



January 17, 2020

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## SENATE BILL No. 50

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DIGEST OF SB 50 (Updated January 15, 2020 12:34 pm - DI 128)

**Citations Affected:** IC 6-1.1; IC 29-1; IC 29-3; IC 30-4; IC 32-17.

**Synopsis:** Various trust and probate issues. Makes various changes to trust and probate laws concerning proof of title affidavits, small estate affidavits, execution of a trust by a third party, silent trusts, nonjudicial settlements of accounts, and legacy trusts. Makes technical corrections. (The introduced version of this bill was prepared by the probate code study commission.)

**Effective:** July 1, 2020.

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**Freeman, Koch, Randolph Lonnie M**

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January 6, 2020, read first time and referred to Committee on Judiciary.  
January 16, 2020, amended, reported favorably — Do Pass.

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SB 50—LS 6128/DI 128





January 17, 2020

Second Regular Session of the 121st General Assembly (2020)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

## SENATE BILL No. 50

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

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

1 SECTION 1. IC 6-1.1-5-7 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. (a) A person to  
3 whom the title to real property has passed, either under the laws of  
4 descent of this state or by virtue of the last will of a decedent, may  
5 procure a transfer of the real property on the tax duplicate on which the  
6 real property is assessed and taxed. In order to procure the transfer, the  
7 person must ~~prepare file~~ an affidavit ~~and, except as provided in section~~  
8 ~~9 of this chapter, file it prepared under IC 29-1-7-23(b)~~ with the  
9 auditor of the county in which the real property is ~~situated; located and~~  
10 ~~record~~ the affidavit ~~shall contain the following information: with the~~  
11 ~~recorder of the county in which the real property is located.~~

- 12 (1) the decedent's date of death;  
13 (2) ~~whether the decedent died testate or intestate; and~~  
14 (3) the affiant's interest in the real property.

15 In addition, if the decedent died testate, the affiant must attach a  
16 certified copy of the decedent's will to the affidavit. However, if the  
17 will has been probated or recorded in the county in which the real

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1 property is located, the affiant, in lieu of attaching a certified copy of  
 2 the will, shall state that fact in the affidavit and indicate the volume and  
 3 page of the record where the will may be found:

4 (b) Except as provided in section 9 of this chapter, the county  
 5 auditor shall enter a transfer of the real property in the proper transfer  
 6 book after the affidavit is filed with his office.

7 (c) (b) No transfer made under this section has the effect of  
 8 conferring title upon the person procuring the transfer.

9 SECTION 2. IC 29-1-7-23, AS AMENDED BY P.L.231-2019,  
 10 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2020]: Sec. 23. (a) When a person dies, the person's real and  
 12 personal property passes to persons to whom it is devised by the  
 13 person's last will or, in the absence of such disposition, to the persons  
 14 who succeed to the person's estate as the person's heirs; but it shall be  
 15 subject to the possession of the personal representative and to the  
 16 election of the surviving spouse and shall be chargeable with the  
 17 expenses of administering the estate, the payment of other claims and  
 18 the allowance is ~~allowances~~ under IC 29-1-4-1, except as otherwise  
 19 provided in IC 29-1.

20 (b) ~~A person may sign and record an affidavit to establish~~ prima  
 21 facie evidence of the ~~devolution of~~ **passage of** real estate title to  
 22 distributees under this section. ~~An affidavit under this section may be~~  
 23 ~~established by an affidavit containing~~ **contain** the following  
 24 information:

25 (1) The decedent's name **and date of death.**

26 (2) ~~The decedent's date of death.~~ **A statement of the affiant's**  
 27 **relationship to the decedent.**

28 (3) A description of ~~the most recent~~ **how the following deeds or**  
 29 **other instruments vested in the decedent an ownership or**  
 30 **leasehold interest in real property, with a cross-reference if**  
 31 **applicable, under IC 36-2-7-10(l) to each deed or other**  
 32 instrument:

33 (A) **Deeds or other instruments** recorded in the office of the  
 34 recorder ~~of the county~~ where the real estate **property** is  
 35 located.

36 (B) **Deeds or other instruments that disclose a title**  
 37 **transaction (as defined in IC 32-20-2-7).**

38 (4) ~~A description of the most recent instrument responsible for~~  
 39 ~~conveying title to the real estate.~~

40 (5) (4) ~~A~~ **The legal** description of the conveyed real estate  
 41 **property** as it appears in ~~the instrument~~ **instruments** described  
 42 in subdivision (4): (3).



1           **(5) The names of all distributees known to the affiant.**

2           ~~(6) Identifying information unique to~~ **An explanation of how**  
 3           **each interest in** the instrument or instruments described in  
 4           subdivisions ~~(3)~~ and ~~(4)~~, as applicable, that may be used by the  
 5           recorder to identify the instrument or instruments, as applicable;  
 6           in the recorder's records.

7           ~~(7) An explanation of how title real property devolved passed~~  
 8           **upon the decedent's death** to each distributee under this section,  
 9           including a recitation of devolution by:

10           (A) intestate ~~transfer~~ **succession** under IC 29-1-2-1; or

11           (B) ~~a~~ **the** decedent's last will and testament that has been  
 12           admitted to probate under section ~~9~~ **13** of this chapter, **with**  
 13           **references to:**

14           (i) **the name and location of the court that issued the**  
 15           **order admitting the will to probate; and**

16           (ii) **the date when the court admitted the decedent's will**  
 17           **to probate.**

18           ~~(8) A statement that establishes that:~~

19           ~~(A) at least seven (7) months have elapsed since the decedent's~~  
 20           ~~death;~~

21           ~~(B) no letters testamentary or letters of administration have~~  
 22           ~~been issued to a court appointed personal representative for~~  
 23           ~~the decedent within the time limits specified under section~~  
 24           ~~15.1(d) of this chapter; and~~

25           ~~(C) a probate court has not issued findings and an~~  
 26           ~~accompanying order preventing the limitations in section~~  
 27           ~~15.1(b) of this chapter from applying to the decedent's real~~  
 28           ~~property.~~

29           ~~(9) The name of each distributee known to the affiant.~~

30           ~~(10) (7) An explanation of how each portion of the any fractional~~  
 31           ~~interest interests in the real property that may have devolved~~  
 32           ~~among passed to multiple distributees known to the affiant was~~  
 33           ~~were calculated and apportioned.~~

34           (c) Upon presentation of an affidavit described in subsection (b), the  
 35           auditor of the county where the real **estate property** described in  
 36           subsection ~~(b)~~ **the affidavit** is located must endorse the affidavit **and**  
 37           record the estate title transfer in the auditor's real estate ownership  
 38           records as an instrument that is exempt from the requirements to file a  
 39           sales disclosure **form and must enter the names of the distributees**  
 40           **shown on the affidavit on the tax duplicate on which the real**  
 41           **property is transferred, assessed, and taxed under IC 6-1.1-5-7.**

42           (d) Upon presentation of an affidavit described in subsection (b), the



1 recorder of the county where the real ~~estate~~ **property** described in  
 2 ~~subsection (b) the affidavit~~ is located must:

3 (1) record the affidavit; and

4 (2) index the affidavit as the most recent instrument responsible  
 5 for the transfer of the real ~~estate~~ **property** described in subsection  
 6 ~~(b): (b)(4)~~.

7 (e) Any person may rely upon an affidavit **recorded with the**  
 8 **county recorder:**

9 (1) made in good faith; and

10 (2) under this section;

11 as **prima facie** evidence of an effective transfer of **the decedent's title**  
 12 **to the real property interest under subsection (a) to the distributee**  
 13 **described in the affidavit.**

14 (f) If:

15 (1) **at least seven (7) months have elapsed since the decedent's**  
 16 **death;**

17 (2) **the clerk of the court described in subsection (b)(6)(B) has**  
 18 **not issued letters testamentary or letters of administration to**  
 19 **the court appointed personal representative for the decedent**  
 20 **within the time limits specified under section 15.1(d) of this**  
 21 **chapter; and**

22 (3) **the court described in subsection (b)(6)(B) has not issued**  
 23 **findings and an accompanying order preventing the**  
 24 **limitations in section 15.1(b) of this chapter from applying to**  
 25 **the decedent's real property;**

26 **any person may rely upon the affidavit described in subsection (e)**  
 27 **as evidence that the real property may not be sold by an executor**  
 28 **or administrator of the decedent's estate to pay a debt or obligation**  
 29 **of the decedent, which is not a lien of record (as defined in**  
 30 **~~IC 32-20-3-1~~ in the county in which the real property is located,**  
 31 **or to pay any costs of administration of the decedent's estate.**

32 SECTION 3. IC 29-1-7-24, AS AMENDED BY P.L.86-2018,  
 33 SECTION 211, IS AMENDED TO READ AS FOLLOWS  
 34 [EFFECTIVE JULY 1, 2020]: Sec. 24. Except as provided in  
 35 ~~IC 29-1-8-1, IC 29-1-8-2, IC 29-1-8-3, and IC 29-1-13-2~~, no will is  
 36 effective for the purpose of proving title to, or the right to the  
 37 possession of, any real or personal property disposed of by the will,  
 38 until it has been admitted to probate.

39 SECTION 4. IC 29-1-8-1, AS AMENDED BY P.L.231-2019,  
 40 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2020]: Sec. 1. (a) Forty-five (45) days after the death of a  
 42 decedent and upon being presented an affidavit that complies with



- 1 subsection (b), a person:
- 2 (1) indebted to the decedent; or
- 3 (2) having possession of personal property or an instrument
- 4 evidencing a debt, an obligation, a stock, or a chose in action
- 5 belonging to the decedent;
- 6 shall make payment of the indebtedness or deliver the personal
- 7 property or the instrument evidencing a debt, an obligation, a stock, or
- 8 a chose in action to a distributee claiming to be entitled to payment or
- 9 delivery of property of the decedent as alleged in the affidavit.
- 10 (b) The affidavit required by subsection (a) must be an affidavit
- 11 made by or on behalf of the distributee and must state the following:
- 12 (1) That the value of the gross probate estate, wherever located,
- 13 (less liens, encumbrances, and reasonable funeral expenses) does
- 14 not exceed:
- 15 (A) twenty-five thousand dollars (\$25,000), for the estate of an
- 16 individual who dies before July 1, ~~2007~~; **2006**; and
- 17 (B) fifty thousand dollars (\$50,000), for the estate of an
- 18 individual who dies after June 30, ~~2007~~. **2006**.
- 19 (2) That forty-five (45) days have elapsed since the death of the
- 20 decedent.
- 21 (3) That no application or petition for the appointment of a
- 22 personal representative is pending or has been granted in any
- 23 jurisdiction.
- 24 (4) The name and address of each distributee that is entitled to a
- 25 share of the property and the part of the property to which each
- 26 distributee is entitled.
- 27 (5) That the affiant has notified each distributee identified in the
- 28 affidavit of the affiant's intention to present an affidavit under this
- 29 section.
- 30 (6) That the affiant is entitled to payment or delivery of the
- 31 property on behalf of each distributee identified in the affidavit.
- 32 (c) If a motor vehicle or watercraft (as defined in IC 9-13-2-198.5)
- 33 is part of the estate, nothing in this section shall prohibit a transfer of
- 34 the certificate of title to the motor vehicle if five (5) days have elapsed
- 35 since the death of the decedent and no appointment of a personal
- 36 representative is contemplated. A transfer under this subsection shall
- 37 be made by the bureau of motor vehicles upon receipt of an affidavit
- 38 containing a statement of the conditions required by subsection (b)(1)
- 39 and (b)(6). The affidavit must be duly executed by the distributees of
- 40 the estate.
- 41 (d) A transfer agent of a security shall change the registered
- 42 ownership on the books of a corporation from the decedent to a



1 distributee upon the presentation of an affidavit as provided in  
2 subsection (a).

3 (e) For the purposes of subsection (a), an insurance company that,  
4 by reason of the death of the decedent, becomes obligated to pay a  
5 death benefit to the estate of the decedent is considered a person  
6 indebted to the decedent.

7 (f) For purposes of subsection (a), property in a safe deposit box  
8 rented by a decedent from a financial institution organized or  
9 reorganized under the law of any state (as defined in IC 28-2-17-19) or  
10 the United States is considered personal property belonging to the  
11 decedent in the possession of the financial institution.

12 (g) For purposes of subsection (a), a distributee has the same rights  
13 as a personal representative under IC 32-39 to access a digital asset (as  
14 defined in IC 32-39-1-10) of the decedent.

15 SECTION 5. IC 29-1-8-3, AS AMENDED BY P.L.231-2019,  
16 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2020]: Sec. 3. (a) As used in this section, "fiduciary" means:

- 18 (1) the personal representative of an unsupervised estate; or  
19 (2) a person appointed by a court under this title to act on behalf  
20 of the decedent or the decedent's distributees.

21 (b) Except as otherwise provided in this section, if the value of a  
22 decedent's gross probate estate, less liens and encumbrances, does not  
23 exceed the sum of:

- 24 (1) an amount equal to:  
25 (A) twenty-five thousand dollars (\$25,000), for the estate of an  
26 individual who dies before July 1, ~~2007~~; **2006**; and  
27 (B) fifty thousand dollars (\$50,000), for the estate of an  
28 individual who dies after June 30, ~~2007~~; **2006**;  
29 (2) the costs and expenses of administration; and  
30 (3) reasonable funeral expenses;

31 the fiduciary, without giving notice to creditors, may file a closing  
32 statement as provided in section 4 of this chapter and disburse and  
33 distribute the estate to the persons entitled to it, as provided in section  
34 4 of this chapter.

35 (c) If an estate described in subsection (a) includes real property, an  
36 affidavit may be recorded in the office of the recorder in the county in  
37 which the real property is located. The affidavit must contain the  
38 following:

- 39 (1) The legal description of the real property.  
40 (2) The following ~~statement~~: **statements**:  
41 (A) If the individual dies after June 30, ~~2007~~ **2006**, the  
42 following statement: "It appears that the decedent's gross





- 1 probate estate, less liens and encumbrances, does not exceed  
 2 the sum of the following: fifty thousand dollars (\$50,000), the  
 3 costs and expenses of administration, and reasonable funeral  
 4 expenses."  
 5 (B) If the individual dies before July 1, ~~2007~~, **2006**, the  
 6 following statement: "It appears that the decedent's gross  
 7 probate estate, less liens and encumbrances, does not exceed  
 8 the sum of the following: twenty-five thousand dollars  
 9 (\$25,000), the costs and expenses of administration, and  
 10 reasonable funeral expenses."  
 11 (3) The name of each person entitled to at least a part interest in  
 12 the real property as a result of a decedent's death, the share to  
 13 which each person is entitled, and whether the share is a divided  
 14 or undivided interest.  
 15 (4) A statement which explains how each person's share has been  
 16 determined.  
 17 SECTION 6. IC 29-1-8-4, AS AMENDED BY P.L.231-2019,  
 18 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2020]: Sec. 4. (a) As used in this section, "fiduciary" means:  
 20 (1) the personal representative of an unsupervised estate; or  
 21 (2) a person appointed by a court under this title to act on behalf  
 22 of the decedent or the decedent's distributees.  
 23 (b) Unless prohibited by order of the court and except for estates  
 24 being administered by supervised personal representatives, a fiduciary  
 25 may close an estate administered under the summary procedures of  
 26 section 3 of this chapter by filing with the court, at any time after  
 27 disbursement and distribution of the estate, a verified statement stating  
 28 that:  
 29 (1) to the best knowledge of the fiduciary, the value of the gross  
 30 probate estate, less liens and encumbrances, did not exceed the  
 31 sum of:  
 32 (A) twenty-five thousand dollars (\$25,000), for the estate of an  
 33 individual who dies before July 1, ~~2007~~, **2006**, and fifty  
 34 thousand dollars (\$50,000), for the estate of an individual who  
 35 dies after June 30, ~~2007~~, **2006**;  
 36 (B) the costs and expenses of administration; and  
 37 (C) reasonable funeral expenses;  
 38 (2) the fiduciary has fully administered the estate by disbursing  
 39 and distributing it to the persons entitled to it; and  
 40 (3) the fiduciary has sent a copy of the closing statement to all  
 41 distributees of the estate and to all creditors or other claimants of  
 42 whom the fiduciary is aware and has furnished a full accounting



- 1           in writing of the administration to the distributees whose interests  
2           are affected.
- 3           (c) If no actions, claims, objections, or proceedings involving the  
4           fiduciary are filed in the court within two (2) months after the closing  
5           statement is filed, the fiduciary may immediately disburse and  
6           distribute the estate free from claims to the persons entitled to the  
7           disbursement and distribution. After disbursing and distributing an  
8           estate, the fiduciary must file a report in the court of the disbursement  
9           and distribution. The appointment of the personal representative or the  
10          duties of the fiduciary, as applicable, shall terminate upon the filing of  
11          the report.
- 12          (d) A closing statement filed under this section has the same effect  
13          as one (1) filed under IC 29-1-7.5-4.
- 14          (e) A copy of any affidavit recorded under section 3(c) of this  
15          chapter must be attached to the closing statement filed under this  
16          section.
- 17          SECTION 7. IC 29-3-9-7 IS AMENDED TO READ AS FOLLOWS  
18          [EFFECTIVE JULY 1, 2020]: Sec. 7. (a) Whenever it is proposed to  
19          compromise any claim by or against a protected person or the protected  
20          person's property, the court, on petition of the guardian, may enter an  
21          order authorizing the compromise to be made if satisfied that the  
22          compromise will be in the best interest of the protected person.
- 23          (b) Whenever a minor has a disputed claim against another person,  
24          whether arising in contract, tort, or otherwise, and a guardian for the  
25          minor and the minor's property has not been appointed, the parents of  
26          the minor may compromise the claim. However, before the  
27          compromise is valid, it must be approved by the court upon filing of a  
28          petition requesting the court's approval. If the court approves the  
29          compromise, it may direct that the settlement be paid in accordance  
30          with IC 29-3-3-1. If IC 29-3-3-1 is not applicable, the court shall  
31          require that a guardian be appointed and that the settlement be  
32          delivered to the guardian upon the terms that the court directs.
- 33          (c) **Any exhibit demonstrating a compromise on behalf of a**  
34          **protected person or a minor and any testimony related to such**  
35          **compromise that is offered or admitted into evidence in a legal**  
36          **proceeding commenced under this section shall be maintained by**  
37          **the court as a confidential court record. The confidential exhibits**  
38          **and record may not be used in any other proceeding or for any**  
39          **other person.**
- 40          (d) **Subsection (c) does not prohibit the following persons from**  
41          **having access to the confidential exhibits and record for the**  
42          **purpose of learning, confirming, and enforcing the economic terms**



1 of the compromise, for the purpose of enforcing or modifying any  
 2 trust that is funded under the compromise, or for the purpose of  
 3 obtaining a qualified order with respect to a structured settlement  
 4 under IC 34-50-2 and 26 U.S.C. 5891(b):

5 (1) The attorney of record for the incapacitated person or  
 6 minor.

7 (2) A guardian or guardian ad litem appointed for the  
 8 incapacitated person or minor by a court of competent  
 9 jurisdiction, and the attorney, if any, for the guardian or  
 10 guardian ad litem.

11 (3) Each current trustee or trust director that participates in  
 12 the administration of a trust funded under the compromise  
 13 and the attorneys of record for each current trustee or trust  
 14 director.

15 (4) A prospective successor trustee or successor trust director  
 16 that is proposed to serve in the administration of a trust  
 17 funded under the compromise.

18 SECTION 8. IC 30-4-1.5-4, AS ADDED BY P.L.40-2018,  
 19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2020]: Sec. 4. (a) Any of the following persons may create a  
 21 valid inter vivos trust by electronically signing an electronic trust  
 22 instrument that sufficiently states the terms of the trust in compliance  
 23 with IC 30-4-2-1(b):

24 (1) A settlor.

25 (2) An agent of a settlor who is an attorney in fact.

26 (3) A person who holds a power of appointment that is  
 27 exercisable by appointing money or property to the trustee of a  
 28 trust.

29 (4) An adult who:

30 (A) is not a trustee named in the electronic trust  
 31 instrument; and

32 (B) electronically signs the electronic trust instrument:

33 (i) at the settlor's direction; and

34 (ii) in the direct physical presence of the settlor.

35 If an adult signs at the settlor's direction under subdivision (4), the  
 36 electronic trust instrument must identify the adult signer and must  
 37 state that the adult is signing at the direction of the settlor and in  
 38 the settlor's direct physical presence. The electronic signature of the  
 39 settlor, including a person signing the electronic trust instrument  
 40 at the settlor's direction under subdivision (4), or other person  
 41 creating the trust is not required to be acknowledged or witnessed by  
 42 a notary.



1 (b) The following persons may use the electronic record associated  
 2 with an electronic trust instrument to make a complete converted copy  
 3 of an electronic trust instrument immediately after its execution or at  
 4 a later time when a complete and intact electronic record is available:

- 5 (1) The settlor.  
 6 (2) A trustee who accepts appointment under the electronic trust  
 7 instrument.  
 8 (3) An attorney representing the settlor or the trustee.  
 9 (4) Any other person authorized by the settlor.

10 If a complete converted copy is generated from a complete and intact  
 11 electronic record associated with an electronic trust instrument, the  
 12 person who generates the complete converted copy is not required to  
 13 sign the affidavit described in subsection (d).

14 (c) If:

- 15 (1) a person discovers an accurate but incomplete copy of an  
 16 electronic trust instrument;  
 17 (2) the electronic record for the electronic trust instrument  
 18 becomes:  
 19 (A) lost; or  
 20 (B) corrupted; or  
 21 (3) freedom from tampering or unauthorized alteration cannot be  
 22 authenticated or verified;

23 a living settlor, attorney, custodian, or person responsible for the  
 24 discovery of the incomplete electronic trust instrument may prepare a  
 25 complete converted copy of the electronic trust instrument using all  
 26 available information if the person creating the complete converted  
 27 copy of the electronic trust instrument has access to a substantially  
 28 complete, nonelectronic copy of the electronic trust instrument.

29 (d) A person who creates a complete converted copy of an electronic  
 30 trust instrument under subsection (c) shall sign an affidavit that affirms  
 31 or specifies, as applicable, the following:

- 32 (1) The date the electronic trust instrument was created.  
 33 (2) The time the electronic trust instrument was created.  
 34 (3) How the incomplete electronic trust instrument was  
 35 discovered.  
 36 (4) The method and format used to store the original electronic  
 37 record associated with the electronic trust instrument.  
 38 (5) The methods used, if any, to prevent tampering or the making  
 39 of unauthorized alterations to the electronic record or electronic  
 40 trust instrument.  
 41 (6) Whether the electronic trust instrument has been altered since  
 42 its creation.



- 1 (7) Confirmation that an electronic record, including the
- 2 document integrity evidence, if any, was created at the time the
- 3 settlor made the electronic trust instrument.
- 4 (8) Confirmation that the electronic record has not been altered
- 5 while in the custody of the current custodian or any prior
- 6 custodian.
- 7 (9) Confirmation that the complete converted copy is a complete
- 8 and correct duplication of the electronic trust instrument and the
- 9 date, place, and time of its execution by the settlor or the settlor's
- 10 authorized agent.

11 (e) A complete converted copy derived from a complete and correct  
 12 electronic trust instrument may be docketed under IC 30-4-6-7 or,  
 13 absent any objection, offered and admitted as evidence of the trust's  
 14 terms in the same manner as the original and traditional paper trust  
 15 instrument of the settlor. Whenever this article permits or requires the  
 16 trustee of a trust to provide a copy of a trust instrument to a beneficiary  
 17 or other interested person, the trustee may provide a complete  
 18 converted copy of the electronic trust instrument. A complete and  
 19 converted copy is conclusive evidence of the trust's terms unless  
 20 otherwise determined by a court in an order entered upon notice to all  
 21 interested persons and after an opportunity for a hearing.

22 SECTION 9. IC 30-4-2-1, AS AMENDED BY P.L.51-2014,  
 23 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2020]: Sec. 1. (a) A trust in either real or personal property is  
 25 enforceable only if there is written evidence of the terms of the trust  
 26 bearing the signature of **any of the following persons:**

- 27 (1) The settlor. ~~or~~
- 28 (2) The settlor's authorized agent.
- 29 (3) **An adult who:**
- 30 (A) **is not a trustee named in the trust's written terms; and**
- 31 (B) **signs the trust's written terms:**
- 32 (i) **at the settlor's direction; and**
- 33 (ii) **in the direct physical presence of the settlor.**

34 **If an adult signs at the settlor's direction under subdivision (3), the**  
 35 **written evidence of the trust's terms must identify that adult signer**  
 36 **and must state that the adult is signing at the direction of the**  
 37 **settlor and in the settlor's direct physical presence.**

38 (b) Except as required in the applicable probate law for the  
 39 execution of wills, no formal language is required to create a trust, but  
 40 the terms of the trust must be sufficiently definite so that the trust  
 41 property, the identity of the trustee, the nature of the trustee's interest,  
 42 the identity of the beneficiary, the nature of the beneficiary's interest



1 and the purpose of the trust may be ascertained with reasonable  
2 certainty.

3 (c) It is not necessary to the validity of a trust that the trust be  
4 funded with or have a corpus that includes property other than the  
5 present or future, vested or contingent right of the trustee to receive  
6 proceeds or property, including:

- 7 (1) as beneficiary of an estate under IC 29-1-6-1;
- 8 (2) life insurance benefits under section 5 of this chapter;
- 9 (3) retirement plan benefits; or
- 10 (4) the proceeds of an individual retirement account.

11 (d) A trust created under:

- 12 (1) section 18 of this chapter for the care of an animal; or
- 13 (2) section 19 of this chapter for a noncharitable purpose;

14 has a beneficiary.

15 (e) A trust has a beneficiary if the beneficiary can be presently  
16 ascertained or ascertained in the future, subject to any applicable rule  
17 against perpetuities.

18 (f) A power of a trustee to select a beneficiary from an indefinite  
19 class is valid. If the power is not exercised within a reasonable time, the  
20 power fails and the property subject to the power passes to the persons  
21 who would have taken the property had the power not been conferred.

22 (g) A trust may be created by exercise of a power of appointment in  
23 favor of a trustee.

24 SECTION 10. IC 30-4-3-6, AS AMENDED BY P.L.231-2019,  
25 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
26 JULY 1, 2020]: Sec. 6. (a) The trustee has a duty to administer a trust  
27 according to the terms of the trust.

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

- 31 (1) Administer the trust in a manner consistent with IC 30-4-3.5.
- 32 (2) Take possession of and maintain control over the trust  
33 property.
- 34 (3) Preserve the trust property.
- 35 (4) Make the trust property productive for both the income and  
36 remainder beneficiary. As used in this subdivision, "productive"  
37 includes the production of income or investment for potential  
38 appreciation.
- 39 (5) Keep the trust property separate from the trustee's individual  
40 property and separate from or clearly identifiable from property  
41 subject to another trust.
- 42 (6) Maintain clear and accurate accounts with respect to the trust



1 estate.

2 (7) Except as provided in subsection (c), keep the following  
3 beneficiaries reasonably informed about the administration of the  
4 trust and of the material facts necessary for the beneficiaries to  
5 protect their interests:

6 (A) A current income beneficiary.

7 (B) A beneficiary who will become an income beneficiary  
8 upon the expiration of the term of the current income  
9 beneficiary, if the trust has become irrevocable by:

10 (i) the terms of the trust instrument; or

11 (ii) the death of the settlor.

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

17 (8) Upon:

18 (A) the trust becoming irrevocable:

19 (i) by the terms of the trust instrument; or

20 (ii) by the death of the settlor; and

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

23 promptly provide a copy of the complete trust instrument to the  
24 income beneficiary or remainderman. This subdivision does not  
25 prohibit the terms of the trust from requiring the trustee to  
26 separately provide each beneficiary only the portions of the trust  
27 instrument that describe or pertain to that beneficiary's interest in  
28 the trust and the administrative ~~provision~~ **provisions** of the trust  
29 instrument that ~~pertains~~ **pertain** to all beneficiaries of the trust.

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

32 (10) Defend actions involving the trust estate.

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

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

35 (A) the trustee, by reasonable inquiry, considers reliable; and

36 (B) with respect to heirship, relationship, survivorship, or any  
37 other issue relative to determining a trust beneficiary.

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

42 (1) the age of the beneficiary;



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

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

- 8 (1) shall represent that beneficiary and bind that beneficiary's
- 9 interests for purposes of any judiciary proceeding or nonjudicial
- 10 matter involving the trust unless the court finds, after a hearing
- 11 upon notice, that a conflict of interest exists between the
- 12 beneficiary and the designated representative; ~~and~~
- 13 (2) has the authority to initiate or defend and participate in any
- 14 proceeding relating to the trust under this article or under IC 30-2
- 15 on behalf of the beneficiary; ~~and~~
- 16 **(3) shall not disclose to the beneficiary the information**
- 17 **provided by the trustee unless the court orders disclosure or**
- 18 **the trustee agrees to the disclosure.**

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

- 25 (e) If:
- 26 (1) a beneficiary is an adult and has not been adjudicated to be an
- 27 incapacitated person;
- 28 (2) the trust instrument restricts or eliminates the right of the
- 29 beneficiary to be informed of the beneficiary's interest in a trust;
- 30 and
- 31 (3) the beneficiary discovers **material** information about the
- 32 beneficiary's interest in the trust from sources other than the
- 33 trustee;

34 subsections (c) and (d) do not prohibit the beneficiary from demanding  
 35 **or petitioning for an accounting or statement regarding the trust**  
 36 **under IC 30-4-5-12(c), from receiving a copy of all relevant**  
 37 **portions of the trust instrument, or from demanding and receiving,**  
 38 **under subsection (b)(7), other information about the trust and its**  
 39 **administration under subsection (b)(7); including a copy of all relevant**  
 40 **portions of the trust instrument, or an accounting or statement**  
 41 **regarding the trust under IC 30-4-5-12(c); that is consistent with the**  
 42 **content and scope of the information that the beneficiary received**





1 **from sources other than the trustee.** The beneficiary may also initiate  
 2 and participate in any proceeding against or with the trustee under this  
 3 chapter.

4 SECTION 11. IC 30-4-5-14.5, AS AMENDED BY P.L.231-2019,  
 5 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2020]: Sec. 14.5. (a) A trustee may obtain a nonjudicial  
 7 settlement of its accounts in accordance with subsection (b) when:

- 8 (1) a trust terminates pursuant to the terms of the trust;
- 9 (2) a trust terminates early pursuant to IC 30-4-3-24.5;
- 10 (3) a trustee resigns or is removed; or
- 11 (4) a trustee seeks discharge of an interim accounting period when  
 12 the trust is continuing.

13 (b) A trustee who elects to proceed under this section shall provide  
 14 the following to the qualified beneficiaries of the trust and a successor  
 15 trustee, if applicable, within a reasonable time after termination of the  
 16 trust pursuant to its terms, the resignation or removal of the trustee, or  
 17 the end of the period for which the trustee is seeking discharge:

- 18 (1) A statement showing the fair market value of the ~~new net~~  
 19 assets to be distributed from a terminating trust or to a successor  
 20 trustee.
- 21 (2) A trust accounting for the prior three (3) years showing all  
 22 receipts and disbursements and inventory value of the net assets.
- 23 (3) An estimate for any items reasonably anticipated to be  
 24 received or disbursed.
- 25 (4) The amount of any fees, including trustee fees, remaining to  
 26 be paid.
- 27 (5) Notice that the trust is terminating, or that the trustee has  
 28 resigned or been removed, the time period for which the trustee  
 29 seeks discharge of its accounts, and a statement providing that  
 30 claims against a trustee under IC 30-4-6-12 and IC 30-4-6-14, if  
 31 applicable, shall be barred if no objections are received within the  
 32 time period described in subsection (c).
- 33 (6) The name and mailing address of the trustee.
- 34 (7) The name and telephone number of a person who may be  
 35 contacted for additional information.

36 The trustee may also provide the statement and notice described in this  
 37 subsection to any other person who the trustee reasonably believes may  
 38 have an interest in the trust.

39 (c) If, after receiving the notice and trust information described in  
 40 subsection (b), a qualified beneficiary objects to a disclosed act or  
 41 omission, the qualified beneficiary shall provide written notice of the  
 42 objection to the trustee not later than sixty (60) days after the notice



1 was sent by the trustee. If no written objection is provided in the sixty  
2 (60) day time period, the information provided under subsection (b)  
3 shall be considered approved by the recipient. The trustee shall, in the  
4 case of a trust terminating pursuant to the terms of the trust or the  
5 trustee's resignation or removal, within a reasonable period of time  
6 following the expiration of the sixty (60) day time period, distribute the  
7 assets as provided in the trust or to the successor trustee. If a qualified  
8 beneficiary gives the trustee a written objection within the applicable  
9 sixty (60) day time period, the trustee or the qualified beneficiary may:

- 10 (1) submit the written objection to the court for resolution and  
11 charge the expense of commencing a proceeding to the trust; or  
12 (2) resolve the objection by a nonjudicial settlement agreement  
13 under section 25 of this chapter, or otherwise.

14 Any agreement entered into pursuant to subdivision (2) may include a  
15 release, an indemnity clause, or both, on the part of the beneficiary  
16 against the trustee relating to the trust. If the parties agree to a  
17 nonjudicial settlement agreement under section 25 of this chapter, any  
18 related expenses shall be charged to the trust. Upon a resolution of an  
19 objection under this subsection, within a reasonable period of time, the  
20 trustee shall distribute the remaining trust assets as provided in the trust  
21 or to the successor trustee.

22 (d) The trustee may rely upon the written statement of a person  
23 receiving notice that the person does not object.

24 (e) When a trustee distributes assets of a terminating trust or to a  
25 successor trustee after complying with the provisions of this article and  
26 having received no objections, each person who received notice and  
27 either consented or failed to object pursuant to this section is barred  
28 from:

- 29 (1) bringing a claim against the trustee or challenging the validity  
30 of the trust to the same extent and with the same preclusive effect  
31 as if the court had entered a final order approving the trustee's  
32 final account; or  
33 (2) bringing a claim against the trustee for the period of such  
34 interim accounts to the same extent and with the same preclusive  
35 effect as if the court had entered a final order approving the  
36 trustee's interim accounts.

37 (f) A trustee may not request that a beneficiary indemnify the trustee  
38 against loss in exchange for the trustee forgoing a request to the court  
39 to approve its accounts at the time that the trust terminates, or at the  
40 time the trustee resigns or is removed, except as agreed upon by the  
41 parties pursuant to subsection (c).

42 (g) The court that exercises probate jurisdiction shall have exclusive



1 jurisdiction over matters under this section.

2 (h) IC 30-4-6-10.5 shall apply to this section.

3 (i) Nothing in this section shall preclude a trustee from proceeding  
4 under IC 30-4-3-18(b) to have the trustee's accounts reviewed and  
5 settled by the court.

6 SECTION 12. IC 30-4-8-1, AS ADDED BY P.L.221-2019,  
7 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2020]: Sec. 1. (a) Subject to the limitations set forth in  
9 subsection (b), this chapter applies to:

10 (1) qualified dispositions to legacy trusts; and

11 (2) dispositions by transferors who are trustees;

12 that are made after June 30, 2019.

13 (b) This chapter does not apply to:

14 (1) any assets that are listed on an application or financial  
15 statement completed by the transferor and which is submitted to  
16 a lender in connection with a request to obtain or maintain credit  
17 from the lender; or

18 (2) any assets of a legacy trust that are listed on an application or  
19 financial statement completed on behalf of the legacy trust and  
20 which is submitted to a lender in connection with a request to  
21 obtain or maintain credit from the lender on behalf of the legacy  
22 trust.

23 In the event that assets described in subsection (b)(1) are later  
24 transferred to a legacy trust and a default occurs under the loan or  
25 extension of credit, either before or after the transfer or disposition  
26 under the legacy trust, the lender shall be entitled to proceed against  
27 any assets listed on the applications or financial statements which were  
28 submitted in connection with the loan, or any modifications,  
29 amendments, or renewals of the loan. Nothing in this chapter shall  
30 prohibit such action. A change in the character, form, or ownership of  
31 the assets described in subsection (b)(1) shall in no way make  
32 subsection (b)(1) inapplicable. **This subsection shall apply only to the  
33 lender that extended credit based on the application or financial  
34 statement submitted to the lender and the indebtedness or any  
35 portion of the indebtedness owed to the lender remains unpaid.**

36 SECTION 13. IC 30-4-8-8, AS AMENDED BY P.L.231-2019,  
37 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 JULY 1, 2020]: Sec. 8. (a) Except as provided in subsection (e), a  
39 claim against property that is the subject of a qualified disposition to a  
40 legacy trust is barred by section 7 of this chapter unless the claim is one  
41 (1) of the following:

42 (1) Except as provided in subsection (b), an action brought in



1 Indiana under the Uniform Fraudulent Transfer Act (IC 32-18-2)  
 2 in which the requirements for recovery under the act are met by  
 3 clear and convincing evidence.

4 (2) An action to enforce the child support obligations of the  
 5 transferor under a judgment or court order.

6 (3) A court judgment or order for the division of property in a  
 7 dissolution of the transferor's marriage or a legal separation  
 8 between the transferor and the transferor's spouse, if the  
 9 transferor's **qualified** distribution to the legacy trust was made:

10 (A) after the date of the transferor's marriage that is subject to  
 11 the dissolution or legal separation; or

12 (B) within thirty (30) days before the date of the transferor's  
 13 marriage that is subject to the dissolution or legal separation  
 14 unless the transferor provided written notice of the qualified  
 15 disposition to the other party to the marriage at least three (3)  
 16 days before making the qualified disposition.

17 (b) A claim brought under an action described in subsection (a)(1)  
 18 is extinguished unless:

19 (1) the creditor's claim arose before the qualified disposition to a  
 20 legacy trust was made and the action is brought not later than the  
 21 later of:

22 (A) two (2) years after the transfer was made; or

23 (B) six (6) months after the transfer:

24 (i) was recorded or made a public record; or

25 (ii) if not recorded or made a public record, was discovered  
 26 or could have reasonably been discovered by the creditor; or

27 (2) notwithstanding IC 32-18-2-19, the creditor's claim arose  
 28 concurrent with or after the qualified disposition and the action is  
 29 brought not more than two (2) years after the date of the qualified  
 30 disposition.

31 (c) A qualified disposition made by a transferor who is a trustee is  
 32 considered for purposes of this chapter to have been made on the date  
 33 that the property that is subject to the qualified disposition was  
 34 originally transferred in trust to the trustee or any predecessor trustee  
 35 and the condition set forth in section 4(3) of this chapter is satisfied.

36 (d) If more than one (1) qualified disposition is made by means of  
 37 the same legacy trust:

38 (1) the making of a subsequent qualified disposition is  
 39 disregarded when determining whether a creditor's claim with  
 40 respect to a prior qualified disposition is extinguished under  
 41 subsection (b); and

42 (2) any distribution to a beneficiary is considered to have been



1 made from the latest qualified disposition.

2 (e) If the state of Indiana is a creditor of a transferor, then  
 3 notwithstanding subsection (a)(1) and subsection (b), the state of  
 4 Indiana may bring an action against a qualified trustee to assert a claim  
 5 against or to recover property that is the subject of a qualified  
 6 disposition by proceeding under the Indiana Uniform Fraudulent  
 7 Transfer Act, subject to the standard of evidence in IC 32-18-2-14 and  
 8 IC 32-18-2-15, and the limitation periods in IC 32-18-2-19.

9 SECTION 14. IC 30-4-8-16, AS AMENDED BY P.L.231-2019,  
 10 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2020]: Sec. 16. (a) Nothing in this chapter shall be construed  
 12 to prohibit a lender from enforcing its rights in property identified in  
 13 section 1(b) of this chapter and, to the extent necessary, naming the  
 14 legacy trust or trustee of the trust as a defendant to the action or  
 15 proceeding.

16 (b) If an asset described in section 1(b)(1) of this chapter is  
 17 transferred to a legacy trust or trustee of a legacy trust, the transferor  
 18 of that asset must send written notice of the transfer to the pertinent  
 19 lender within fifteen (15) days after that transfer. The transferor must  
 20 send the notice by certified mail, return receipt requested, to the  
 21 registered agent for the lender. If there is no registered agent for the  
 22 lender, the transferor must send notice to one (1) of the following:

- 23 (1) The last known address of the lender.
- 24 (2) The last address specified by the lender for mailing payments  
 25 on the obligations.
- 26 (3) The address specified by the lender for general inquiries by  
 27 customers.

28 The notice must include the name of the transferor, a description of the  
 29 asset transferred, the name of the trustee, and the date that the transfer  
 30 was completed. Upon request, the transferor or trustee shall provide the  
 31 lender with a certification of the trust under IC 30-4-4-5, the names and  
 32 addresses of the qualified beneficiaries of the trust, and copies of the  
 33 pages from the trust instrument that identify the current trustee and  
 34 describe the trustee's administrative powers and duties.

35 (c) Nothing in this chapter shall be construed to authorize any  
 36 disposition that is prohibited by the terms of any agreements, notes,  
 37 guaranties, mortgages, indentures, instruments, undertakings, or other  
 38 documents. Any provisions that prohibit such transfer or disposition  
 39 shall be binding and shall make this chapter inapplicable, **so long as**  
 40 **any indebtedness remains outstanding in connection with such**  
 41 **agreements, notes, guaranties, mortgages, indentures, instruments,**  
 42 **undertakes, or other similar documents.**



1 (d) In the event of a conflict between this section and any other  
2 provision of this chapter, this section shall control.

3 SECTION 15. IC 32-17-13-7, AS AMENDED BY P.L.231-2019,  
4 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2020]: Sec. 7. (a) This subsection applies to a proceeding  
6 commenced under this chapter and a deceased transferor who died  
7 before July 1, 2018, if the personal representative or claimant  
8 commences the proceeding before January 1, 2020. A proceeding  
9 under this chapter may not be commenced unless the personal  
10 representative of the deceased transferor's estate has received a written  
11 demand for the proceeding from ~~the surviving spouse or a surviving~~  
12 ~~child to the extent that statutory allowances or a creditor are affected:~~  
13 **a claimant.**

14 (b) This subsection applies to a proceeding commenced under this  
15 chapter and a deceased transferor who died before July 1, 2018, if the  
16 personal representative or claimant commences the proceeding before  
17 January 1, 2020, and the claimant files a timely claim in the deceased  
18 transferor's estate before July 1, 2018. If the personal representative  
19 declines or fails to commence a proceeding within sixty (60) days after  
20 receiving the demand, a person making the demand may commence the  
21 proceeding in the name of the decedent's estate at the expense of the  
22 person making the demand.

23 (c) This subsection applies to a proceeding commenced under this  
24 chapter and a deceased transferor who died before July 1, 2018, if the  
25 personal representative or claimant commences the proceeding before  
26 January 1, 2020, and the claimant files a timely claim in the deceased  
27 transferor's estate before July 1, 2018. A personal representative who  
28 declines, in good faith, to commence a requested proceeding incurs no  
29 personal liability for declining to commence a proceeding.

30 (d) This subsection applies to a proceeding commenced under this  
31 chapter with respect to a deceased transferor who dies ~~on or~~ after June  
32 30, 2018. A proceeding under this chapter may not be commenced  
33 unless:

- 34 (1) the claimant files a claim in the deceased transferor's estate  
35 and delivers a copy of the claim to each nonprobate transferee  
36 known by the claimant not later than five (5) months after the  
37 deceased transferor's death;
- 38 (2) the claimant delivers a written demand for the proceeding to:  
39 (A) the personal representative of the deceased transferor's  
40 estate; and  
41 (B) each known nonprobate transferee; and  
42 (3) except as provided in subsection (j), the written demand has



- 1           been filed in the estate not later than seven (7) months after the  
2           deceased transferor's death.
- 3           (e) This subsection applies to a proceeding commenced under this  
4           chapter and concerning a deceased transferor who dies ~~on or~~ after June  
5           30, 2018. The written demand must include the following information:  
6           (1) The cause number of the deceased transferor's estate.  
7           (2) A statement of the claimant's interest in the deceased  
8           transferor's estate and nonprobate transfers, including the date on  
9           which the claimant filed a claim in the deceased transferor's  
10          estate.  
11          (3) A copy of the claim attached as an exhibit to the written  
12          demand.  
13          (4) A description of the nonprobate transfer, including:  
14                (A) a description of the transferred asset, as the asset would be  
15                described under IC 29-1-12-1, regardless of whether the asset  
16                is part of the decedent's probate estate, subject to the redaction  
17                requirements of the Indiana administrative rules, established  
18                by the Indiana supreme court;  
19                (B) a description or copy of the instrument by which the  
20                deceased transferor established the nonprobate transfer,  
21                subject to the redaction requirements of the Indiana  
22                administrative rules, established by the Indiana supreme court;  
23                and  
24                (C) the name and mailing address of each nonprobate  
25                transferee known by the claimant.
- 26          (f) This subsection applies to a proceeding commenced under this  
27          chapter and concerning a deceased transferor who dies ~~on or~~ after June  
28          30, 2018. A proceeding under this chapter may not be commenced on  
29          behalf of a claimant if the personal representative has neither allowed  
30          nor disallowed the claimant's claim within the deadlines in  
31          IC 29-1-14-10(a) and IC 29-1-14-10(b), unless the claimant's petition  
32          to set the claim for trial in the probate court under IC 29-1-14-10(e) has  
33          been filed within thirty (30) days after the expiration of the deadlines  
34          applicable to the allowance or disallowance of claims under  
35          IC 29-1-14-10(a) and IC 29-1-14-10(b).
- 36          (g) If the personal representative declines or fails to commence a  
37          proceeding under this chapter within thirty (30) days after receiving the  
38          written demand required under subsection (a) or (d), a person making  
39          the demand may commence the proceeding in the name of the deceased  
40          transferor's estate at the expense of the person making the demand and  
41          not of the estate.
- 42          (h) A personal representative who declines in good faith to



1 commence a requested proceeding incurs no personal liability for  
2 declining.

3 (i) Nothing in this section shall affect or prevent any action or  
4 proceeding to enforce a valid and otherwise enforceable lien, warrant,  
5 mortgage, pledge, security interest, or other comparable interest against  
6 property included in a nonprobate transfer.

7 (j) This subsection applies to a proceeding commenced under this  
8 chapter and concerning a deceased transferor who dies ~~on~~ or after June  
9 30, 2018. A claimant may file the written demand required in  
10 subsection (a) or (d) concurrently with the claimant's filing of a claim  
11 in the deceased transferor's estate, but the claimant shall deliver the  
12 written demand not later than the later of:

- 13 (1) seven (7) months after the deceased transferor's death; or  
14 (2) thirty (30) days after the final allowance of the claimant's  
15 claim.





## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 50, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 18, strike "allowance is" and insert "**allowances**".

Page 2, line 28, after "following" insert "**deeds or other**".

Page 2, line 31, after "each" insert "**deed or other**".

Page 2, line 32, delete "Instruments" and insert "**Deeds or other instruments**".

Page 2, line 34, delete "Instruments" and insert "**Deeds or other instruments**".

Page 3, line 5, strike "devolved" and insert "**passed**".

Page 3, line 29, strike "devolved".

Page 3, line 30, strike "among" and insert "**passed to**".

Page 3, delete lines 32 through 38, begin a new paragraph and insert:

"(c) Upon presentation of an affidavit described in subsection (b), the auditor of the county where the real ~~estate property~~ described in ~~subsection (b) the affidavit~~ is located must endorse the affidavit ~~and record the estate title transfer in the auditor's real estate ownership records~~ as an instrument that is exempt from the requirements to file a sales disclosure ~~form and must enter the names of the distributees shown on the affidavit on the tax duplicate on which the real property is transferred, assessed, and taxed under IC 6-1.1-5-7.~~"

and when so amended that said bill do pass.

(Reference is to SB 50 as introduced.)

KOCH, Chairperson

Committee Vote: Yeas 8, Nays 0.

