Article - Estates and Trusts

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§7–401.

(a) (1) In the performance of a personal representative's duties pursuant to § 7–101 of this title, a personal representative may exercise all of the power or authority conferred on the personal representative by statute or in the will, without application to, the approval of, or ratification by the court.

(2) Except as validly limited by the will or by an order of court, a personal representative may, in addition to the power or authority contained in the will and to other common–law or statutory powers, exercise the powers enumerated in this section.

(b) A personal representative may 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.

(c) (1) A personal representative may hold a security in the name of a nominee or in other form without disclosure of the interest of the estate.

(2) A personal representative who holds a security in the name of a nominee or in other form without disclosure of the interest of the estate is liable for a wrongful act of the nominee in connection with the security held.

(d) A personal representative may receive assets from fiduciaries or other sources.

(e) A personal representative may deposit funds for the account of the estate, including money received from the sale of assets, in checking accounts, in insured interest–bearing accounts, or in short–term loan arrangements which may be reasonable for use by a trustee.

(f) A personal representative may agree to deposit assets of the estate with a financial institution so that the assets cannot be withdrawn or transferred without:

(1) The written consent of the surety on the bond; or

(2) An order of court.

(g) A personal representative may satisfy written charitable pledges of the decedent.

(h) A personal representative may pay a valid claim as provided in this article or effect a fair and reasonable compromise with a creditor or obligee, or extend or renew an obligation due by the estate.

(i) A personal representative may pay the funeral expenses of the decedent in accordance with the procedures provided in § 8–106 of this article, including the cost of burial space and a tombstone or marker, and the cost of perpetual care.

(j) A personal representative may pay taxes, assessments, and other expenses incident to the administration of the estate.

(k) A personal representative may insure the property of the estate against damage, loss, and liability, and the personal representative against liability in respect to third persons.

(l) A personal representative may vote stocks or other securities in person or by general or limited proxy.

(m) A personal representative may sell or exercise stock subscription, conversion or option rights, consent to or oppose, directly or through a committee or agent, the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.

(n) A personal representative may invest in, sell, mortgage, pledge, exchange, or lease property.

(o) A personal representative may borrow money.

(p) A personal representative may:

(1) Release or terminate a mortgage or security interest, if the obligation secured by the mortgage or security interest was fully satisfied during the lifetime of the decedent or during the administration of the estate; or

(2) Extend or renew any obligation owed to the estate.

(q) If assets of the estate are encumbered by a mortgage, pledge, lien, or other security interest and if it appears to be in the best interests of the estate, a personal representative may pay the encumbrance, or convey or transfer the assets to the creditor in satisfaction of the security interest of the creditor, in whole or in part, whether or not the holder of the encumbrance has filed a claim.

(r) Regardless of a contrary provision in the will, a personal representative may execute, on the written demand of the owner of a redeemable leasehold or subleasehold estate, a full and valid conveyance of the reversion or subreversion held by the estate.

(s) A personal representative may continue an unincorporated business or venture in which the decedent was engaged at the time of the decedent's death:

(1) In the same business form for a period of not more than 4 months from the date of appointment of a personal representative, where continuation is a reasonable means of preserving the value of the business including goodwill;

(2) In the same business form for an additional period of time that may be approved by order of court, in a proceeding to which all persons interested in the estate are parties; or

(3) Throughout the period of administration, if the business is incorporated after the death of the decedent.

(t) A personal representative may incorporate a business or venture in which the decedent was engaged at the time of the decedent's death if none of the probable distributees of the business who are competent adults objects to its incorporation and retention in the estate.

(u) A personal representative may convert a sole proprietorship the decedent was engaged in at the time of the decedent's death to a limited liability company and may become a limited partner in any partnership or a member in any limited liability company, including a single member limited liability company.

(v) A personal representative may perform the contracts of the decedent that continue as obligations of the estate, and execute and deliver deeds or other documents under circumstances as the contract may provide.

(w) A personal representative may exercise options, rights, and privileges contained in a life insurance policy, annuity, or endowment contract constituting property of the estate, including the right to obtain the cash surrender value, convert the policy to another type of policy, revoke a mode of settlement, and pay a part or all of the premiums on the policy or contract.

(x) A personal representative may employ, for reasonable compensation, auditors, investment advisors, or persons with special skills, to advise or assist in the performance of the administration duties of the personal representative.

(y) (1) A personal representative may prosecute, defend, or submit to arbitration actions, claims, or proceedings in any appropriate jurisdiction for the protection or benefit of the estate, including the commencement of a personal action which the decedent might have commenced or prosecuted, except that:

(i) A personal representative may not institute an action against a defendant for slander against the decedent during the lifetime of the decedent.

(ii) In an action instituted by the personal representative against a tort–feasor for a wrong which resulted in the death of the decedent, the personal representative may recover the funeral expenses of the decedent up to the amount allowed under § 8–106(c) of this article in addition to other damages recoverable in the action.

(2) A personal representative may request criminal injuries compensation, restitution, or any other financial property interest for a decedent who was a victim of a crime.

(z) If the decedent died testate, a personal representative may designate the personal representative on documents as an executor, or if the decedent died intestate, as an administrator.

(aa) A personal representative may make partial and final distributions, in cash, in kind, or both, from time to time during the administration.

(bb) If the estate is of a physician, podiatrist, optometrist, or dentist who was a sole practitioner, the administrator shall follow the notice requirements under § 4–305 of the Health – General Article before the destruction or transfer of any medical records of a patient of the decedent.

(cc) (1) To comply with an environmental law, a personal representative may:

(i) Inspect property held by the personal representative, including any type of interest in a sole proprietorship, partnership, limited liability company, or corporation, and any assets owned by a sole proprietorship, partnership, limited liability company, or corporation to determine compliance with an environmental law and respond to an actual or potential environmental liability relating to the property;

(ii) Before or after the initiation of a claim or a governmental enforcement action, take any action necessary to prevent, abate, or otherwise remedy

an actual or potential environmental liability relating to property held by the personal representative;

(iii) Settle or compromise at any time a claim against the estate based on an alleged environmental liability that may be asserted by any person; and

(iv) Pay from the estate the costs of an inspection, review, study, abatement, response, cleanup, or other remedial action that involves an environmental liability as provided under § 15–524 of this article.

(2) If a personal representative acts prudently and in good faith, the personal representative is not liable to a person with an interest in assets held by the personal representative for a decrease in the value of the assets for taking action under this subsection or otherwise taking action to comply with an environmental law or reporting requirement.

(3) Acceptance by the personal representative of property or failure by the personal representative to take action under this subsection does not imply that there is or may be liability under an environmental law with respect to any property.

(dd) A personal representative may donate a conservation easement on any real property in order to obtain the benefit of the estate tax exclusion allowed under § 2031(c) of the United States Internal Revenue Code of 1986, as amended, if:

(1) The will authorizes or directs the personal representative to donate a conservation easement on the real property; or

(2) Each interested person who has an interest in the real property that would be affected by the conservation easement consents in writing to the donation.

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