINT ACCOUNT MAY BE PAID, ON REQUEST, TO ANY PARTY WITHOUT REGARD TO WHETHER ANY OTHER PARTY IS INCAPACITATED OR DECEASED AT THE TIME THE PAYMENT IS DEMANDED, BUT PAYMENT MAY NOT BE MADE TO THE PERSONAL REPRESENTATIVE OR HEIRS OF A DECEASED PARTY UNLESS PROOF OF DEATH IS PRESENTED TO THE FINANCIAL INSTITUTION SHOWING THAT THE DECEDENT WAS

## LAWS OF ARIZONA

THE LAST SURVIVING PARTY OR UNLESS THERE IS NO RIGHT OF SURVIVORSHIP UNDER SECTION 14-6104.

**14-6110. Financial institution protection; payment of P.O.D. account**

ANY P.O.D. ACCOUNT MAY BE PAID, ON REQUEST, TO ANY ORIGINAL PARTY TO THE ACCOUNT. PAYMENT MAY BE MADE, ON REQUEST, TO THE P.O.D. PAYEE OR TO THE PERSONAL REPRESENTATIVE OR HEIRS OF A DECEASED P.O.D. PAYEE UPON PRESENTATION TO THE FINANCIAL INSTITUTION OF PROOF OF DEATH SHOWING THAT THE P.O.D. PAYEE SURVIVED ALL PERSONS NAMED AS ORIGINAL PAYEES. PAYMENT MAY BE MADE TO THE PERSONAL REPRESENTATIVE OR HEIRS OF A DECEASED ORIGINAL PAYEE IF PROOF OF DEATH IS PRESENTED TO THE FINANCIAL INSTITUTION SHOWING THAT HIS DECEDENT WAS THE SURVIVOR OF ALL OTHER PERSONS NAMED ON THE ACCOUNT EITHER AS AN ORIGINAL PAYEE OR AS P.O.D. PAYEE.

**14-6111. Financial institution protection; payment of trust account**

ANY TRUST ACCOUNT MAY BE PAID, ON REQUEST, TO ANY TRUSTEE. UNLESS THE FINANCIAL INSTITUTION HAS RECEIVED WRITTEN NOTICE THAT THE BENEFICIARY HAS A VESTED INTEREST NOT DEPENDENT UPON HIS SURVIVING THE TRUSTEE, PAYMENT MAY BE MADE TO THE PERSONAL REPRESENTATIVE OR HEIRS OF A DECEASED TRUSTEE IF PROOF OF DEATH IS PRESENTED TO THE FINANCIAL INSTITUTION SHOWING THAT HIS DECEDENT WAS THE SURVIVOR OF ALL OTHER PERSONS NAMED ON THE ACCOUNT EITHER AS TRUSTEE OR BENEFICIARY. PAYMENT MAY BE MADE, ON REQUEST, TO THE BENEFICIARY UPON PRESENTATION TO THE FINANCIAL INSTITUTION OF PROOF OF DEATH SHOWING THAT THE BENEFICIARY OR BENEFICIARIES SURVIVED ALL PERSONS NAMED AS TRUSTEES.

**14-6112. Financial institution protection; discharge**

ANY PAYMENT MADE PURSUANT TO SECTIONS 14-6108 THROUGH 14-6111 DISCHARGES THE FINANCIAL INSTITUTION FROM ALL CLAIMS FOR AMOUNTS SO PAID WHETHER OR NOT THE PAYMENT IS CONSISTENT WITH THE BENEFICIAL OWNERSHIP OF THE ACCOUNT AS BETWEEN PARTIES, P.O.D. PAYEES OR BENEFICIARIES OR THEIR SUCCESSORS. THE PROTECTION HERE GIVEN DOES NOT EXTEND TO PAYMENTS MADE AFTER A FINANCIAL INSTITUTION HAS RECEIVED WRITTEN NOTICE

## LAWS OF ARIZONA

FROM ANY PARTY ABLE TO REQUEST PRESENT PAYMENT TO THE EFFECT THAT WITHDRAWALS IN ACCORDANCE WITH THE TERMS OF THE ACCOUNT SHOULD NOT BE PERMITTED. UNLESS THE NOTICE IS WITHDRAWN BY THE PERSON GIVING IT, THE SUCCESSOR OF ANY DECEASED PARTY MUST CONCUR IN ANY DEMAND FOR WITHDRAWAL IF THE FINANCIAL INSTITUTION IS TO BE PROTECTED UNDER THIS SECTION. NO OTHER NOTICE OR ANY OTHER INFORMATION SHOWN TO HAVE BEEN AVAILABLE TO A FINANCIAL INSTITUTION SHALL AFFECT ITS RIGHT TO THE PROTECTION PROVIDED BY THIS SECTION. THE PROTECTION PROVIDED BY THIS SECTION SHALL HAVE NO BEARING ON THE RIGHTS OF PARTIES IN DISPUTES BETWEEN THEMSELVES OR THEIR SUCCESSORS CONCERNING THE BENEFICIAL OWNERSHIP OF FUNDS IN, OR WITHDRAWN FROM, MULTIPLE-PARTY ACCOUNTS AND IS IN ADDITION TO, AND NOT EXCLUSIVE OF, ANY PROTECTION PROVIDED THE FINANCIAL INSTITUTION BY ANY OTHER PROVISION OF LAW.

**14-6113. Financial institution protection; set-off**

WITHOUT QUALIFYING ANY OTHER STATUTORY RIGHT TO SET-OFF OR LIEN AND SUBJECT TO ANY CONTRACTUAL PROVISION, IF A PARTY TO A MULTIPLE-PARTY ACCOUNT IS INDEBTED TO A FINANCIAL INSTITUTION, THE FINANCIAL INSTITUTION HAS A RIGHT TO SET-OFF AGAINST THE ACCOUNT IN WHICH THE PARTY HAS OR HAD IMMEDIATELY BEFORE HIS DEATH A PRESENT RIGHT OF WITHDRAWAL. THE AMOUNT OF THE ACCOUNT SUBJECT TO SET-OFF IS THAT PROPORTION TO WHICH THE DEBTOR IS, OR WAS IMMEDIATELY BEFORE HIS DEATH, BENEFICIALLY ENTITLED, AND IN THE ABSENCE OF PROOF OF NET CONTRIBUTIONS, TO AN EQUAL SHARE WITH ALL PARTIES HAVING PRESENT RIGHTS OF WITHDRAWAL.

**14-6114. Rights in community property**

NOTHING IN THIS CHAPTER DEFEATS THE RIGHTS OF A SPOUSE IN COMMUNITY PROPERTY.

**ARTICLE 2. PROVISIONS RELATING TO EFFECT OF DEATH**

**14-6201. Provisions for payment or transfer at death**

A. ANY OF THE FOLLOWING PROVISIONS IN AN INSURANCE POLICY, CONTRACT OF EMPLOYMENT, BOND, MORTGAGE,

## LAWS OF ARIZONA

PROMISSORY NOTE, DEPOSIT AGREEMENT, PENSION PLAN, TRUST AGREEMENT, CONVEYANCE OR ANY OTHER WRITTEN INSTRUMENT EFFECTIVE AS A CONTRACT, GIFT, CONVEYANCE, OR TRUST IS DEEMED TO BE NONTTESTAMENTARY, AND THIS TITLE DOES NOT INVALIDATE THE INSTRUMENT OR ANY PROVISION:

1. THAT MONEY OR OTHER BENEFITS THERETOFORE DUE TO, CONTROLLED OR OWNED BY A DECEDENT SHALL BE PAID AFTER HIS DEATH TO A PERSON DESIGNATED BY THE DECEDENT IN EITHER THE INSTRUMENT OR A SEPARATE WRITING, INCLUDING A WILL, EXECUTED AT THE SAME TIME AS THE INSTRUMENT OR SUBSEQUENTLY.

2. THAT ANY MONEY DUE OR TO BECOME DUE UNDER THE INSTRUMENT SHALL CEASE TO BE PAYABLE IN EVENT OF THE DEATH OF THE PROMISEE OR THE PROMISSOR BEFORE PAYMENT OR DEMAND.

3. THAT ANY PROPERTY WHICH IS THE SUBJECT OF THE INSTRUMENT SHALL PASS TO A PERSON DESIGNATED BY THE DECEDENT IN EITHER THE INSTRUMENT OR A SEPARATE WRITING, INCLUDING A WILL, EXECUTED AT THE SAME TIME AS THE INSTRUMENT OR SUBSEQUENTLY.

B. NOTHING IN THIS SECTION LIMITS THE RIGHTS OF CREDITORS UNDER OTHER LAWS OF THIS STATE.

C. ANY PROVISION IN A LEASE OF A SAFETY DEPOSIT REPOSITORY TO THE EFFECT THAT TWO OR MORE PERSONS SHALL HAVE ACCESS TO THE REPOSITORY, OR THAT PURPORTS TO CREATE A JOINT TENANCY IN THE REPOSITORY OR IN THE CONTENTS OF THE REPOSITORY, OR THAT PURPORTS TO VEST OWNERSHIP OF THE CONTENTS OF THE REPOSITORY IN THE SURVIVING LESSEE, IS INEFFECTIVE TO CREATE JOINT OWNERSHIP OF THE CONTENTS OF THE REPOSITORY OR TO TRANSFER OWNERSHIP AT DEATH OF ONE OF THE LESSEES TO THE SURVIVOR. OWNERSHIP OF THE CONTENTS OF THE REPOSITORY AND DEVOLUTION OF TITLE TO THOSE CONTENTS IS DETERMINED ACCORDING TO RULES OF LAW WITHOUT REGARD TO THE LEASE PROVISIONS.

## LAWS OF ARIZONA

## CHAPTER 7

## TRUST ADMINISTRATION

## ARTICLE 1. (BLANK)

## ARTICLE 2. PROCEEDINGS CONCERNING TRUSTS

## 14-7201. Court; exclusive jurisdiction of trusts

A. THE COURT HAS EXCLUSIVE JURISDICTION OF PROCEEDINGS INITIATED BY INTERESTED PARTIES CONCERNING THE INTERNAL AFFAIRS OF TRUSTS. PROCEEDINGS WHICH MAY BE MAINTAINED UNDER THIS SECTION ARE THOSE CONCERNING THE ADMINISTRATION AND DISTRIBUTION OF TRUSTS, THE DECLARATION OF RIGHTS AND THE DETERMINATION OF OTHER MATTERS INVOLVING TRUSTEES AND BENEFICIARIES OF TRUSTS. THESE INCLUDE, BUT ARE NOT LIMITED TO, PROCEEDINGS TO:

1. APPOINT OR REMOVE A TRUSTEE.
2. REVIEW TRUSTEES' FEES AND REVIEW AND SETTLE INTERIM OR FINAL ACCOUNTS.
3. ASCERTAIN BENEFICIARIES, DETERMINE ANY QUESTION ARISING IN THE ADMINISTRATION OR DISTRIBUTION OF ANY TRUST INCLUDING QUESTIONS OF CONSTRUCTION OF TRUST INSTRUMENTS, INSTRUCT TRUSTEES AND DETERMINE THE EXISTENCE OR NONEXISTENCE OF ANY IMMUNITY, POWER, PRIVILEGE, DUTY OR RIGHT.
4. ORDER TRANSFER OF ADMINISTRATION OF THE TRUST TO ANOTHER STATE UPON APPROPRIATE CONDITIONS AS MAY BE DETERMINED BY THE COURT, OR ACCEPT TRANSFER OF ADMINISTRATION OF A TRUST FROM ANOTHER STATE TO THIS STATE UPON SUCH CONDITIONS AS MAY BE IMPOSED BY THE SUPERVISING COURT OF THE OTHER STATE, UNLESS THE COURT IN THIS STATE DETERMINES THAT SUCH CONDITIONS ARE INCOMPATIBLE WITH ITS OWN RULES AND PROCEDURES.

B. A PROCEEDING UNDER THIS SECTION DOES NOT RESULT IN CONTINUING SUPERVISION BY THE COURT OVER THE ADMINISTRATION OF THE TRUST. THE MANAGEMENT AND DISTRIBUTION OF A TRUST ESTATE, SUBMISSION OF ACCOUNTS AND REPORTS TO BENEFICIARIES, PAYMENT OF TRUSTEE'S FEES AND OTHER OBLIGATIONS OF A TRUST, ACCEPTANCE AND

## LAWS OF ARIZONA

CHANGE OF TRUSTEESHIP AND OTHER ASPECTS OF THE ADMINISTRATION OF A TRUST SHALL PROCEED EXPEDITIOUSLY CONSISTENT WITH THE TERMS OF THE TRUST, FREE OF JUDICIAL INTERVENTION AND WITHOUT ORDER, APPROVAL OR OTHER ACTION OF ANY COURT, SUBJECT TO THE JURISDICTION OF THE COURT AS INVOKED BY INTERESTED PARTIES OR AS OTHERWISE EXERCISED AS PROVIDED BY LAW.

14-7202. **Effect of administration in this state; consent to jurisdiction**

A. BY ACCEPTING THE TRUSTEESHIP OF A TRUST OF WHICH THE PRINCIPAL PLACE OF ADMINISTRATION IS IN THIS STATE, OR BY MOVING THE PRINCIPAL PLACE OF ADMINISTRATION OF A TRUST TO THIS STATE, THE TRUSTEE SUBMITS PERSONALLY TO THE JURISDICTION OF THE COURTS OF THIS STATE IN ANY PROCEEDING UNDER SECTION 14-7201 AS TO ANY MATTER RELATING TO THE TRUST ARISING WHILE THE PRINCIPAL PLACE OF ADMINISTRATION IS LOCATED IN THIS STATE.

B. TO THE EXTENT OF THE BENEFICIAL INTERESTS IN A TRUST OF WHICH THE PRINCIPAL PLACE OF ADMINISTRATION IS IN THIS STATE, THE BENEFICIARIES OF THE TRUST ARE SUBJECT TO THE JURISDICTION OF THE COURTS OF THIS STATE FOR PURPOSES OF PROCEEDINGS UNDER SECTION 14-7201.

C. UNLESS OTHERWISE DESIGNATED IN THE TRUST INSTRUMENT, THE PRINCIPAL PLACE OF ADMINISTRATION OF A TRUST IS THE TRUSTEE'S USUAL PLACE OF BUSINESS WHERE THE RECORDS PERTAINING TO THE TRUST ARE KEPT, OR AT THE TRUSTEE'S RESIDENCE IF HE HAS NO SUCH PLACE OF BUSINESS. IN THE CASE OF CO-TRUSTEES, THE PRINCIPAL PLACE OF ADMINISTRATION, IF NOT OTHERWISE DESIGNATED IN THE TRUST INSTRUMENT, IS:

1. THE USUAL PLACE OF BUSINESS OF THE CORPORATE TRUSTEE IF THERE IS BUT ONE CORPORATE CO-TRUSTEE.

2. THE USUAL PLACE OF BUSINESS OR RESIDENCE OF THE INDIVIDUAL TRUSTEE WHO IS A PROFESSIONAL FIDUCIARY IF THERE IS BUT ONE SUCH PERSON AND NO CORPORATE CO-TRUSTEE.

3. THE USUAL PLACE OF BUSINESS OR RESIDENCE OF ANY OF THE CO-TRUSTEES AS AGREED UPON BY THEM.

## LAWS OF ARIZONA

**14-7203. Trust proceedings; venue**

VENUE FOR PROCEEDINGS UNDER SECTION 14-7201 IS IN THE COUNTY WHERE THE TRUST HAS ITS PRINCIPAL PLACE OF ADMINISTRATION OF THE TRUST, OR AS OTHERWISE PROVIDED BY THE RULES OF CIVIL PROCEDURE.

**14-7204. Trust proceedings; initiation by notice; necessary parties**

PROCEEDINGS UNDER SECTION 14-7201 ARE INITIATED BY FILING A PETITION IN THE COURT AND GIVING NOTICE PURSUANT TO SECTION 14-1401 TO INTERESTED PARTIES. NOTICE TO THE TRUSTEE BY MAIL MAY BE ADDRESSED TO HIM AT THE PRINCIPAL PLACE OF ADMINISTRATION OF THE TRUST AS DEFINED IN SECTION 14-7202, SUBSECTION C. THE COURT MAY ORDER NOTIFICATION OF ADDITIONAL PERSONS. A DECREE IS VALID AS TO ALL WHO ARE GIVEN NOTICE OF THE PROCEEDING THOUGH FEWER THAN ALL INTERESTED PARTIES ARE NOTIFIED.

**14-7205. Trust proceedings; dismissal of matters relating to foreign trusts**

THE COURT WILL NOT, OVER THE OBJECTION OF A PARTY, ENTERTAIN PROCEEDINGS UNDER SECTION 14-7201 INVOLVING A TRUST WHICH IS UNDER THE CONTINUING SUPERVISION OF A FOREIGN COURT, IS REGISTERED IN ANOTHER STATE OR HAS ITS PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE, EXCEPT:

1. IF ALL APPROPRIATE PARTIES COULD NOT BE BOUND BY LITIGATION IN THE COURTS OF THE OTHER STATE.
2. IF THE INTERESTS OF JUSTICE WOULD BE SERIOUSLY IMPAIRED. THE COURT MAY CONDITION A STAY OR DISMISSAL OF A PROCEEDING ON THE CONSENT OF ANY PARTY TO THE JURISDICTION OF THE COURTS OF ANOTHER STATE, OR THE COURT MAY GRANT A CONTINUANCE OR ENTER ANY OTHER APPROPRIATE ORDER.

**14-7206. Proceedings for review of employment of agents and review of compensation of trustee and employees of trust**

ON PETITION OF AN INTERESTED PERSON, AFTER NOTICE TO ALL INTERESTED PERSONS, THE COURT MAY REVIEW THE

LAWS OF ARIZONA

PROPRIETY OF EMPLOYMENT OF ANY PERSON BY A TRUSTEE INCLUDING ANY ATTORNEY, AUDITOR, INVESTMENT ADVISOR OR OTHER SPECIALIZED AGENT OR ASSISTANT, AND THE REASONABLENESS OF THE COMPENSATION OF ANY PERSON SO EMPLOYED, AND THE REASONABLENESS OF THE COMPENSATION DETERMINED BY THE TRUSTEE FOR HIS OWN SERVICES. ANY PERSON WHO HAS RECEIVED EXCESSIVE COMPENSATION FROM A TRUST MAY BE ORDERED TO MAKE APPROPRIATE REFUNDS.

14-7207. **Concurrent jurisdiction of litigation involving trusts and third parties**

THE COURT OF THE PLACE OF PRINCIPAL ADMINISTRATION OF THE TRUST HAS CONCURRENT JURISDICTION WITH OTHER COURTS OF THIS STATE OVER ACTIONS OR PROCEEDINGS TO DETERMINE THE EXISTENCE OR NONEXISTENCE OF TRUSTS CREATED OTHER THAN BY WILL, OF ACTIONS BY OR AGAINST CREDITORS OR DEBTORS OF TRUSTS, AND OF OTHER ACTIONS AND PROCEEDINGS INVOLVING TRUSTEES AND THIRD PARTIES. VENUE IS DETERMINED BY THE RULES GENERALLY APPLICABLE TO CIVIL ACTIONS.

ARTICLE 3. DUTIES AND LIABILITIES OF TRUSTEES

14-7301. **General duties not limited**

EXCEPT AS SPECIFICALLY PROVIDED, THE GENERAL DUTY OF THE TRUSTEE TO ADMINISTER A TRUST EXPEDITIOUSLY FOR THE BENEFIT OF THE BENEFICIARIES IS NOT ALTERED BY THIS TITLE.

14-7302. **Trustee's standard of care and performance**

EXCEPT AS OTHERWISE PROVIDED BY THE TERMS OF THE TRUST, THE TRUSTEE SHALL OBSERVE THE STANDARD IN DEALING WITH THE TRUST ASSETS THAT WOULD BE OBSERVED BY A PRUDENT MAN DEALING WITH THE PROPERTY OF ANOTHER, AND IF THE TRUSTEE HAS SPECIAL SKILLS OR IS NAMED TRUSTEE ON THE BASIS OF REPRESENTATIONS OF SPECIAL SKILLS OR EXPERTISE, HE IS UNDER A DUTY TO USE THOSE SKILLS.

14-7303. **Duty to inform and account to beneficiaries**

## LAWS OF ARIZONA

THE TRUSTEE SHALL KEEP THE BENEFICIARIES OF THE TRUST REASONABLY INFORMED OF THE TRUST AND ITS ADMINISTRATION. IN ADDITION:

1. WITHIN THIRTY DAYS AFTER HIS ACCEPTANCE OF THE TRUST, THE TRUSTEE SHALL INFORM IN WRITING THE BENEFICIARIES CURRENTLY ENTITLED TO RECEIVE INCOME, OF THE TRUSTEE'S NAME AND ADDRESS.
2. UPON REASONABLE REQUEST, THE TRUSTEE SHALL PROVIDE THE BENEFICIARY WITH A COPY OF THE TERMS OF THE TRUST WHICH DESCRIBE OR AFFECT HIS INTEREST AND WITH RELEVANT INFORMATION ABOUT THE ASSETS OF THE TRUST AND THE PARTICULARS RELATING TO THE ADMINISTRATION.
3. UPON REASONABLE REQUEST, A BENEFICIARY IS ENTITLED TO A STATEMENT OF THE ACCOUNTS OF THE TRUST ANNUALLY AND ON TERMINATION OF THE TRUST OR CHANGE OF THE TRUSTEE.

**14-7304. Duty to provide bond**

A TRUSTEE NEED NOT PROVIDE BOND TO SECURE PERFORMANCE OF HIS DUTIES UNLESS REQUIRED BY THE TERMS OF THE TRUST, REASONABLY REQUESTED BY A BENEFICIARY OR FOUND BY THE COURT TO BE NECESSARY TO PROTECT THE INTERESTS OF THE BENEFICIARIES WHO ARE NOT ABLE TO PROTECT THEMSELVES AND WHOSE INTERESTS OTHERWISE ARE NOT ADEQUATELY REPRESENTED. ON PETITION OF THE TRUSTEE OR OTHER INTERESTED PERSON THE COURT MAY EXCUSE A REQUIREMENT OF BOND, REDUCE THE AMOUNT OF THE BOND, RELEASE THE SURETY OR PERMIT THE SUBSTITUTION OF ANOTHER BOND WITH THE SAME OR DIFFERENT SURETIES. IF BOND IS REQUIRED, IT SHALL BE FILED IN THE COURT OF THE COUNTY WHERE THE TRUST HAS ITS PRINCIPAL PLACE OF ADMINISTRATION, OR OTHER APPROPRIATE COURT, IN AMOUNTS AND WITH SURETIES AND LIABILITIES AS PROVIDED IN SECTIONS 14-3604 AND 14-3606 RELATING TO BONDS OF PERSONAL REPRESENTATIVES.

**14-7305. Trustee's duties; appropriate place of administration; deviation**

A TRUSTEE IS UNDER A CONTINUING DUTY TO ADMINISTER THE TRUST AT A PLACE APPROPRIATE TO THE PURPOSES OF THE

## LAWS OF ARIZONA

TRUST AND TO ITS SOUND, EFFICIENT MANAGEMENT. IF THE PRINCIPAL PLACE OF ADMINISTRATION BECOMES INAPPROPRIATE FOR ANY REASON, THE COURT MAY ENTER ANY ORDER FURTHERING EFFICIENT ADMINISTRATION AND THE INTERESTS OF BENEFICIARIES, INCLUDING, IF APPROPRIATE, REMOVAL OF THE TRUSTEE AND APPOINTMENT OF A TRUSTEE IN ANOTHER STATE. TRUST PROVISIONS RELATING TO THE PLACE OF ADMINISTRATION AND TO CHANGES IN THE PLACE OF ADMINISTRATION OR OF TRUSTEE CONTROL UNLESS COMPLIANCE WOULD BE CONTRARY TO EFFICIENT ADMINISTRATION OR THE PURPOSES OF THE TRUST. VIEWS OF ADULT BENEFICIARIES SHALL BE GIVEN WEIGHT IN DETERMINING THE SUITABILITY OF THE TRUSTEE AND THE PLACE OF ADMINISTRATION.

14-7306. **Personal liability of trustee to third parties**

A. UNLESS OTHERWISE PROVIDED IN THE CONTRACT, A TRUSTEE IS NOT PERSONALLY LIABLE ON CONTRACTS PROPERLY ENTERED INTO IN HIS FIDUCIARY CAPACITY IN THE COURSE OF ADMINISTRATION OF THE TRUST ESTATE UNLESS HE FAILS TO REVEAL HIS REPRESENTATIVE CAPACITY AND IDENTIFY THE TRUST ESTATE IN THE CONTRACT.

B. A TRUSTEE IS PERSONALLY LIABLE FOR OBLIGATIONS ARISING FROM OWNERSHIP OR CONTROL OF PROPERTY OF THE TRUST ESTATE OR FOR TORTS COMMITTED IN THE COURSE OF ADMINISTRATION OF THE TRUST ESTATE ONLY IF HE IS PERSONALLY AT FAULT.

C. CLAIMS BASED ON CONTRACTS ENTERED INTO BY A TRUSTEE IN HIS FIDUCIARY CAPACITY, ON OBLIGATIONS ARISING FROM OWNERSHIP OR CONTROL OF THE TRUST ESTATE, OR ON TORTS COMMITTED IN THE COURSE OF TRUST ADMINISTRATION MAY BE ASSERTED AGAINST THE TRUST ESTATE BY PROCEEDING AGAINST THE TRUSTEE IN HIS FIDUCIARY CAPACITY, WHETHER OR NOT THE TRUSTEE IS PERSONALLY LIABLE THEREFOR.

D. THE QUESTION OF LIABILITY AS BETWEEN THE TRUST ESTATE AND THE TRUSTEE INDIVIDUALLY MAY BE DETERMINED IN A PROCEEDING FOR ACCOUNTING, SURCHARGE OR INDEMNIFICATION OR OTHER APPROPRIATE PROCEEDING.

## LAWS OF ARIZONA

## 14-7307. Limitations on proceedings against trustees after final account

UNLESS PREVIOUSLY BARRED BY ADJUDICATION, CONSENT OR LIMITATION, ANY CLAIM AGAINST A TRUSTEE FOR BREACH OF TRUST IS BARRED AS TO ANY BENEFICIARY WHO HAS RECEIVED A FINAL ACCOUNT OR OTHER STATEMENT FULLY DISCLOSING THE MATTER AND SHOWING TERMINATION OF THE TRUST RELATIONSHIP BETWEEN THE TRUSTEE AND THE BENEFICIARY UNLESS A PROCEEDING TO ASSERT THE CLAIM IS COMMENCED WITHIN SIX MONTHS AFTER RECEIPT OF THE FINAL ACCOUNT OR STATEMENT. IN ANY EVENT AND NOTWITHSTANDING LACK OF FULL DISCLOSURE A TRUSTEE WHO HAS ISSUED A FINAL ACCOUNT OR STATEMENT RECEIVED BY THE BENEFICIARY AND HAS INFORMED THE BENEFICIARY OF THE LOCATION AND AVAILABILITY OF RECORDS FOR HIS EXAMINATION IS PROTECTED AFTER THREE YEARS. A BENEFICIARY IS DEEMED TO HAVE RECEIVED A FINAL ACCOUNT OR STATEMENT IF, BEING AN ADULT, IT IS RECEIVED BY HIM PERSONALLY OR IF, BEING A MINOR OR DISABLED PERSON, IT IS RECEIVED BY HIS REPRESENTATIVE AS DESCRIBED IN SECTION 14-1403, PARAGRAPH 2.

Sec. 5. Section 6-433, Arizona Revised Statutes, is amended to read:

**6-433. Payment on disability or death of holder in his own right of account**

A. If the holder in his own right of an account becomes ~~incompetent and adjudication thereof has been made~~ DISABLED AND A CONSERVATOR HAS BEEN APPOINTED, by a court of competent jurisdiction, AND HAS QUALIFIED then the association may pay the value of such account and dividends thereon- TO THE CONSERVATOR.

~~1. To the guardian of the estate of such holder in his own right upon his appointment by a court of competent jurisdiction and his qualification-~~

~~2. In the case of small estates as defined in section 14-501 where the appointment of a personal representative is unnecessary, then to the persons entitled thereto in accordance with the provisions of that section. Until the association has actual knowledge that such holder has been adjudicated incompetent- A CONSERVATOR HAS BEEN APPOINTED, it may pay to him- THE PROTECTED PERSON personally and his receipt or acquittance therefor shall be a complete discharge of the association as to the amount so paid.~~

## LAWS OF ARIZONA

B. Upon the death of a holder in his own right of an account, the association, upon receipt of proper estate tax waivers, may pay the value thereof and dividends thereon:

1. To the personal representative of such deceased holder, if and when qualified, in the manner provided in this chapter for the voluntary withdrawal of account generally.

~~2. In the case of small estates as defined by section 14-501 where no personal representative is appointed, then to the persons entitled thereto in accordance with the provisions of such section.~~

2. TO THE SUCCESSOR OF SUCH DECEASED HOLDER UPON PRESENTATION OF AN AFFIDAVIT PURSUANT TO SECTION 14-3971.

Sec. 6. Section 6-508, Arizona Revised Statutes, is amended to read:

**6-508. Issuance of shares; minors**

A. Shares shall be issued in the name of the owner or may be issued in the name of two or more persons in ~~joint tenancy~~ ACCORDANCE WITH TITLE 14, CHAPTER 6, ARTICLE 1. ~~with right of survivorship, in which case payment may be made, in whole or in part, to any of such persons whether the others be living, or dead, and payment by the credit union to any such person shall be a complete discharge of the credit union's obligation as to the amount paid, provided that an agreement permitting such payment was signed by all persons when the shares were issued or thereafter.~~ Only one of such persons need have the common bond of interest or association or occupation specified in this chapter, and only that person may vote in a meeting of the members. A ~~joint owner~~ MULTIPLE OWNER not in the field of membership cannot become a member of the credit union. Such persons shall have no voting rights and shall not borrow from the credit union nor continue beyond the current dividend period the share account in the credit union after the death of the ~~joint owner~~ MULTIPLE OWNER member. Shares may be issued in the name of a minor or in trust in such manner as the bylaws may provide, provided the name of the actual beneficiary is disclosed to the credit union.

B. Upon authorization of the board of directors, the partial share holdings of a member in excess of one dollar which is carried on the books of the credit union at less than par value for a period of two whole years may be credited to the legal reserve of the credit union if upon written

## LAWS OF ARIZONA

notice mailed to the member at his last known address no action to withdraw such funds is taken by the member within thirty days after the mailing of such notice. All like share accounts of one dollar or less may be credited to the legal reserve without notice.

Sec. 7. Section 12-313, Arizona Revised Statutes, is amended to read:

**12-313. Probate conservatorship and guardianship fees**

~~A. On filing a petition for letters of administration, probate of a will or appointment of a guardian,~~ ANY OF THE FOLLOWING:

1. A PETITION IN A FORMAL TESTACY OR APPOINTMENT PROCEEDING,
2. AN APPLICATION FOR INFORMAL PROBATE OR INFORMAL APPOINTMENT,
3. A PETITION FOR SUPERVISED ADMINISTRATION,
4. A PETITION TO APPOINT A GUARDIAN,
5. A PETITION TO APPOINT A CONSERVATOR OR MAKE OTHER PROTECTIVE ORDER,

twenty dollars shall be paid by the petitioner to the clerk of the superior court. If the same person petitions for special letters as well as for general letters IN A SINGLE ESTATE, he shall pay only one fee of twenty dollars. IF IN A SINGLE ESTATE THE SAME PERSON FILES AN APPLICATION OR PETITION UNDER CHAPTER 3 OF TITLE 14 AND A SUBSEQUENT PETITION UNDER THE SAME CHAPTER, NO FEE SHALL BE DUE FOR THE LATER FILING. IF A PETITION TO APPOINT A GUARDIAN ALSO REQUESTS APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE ORDER, ONLY ONE FEE SHALL BE DUE FOR THE FILING.

B. Any person opposing a petition ~~for letters of administration,~~ IN A TESTACY OR APPOINTMENT PROCEEDING OR ~~appointment of a guardian, probate of a will, or a petition for letters testamentary~~ OR CONSERVATOR, shall pay the fees of a plaintiff to the clerk. Every person opposing such contest, unless he has theretofore paid a clerk's fee in the matter, shall pay the fees of a defendant to the clerk. The provisions of sections 12-311 and 12-312 in relation to several persons appearing by the same attorney are applicable to this section.

## LAWS OF ARIZONA

C. In all estates, ~~and~~ guardianships AND CONSERVATORSHIPS wherein the original petition is filed and wherein the original fees of the contestants or resistants have been paid before ~~the effective date of this section,~~ JANUARY 1, 1974, no additional fees shall be payable.

Sec. 8. Section 12-1224, Arizona Revised Statutes, is amended to read:

12-1224. **Proceedings not exclusive; rules of procedure**

A. ~~The provisions of this article shall not affect the mode of proceeding prescribed by law for partition of estates of decedents, nor shall such provisions preclude partition in any other manner authorized by law.~~

B. The rules of pleading and procedure which govern other civil actions shall govern actions for partition when not in conflict with the proceedings provided by this article.

Sec. 9. Section 12-1251, Arizona Revised Statutes, is amended to read:

12-1251. **Right of recovery; procedure**

A. A person having a valid subsisting interest in real property and a right to immediate possession thereof may recover the property by action against any person acting as owner, landlord or tenant of the property claimed.

B. The action shall be commenced and prosecuted as other civil actions.

C. THE HEIRS OR DEVISEES MAY THEMSELVES, OR JOINTLY WITH THE PERSONAL REPRESENTATIVE, MAINTAIN AN ACTION FOR POSSESSION OF THE REAL PROPERTY, OR TO QUIET TITLE THERETO AGAINST ANY PERSON EXCEPT THE PERSONAL REPRESENTATIVE.

D. AN ACTION INVOLVING TITLE OR RIGHT TO POSSESSION OF REAL PROPERTY BELONGING TO THE ESTATE OF DECEDENT MAY BE BROUGHT BY OR AGAINST THE PERSONAL REPRESENTATIVE WITHOUT JOINING THE HEIRS.

Sec. 10. Section 12-2101, Arizona Revised Statutes, is amended to read:

12-2101. **Judgments and orders which may be appealed**

A. An appeal may be taken to the court of appeals from the superior court in the instances specified in this section.

## LAWS OF ARIZONA

B. From a final judgment entered in an action or special proceeding commenced in a superior court, or brought into a superior court from any other court, except in actions of forcible entry and detainer when the annual rental value of the property is less than three hundred dollars.

C. From any special order made after final judgment.

D. From any order affecting a substantial right made in any action when the order in effect determines the action and prevents judgment from which an appeal might be taken.

E. From a final order affecting a substantial right made in a special proceeding or upon a summary application in an action after judgment.

F. From an order:

1. Granting or refusing a new trial, or granting a motion in arrest of judgment.

2. Granting or dissolving an injunction, or refusing to grant or dissolve an injunction, or appointing a receiver.

3. Dissolving or refusing to dissolve an attachment or garnishment.

G. From an interlocutory judgment which determines the rights of the parties and directs an accounting or other proceeding to determine the amount of the recovery.

H. From an interlocutory judgment in any action for partition which determines the rights and interests of the respective parties, and directs partition to be made.

I. From any interlocutory judgment, decree, or order made or entered in actions to redeem real or personal property from a mortgage thereof or lien thereon, determining such right to redeem and directing an accounting.

J. From a judgment, DECREE or order ENTERED IN ANY FORMAL PROCEEDINGS UNDER TITLE 14.

~~1. Granting or refusing to grant, revoking or refusing to revoke, letters testamentary, or of administration, or of guardianship.~~

~~2. Admitting or refusing to admit a will to probate, or against or in favor of the validity of a will, or revoking or refusing to revoke the probate thereof.~~

## LAWS OF ARIZONA

- ~~3. Against or in favor of setting apart property, or making allowance for a widow or child.~~
- ~~4. Against or in favor of directing the partition, sale, or conveyance of real property, or settling an account of an executor, administrator, guardian, or trustee.~~
- ~~5. Refusing, allowing, or directing the distribution or partition of an estate, or any part thereof, or payment of a debt, claim, legacy, or distributive share.~~
- ~~6. Confirming or refusing to confirm a report of an appraiser or appraisers setting apart a homestead.~~
- ~~7. Determining heirship.~~

K. From an order or judgment:

- 1. Adjudging a person insane or incompetent, or committing a person to the state hospital.
- 2. Revoking or refusing to revoke an order or judgment adjudging a person insane or incompetent, or restoring or refusing to restore to competency any person who has been declared insane or incompetent.

L. From an order or judgment made and entered on habeas corpus proceedings:

- 1. The petitioner may appeal from an order or judgment refusing his discharge.
- 2. The officer having the custody of the petitioner, or the county attorney on behalf of the state, from an order or judgment discharging the petitioner whereupon the court may admit the petitioner to bail pending the appeal.

M. If any of the orders or judgments referred to in this section are made or rendered by a judge they are appealable as if made by the court.

Sec. 11. Section 25-201, Arizona Revised Statutes, is amended to read:

**25-201. Ante-nuptial contracts; limitations; execution by minor**

A. Parties intending to marry may enter into agreements not contrary to good morals or law. ~~They shall not enter into an agreement or make a~~

## LAWS OF ARIZONA

~~renunciation the object of which is to alter law of descent of property either with respect to themselves or inheritance by their children or posterity which either may have by any other person, or with respect to their common children.~~

B. A matrimonial agreement must be acknowledged before an officer authorized to acknowledge deeds.

C. A minor capable of contracting matrimony may enter into an agreement authorized by this section with the written consent of both parents if both are living, and if not, with the consent of the survivor. If both parents are dead the minor may enter such agreements with the written consent of his guardian.

D. No matrimonial agreement shall be altered after solemnization of the marriage.

Sec. 12. Section 36-514, Arizona Revised Statutes, is amended to read:

**36-514. Appointment of counsel and designated examiners hearing; order for confinement**

A. At the time of apprehension or during detention, but before the hearing, the proposed patient apprehended shall be permitted to consult an attorney to represent him at the hearing. If he is not represented by an attorney, the court shall, before the hearing, appoint an attorney to represent him.

B. The judge shall require two or more witnesses acquainted with the proposed patient at the time of the alleged mental illness to be summoned for the hearing and examination, who shall be examined on oath as to the conversation, manners and general conduct of the proposed patient. The judge shall also appoint and require two or more designated examiners to be present at the examination. On the basis of the testimony and a personal examination of the proposed patient, the designated examiners shall make a written statement under oath stating their opinion as to the mental health of the proposed patient, whether he has a mental illness likely to be dangerous to himself or to the person or property of others if he is permitted to be at large, and whether the mental illness is likely to be temporary or permanent.

C. If the court finds that the proposed patient is mentally ill to such a degree that he is in danger of injuring himself or the person or property of others if permitted to remain at liberty, it shall order and direct his

## LAWS OF ARIZONA

confinement in the state hospital or other designated facility, or to the veterans administration pursuant to section 14-898 36-510.01. The patient shall be so confined and not discharged until sufficiently restored to reason, unless the order of commitment provided for observation of the patient as provided by law. If the court finds the proposed patient is not mentally ill to such a degree that he is in danger of injuring himself or the person or property of others it shall deny the petition.

D. If upon completion of the hearing and consideration of the examination and the record, the court, in addition to committing the proposed patient as provided in subsection C of this section, shall also adjudge the proposed patient as incompetent, it may appoint a guardian for the estate of the proposed patient at the time of the judgment of incompetency. However, unless adjudged incompetent, the proposed patient shall be considered competent and retain his civil rights. In the event a guardian is appointed, the court shall file with the clerk of the court a certificate so stating. And thereafter all proceedings relating to such guardianship shall be had as provided by law for guardians of estates.

Sec. 13. Section 36-523, Arizona Revised Statutes, is amended to read:

**36-523. Transfer of patient to a designated facility; notice of transfer; transfer to federal agencies**

A. The superintendent may, with the written consent of the patient, his parents, spouse or guardian, transfer, or authorize the transfer of a patient admitted pursuant to sections 36-505, 36-507 or 36-514, from the state hospital to another designated facility if the superintendent determines that it would be in the best interests of the patient so to do and the designated facility will accept the patient, and if the patient, his parents, spouse or guardian agree to pay the costs of hospitalization of the patient at the designated facility. When a patient is transferred, written notice thereof shall be given to his guardian, parents or spouse, or, if not known, to his nearest known relative or friend.

B. Transfers to federal agencies shall be accomplished pursuant to section 14-898 36-510.01.

Sec. 14. Section 42-1526, Arizona Revised Statutes, is amended to read:

**42-1526. Liability of personal representative; liability of clerk of court**

A. Any personal representative or trustee who fails to pay the lawful taxes due upon an estate under his administration or control shall be liable

## LAWS OF ARIZONA

for the amount of the taxes, and they may be recovered in an action against the personal representative or trustee, and the sureties on his official bond.

B. A clerk of the court who allows a personal representative or trustee to make a final settlement of the estate UNDER SECTION 14-3931 OR SECTION 14-3932, OR TO CLOSE THE ESTATE BY FILING UNDER SECTION 14-3933, without having paid the tax due by exhibiting a receipt from the commissioner therefor shall be liable upon his official bond for the amount of taxes.

**Sec. 15. Transfer and renumbering**

Title 14, chapter 2, article 2, Arizona Revised Statutes, is transferred for placement in the new Title 14, chapter 2, article 8, Arizona Revised Statutes, and the involved sections renumbered, the former number being replaced by the latter number as follows: 14-221 as 14-2804, 14-222 as 14-2805, 14-223 as 14-2806, 14-224 as 14-2807, 14-225 as 14-2808, 14-226 as 14-2809 and 14-227 as 14-2810.

Sec. 16. Section 14-2808, Arizona Revised Statutes, is amended to read:

**14-2808. Insurance policies**

Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously the proceeds of the policy shall be distributed as if the insured had survived the beneficiary, but if the policy is community property of the insured and his spouse and there is no alternative beneficiary, or no alternative beneficiary except the estate or personal representatives of the insured, the proceeds shall be distributed as community property under section ~~14-224~~ 14-2807.

**Sec. 17. Transfer and renumbering**

Section 14-477, Arizona Revised Statutes, is transferred for placement in the new Title 14, chapter 3, article 1, Arizona Revised Statutes, as section 14-3110.

**Sec. 18. Transfer and renumbering**

Sections 14-597 and 14-598, Arizona Revised Statutes, are transferred for placement in the new Title 14, chapter 3, article 5, Arizona Revised Statutes, as respectively sections 14-3506 and 14-3507.

## LAWS OF ARIZONA

Sec. 19. Section 14-3506, Arizona Revised Statutes, is amended to read:

**14-3506. Report of sale and request for confirmation; notice of hearing; hearing**

A. The ~~executor or administrator~~ PERSONAL REPRESENTATIVE shall, within twenty days after making a sale, prepare, verify and file with the clerk of the court in which the probate proceeding is pending, a full and complete report of the sale, stating the reasons therefor, the name and address of the purchaser, the amount and terms upon which the property was sold, and requesting the court to confirm the sale. If the sale was made at public auction a copy of the notice of sale shall be attached to the report.

B. Upon filing the report the clerk shall set a time and place for hearing on the report and request for confirmation of the sale, and shall give at least ten days notice thereof BY PUBLICATION ONE TIME IN A NEWSPAPER HAVING GENERAL CIRCULATION IN THE COUNTY WHERE THE HEARING IS TO BE HELD AND THE COUNTY WHERE THE PROPERTY IS LOCATED. ~~by posting in three public places in the county.~~ The notice shall describe the property and set forth the amount and terms of the sale, shall refer those concerned to the report for further particulars, and state that anyone interested in the estate may appear at the time of the hearing and show cause why the sale should or should not be confirmed.

C. At the hearing the court shall examine the report, hear testimony, determine whether the sale was necessary or in the best interest of the estate and those interested therein, and whether it was legally and fairly made or the sum bid disproportionate to the value of the property.

D. If at the hearing an offer more than that named in the report is made, the court may accept such offer or a higher or better offer and confirm the sale to the person making the higher or better offer.

E. If the court finds the sale was not necessary or not in the best interest of the estate and those interested therein, or that the sale was unfair or illegal, or that the property is worth more than the amount bid, or that a greater sum can be obtained therefor, it shall deny the petition for confirmation and may direct that a new sale be made.

Sec. 20. Section 14-3507, Arizona Revised Statutes, is amended to read:

**14-3507. Appraisal; confirmation of sale; recording of order; procedure when purchaser defaults; liability of defaulting purchaser**

## LAWS OF ARIZONA

A. A sale of real property at private sale shall not be confirmed by the court ~~unless the sum offered is at least ninety per cent of the appraised value thereof, nor unless such real property has been appraised within one year of the time of the sale. If it has not been so appraised, or if the court is satisfied that the appraisement is too high or too low, appraisers shall be appointed, and they shall make an appraisement thereof in the same manner as an original appraisement, which may be done at any time before the sale or the confirmation.~~

B. If it appears to the court that the sale was legally made and fairly conducted, that the sum bid was not disproportionate to the value of the property sold and that a greater sum cannot be obtained, or if a higher or better offer is made and accepted by the court, the court shall thereupon make an order confirming the sale, and directing conveyances to be executed, and the sale shall be deemed effective from that time.

C. A certified copy of the order confirming the sale of real estate shall be recorded in the office of the county recorder of the county within which the land sold is located.

D. If the purchaser neglects or refuses to comply with the terms of the sale, the court, on motion of the ~~executor or administrator~~ PERSONAL REPRESENTATIVE and after notice to the purchaser, may order a re-sale of the property. If the amount of the re-sale does not cover the bid and expenses of the previous sale the original purchaser is liable to the estate for the deficiency.

#### Sec. 21. Transfer and renumbering

Section 14-898, Arizona Revised Statutes, is transferred for placement in Title 36, chapter 5, article 1, Arizona Revised Statutes, as section 36-510.01.

#### Sec. 22. Transfer, entitling and renumbering

Title 14, chapter 7, article 7, Arizona Revised Statutes, is transferred for placement in the new Title 14, chapter 7, Arizona Revised Statutes, as article 4, entitled UNIFORM PRINCIPAL AND INCOME ACT, and the involved sections renumbered, the former number being replaced by the latter number as follows: 14-1081 as 14-7401, 14-1082 as 14-7402, 14-1083 as 14-7403, 14-1084 as 14-7404, 14-1085 as 14-7405, 14-1086 as 14-7406, 14-1087 as 14-7407, 14-1088 as 14-7408, 14-1089 as 14-7409, 14-1090 as 14-7410, 14-1091 as 14-7411, 14-1092 as 14-7412, 14-1093 as 14-7413, 14-1094 as 14-7414, 14-1095 as 14-7415 and 14-1096 as 14-7416.

## LAWS OF ARIZONA

Sec. 23. Section 14-7408, Arizona Revised Statutes, is amended to read:

**14-7408. Principal comprising animals**

Where any part of the principal consists of animals employed in business, the provisions of section ~~14-1087~~ 14-7407 shall apply; and in other cases where the animals are held as a part of the principal partly or wholly because of the offspring or increase which they are expected to produce, all offspring or increase shall be deemed principal to the extent necessary to maintain the original number of such animals and the remainder shall be deemed income; and in all other cases such offspring or increase shall be deemed income.

Sec. 24. Section 14-7412, Arizona Revised Statutes, is amended to read:

**14-7412. Expenses; trust estates**

A. All ordinary expenses incurred in connection with the trust estate or with its administration and management, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the estates of both tenant and remainderman, interest on mortgages on the principal, ordinary repairs, trustees' compensation except commissions computed on principal, compensation of assistants, and court costs and attorneys' and other fees on regular accountings, shall be paid out of income. But such expenses where incurred in disposing of, or as carrying charges on, unproductive estate as defined in section ~~14-1091~~ 14-7411, shall be paid out of principal, subject to the provisions of subsection A of section ~~14-1091~~ 14-7411.

B. All other expenses, including trustees' commissions computed upon principal, cost of investing or reinvesting principal, attorneys' fees and other costs incurred in maintaining or defending any action to protect the trust or the property or assure the title thereof, unless due to the fault or cause of the tenant, and costs of, or assessments for, improvements to property forming part of the principal, shall be paid out of principal. Any tax levied by any authority, federal, state or foreign, upon profit or gain defined as principal under the terms of subsection B of section ~~14-1083~~ 14-7403 shall be paid out of principal, notwithstanding said tax may be denominated a tax upon income by the taxing authority.

C. Expenses paid out of income according to subsection A which represent regularly recurring charges shall be considered to have accrued from day to day, and shall be apportioned on that basis whenever the right

## LAWS OF ARIZONA

of the tenant begins or ends at some date other than the payment date of the expenses. Where the expenses to be paid out of income are of unusual amount, the trustee may distribute them throughout an entire year or part thereof, or throughout a series of years. After such distribution, where the right of the tenant ends during the period, the expenses shall be apportioned between tenant and remainderman on the basis of such distribution.

D. Where the costs of, or special taxes or assessments for, an improvement representing an addition of value to property held by the trustee as part of principal are paid out of principal, as provided in subsection B, the trustee shall reserve out of income and add to the principal each year a sum equal to the cost of the improvement divided by the number of years of the reasonably expected duration of the improvement.

Sec. 25. Section 14-7413, Arizona Revised Statutes, is amended to read:

14-7413. **Expenses; nontrust estates**

A. The provisions of section ~~14-1092~~ 14-7412, so far as applicable and excepting those dealing with costs of, or special taxes or assessments for, improvements to property, shall govern the apportionment of expenses between tenants and remaindermen where no trust has been created, subject, however, to any legal agreement of the parties or any specific direction of the taxing or other statutes; but where either tenant or remainderman has incurred an expense for the benefit of his own estate and without the consent or agreement of the other, he shall pay such expense in full.

B. Subject to the exceptions stated in subsection A the cost of, or special taxes or assessments for, an improvement representing an addition of value to property forming part of the principal shall be paid by the tenant, where such improvement cannot reasonably be expected to outlast the estate of the tenant. In all other cases a portion thereof only shall be paid by the tenant, while the remainder shall be paid by the remainderman. Such portion shall be ascertained by taking that percentage of the total which is found by dividing the present value of the tenant's estate by the present value of an estate of the same form as that of the tenant except that it is limited for a period corresponding to the reasonably expected duration of the improvement. The computation of present values of the estates shall be made on the expectancy basis set forth in the American experience tables of mortality and no other evidence of duration or expectancy shall be considered.

## LAWS OF ARIZONA

**Sec. 26. Transfer, entitling and renumbering**

Title 14, chapter 7, article 8, Arizona Revised Statutes, except sections 14-1110 through 14-1114, is transferred for placement in the new Title 14, chapter 7, Arizona Revised Statutes, as article 5, entitled UNIFORM FIDUCIARIES ACT, and the involved sections renumbered, the former number being replaced by the latter number as follows: 14-1101 as 14-7501, 14-1102 as 14-7502, 14-1104 as 14-7503, 14-1105 as 14-7504, 14-1106 as 14-7505, 14-1107 as 14-7506, 14-1108 as 14-7507 and 14-1109 as 14-7508.

**Sec. 27. Transfer, entitling and renumbering**

Title 14, chapter 7, article 9, Arizona Revised Statutes, is transferred for placement in the new Title 14, chapter 7, Arizona Revised Statutes, as article 6, entitled UNIFORM SIMPLIFICATION OF SECURITY TRANSFERS, and the involved sections renumbered, the former number being replaced by the latter number as follows: 14-1121 as 14-7601, 14-1122 as 14-7602, 14-1123 as 14-7603, 14-1124 as 14-7604, 14-1125 as 14-7605, 14-1126 as 14-7606, 14-1127 as 14-7607, 14-1128 as 14-7608, 14-1129 as 14-7609 and 14-1130 as 14-7610.

**Sec. 28. Repeals**

Sections 6-268, 6-431 and 12-504, Arizona Revised Statutes, are repealed.

**Sec. 29. Effective date**

The provisions of this Act shall become effective January 1, 1974.

Except as provided elsewhere in this Act, on the effective date of this Act:

1. the Act applies to any wills of decedents dying thereafter;
2. the Act applies to any proceedings thereafter commenced regardless of the time of the death of decedent or the time of creation of any trust, and to any proceedings in Court then pending except to the extent that in the opinion of the Court the former procedure should be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedure of this Act; any proceedings relating to estates of decedents then pending shall become proceedings in supervised administration, unless the decedent's will expressly provided otherwise;
3. every personal representative, guardian, or conservator holding an appointment on that date continues to hold the appointment but has only

## LAWS OF ARIZONA

the powers conferred by this Act and is subject to the duties and liabilities imposed with respect to any act occurring or done thereafter; every trustee of a trust existing on the effective date is subject to the duties and liabilities imposed by this Act with respect to any act occurring or done thereafter;

4. an act done before the effective date in any proceeding and any accrued right is not impaired by this Act; if a right is acquired, extinguished or barred upon the expiration of a prescribed period of time which has commenced to run by the provisions of any statute before the effective date, the provisions shall remain in force with respect to that right;

5. any rule of construction or presumption provided in this Act applies to instruments executed and multiple-party accounts opened before the effective date unless there is a clear indication of a contrary intent.

Approved by the Governor—April 24, 1973

Filed in the Office of the Secretary of State—April 24, 1973