

Sub. H.B. 33
As Passed by the Senate
JSCCD12

_____ moved to amend as follows:

In line 55 of the title, after "2108.35," insert "2109.21," 1

In line 803, after "2108.35," insert "2109.21," 2

After line 34761, insert: 3

"**Sec. 2109.21.** (A) An administrator, special administrator, 4
administrator de bonis non, or administrator with the will annexed 5
shall be a resident of this state and shall be removed on proof 6
that the administrator is no longer a resident of this state. 7

~~(B)(1)~~(B)(1)(a) To qualify for appointment as executor or 8
trustee, an executor or a trustee named in a will or nominated in 9
accordance with any power of nomination conferred in a will, may 10
be a resident of this state or, as provided in this division, a 11
nonresident of this state. To qualify for appointment, a 12
nonresident executor or trustee named in, or nominated pursuant 13
to, a will shall be ~~an~~ one of the following: 14

(i) An individual who is related to the testator by 15
consanguinity or affinity, ~~or a~~i 16

(ii) A private trust company or family trust company 17
organized under the laws of any state; 18

(iii) A person who resides in a state that has statutes or rules that authorize the appointment of a nonresident person who is not related to the testator by consanguinity or affinity, as an executor or trustee when named in, or nominated pursuant to, a will. ~~No such~~

(b) No executor or trustee under division (B)(1)(a) of this section shall be refused appointment or removed solely because the executor or trustee is not a resident of this state.

(c) The court may require that a nonresident executor or trustee named in, or nominated pursuant to, a will assure that all of the assets of the decedent that are in the county at the time of the death of the decedent will remain in the county until distribution or until the court determines that the assets may be removed from the county.

(d) The court may require a nonresident private trust company or family trust company appointed under division (B)(1)(a)(ii) of this section to appoint a resident agent to accept service of process, notices, and other documents.

~~(2)~~(2)(a) In accordance with this division and section 2129.08 of the Revised Code, the court shall appoint as an ancillary administrator a person who is named in the will of a nonresident decedent, or who is nominated in accordance with any power of nomination conferred in the will of a nonresident decedent, as a general executor of the decedent's estate or as executor of the portion of the decedent's estate located in this state, whether or not the person so named or nominated is a resident of this state.

To qualify for appointment as an ancillary administrator, a person who is not a resident of this state and who is named or nominated as described in this division, shall be ~~an~~ one of the

following: 49

(i) An individual who is related to the testator by 50
consanguinity or affinity, ~~or a~~ 51

(ii) A private trust company or family trust company 52
organized under the laws of any state; 53

(iii) A person who resides in a state that has statutes or 54
rules that authorize the appointment of a nonresident of that 55
state who is not related to the testator by consanguinity or 56
affinity, as an ancillary administrator when the nonresident is 57
named in a will or nominated in accordance with any power of 58
nomination conferred in a will. ~~If~~ 59

(b) If a person who is not a resident of this state and who 60
is named or nominated as described in ~~this~~ division (B)(2)(a) of 61
this section so qualifies for appointment as an ancillary 62
administrator and if the provisions of section 2129.08 of the 63
Revised Code are satisfied, the court shall not refuse to appoint 64
the person, and shall not remove the person, as ancillary 65
administrator solely because the person is not a resident of this 66
state. 67

(c) The court may require that an ancillary administrator who 68
is not a resident of this state and who is named or nominated as 69
described in ~~this~~ division (B)(2)(a) of this section, assure that 70
all of the assets of the decedent that are in the county at the 71
time of the death of the decedent will remain in the county until 72
distribution or until the court determines that the assets may be 73
removed from the county. 74

(d) The court may require a nonresident private trust company 75
or family trust company appointed under division (B)(2)(a)(ii) of 76
this section to appoint a resident agent to accept service of 77
process, notices, and other documents. 78

(C)(1) A guardian of the estate shall be a resident of this state, except that the court may appoint a nonresident of this state as a guardian of the estate if any of the following applies:

(a) The nonresident is named in a will by a parent of a minor.

(b) The nonresident is selected by a minor over the age of fourteen years as provided by section 2111.12 of the Revised Code.

(c) The nonresident is nominated in or pursuant to a durable power of attorney under section 1337.24 of the Revised Code or a writing as described in division (A) of section 2111.121 of the Revised Code.

(2) A guardian of the estate, other than a guardian named in a will by a parent of a minor, selected by a minor over the age of fourteen years, or nominated in or pursuant to a durable power of attorney or writing described in division (C)(1)(c) of this section, may be removed on proof that the guardian of the estate is no longer a resident of this state.

(3) The court may appoint a resident or nonresident of this state as a guardian of the person.

(D) Any fiduciary, whose residence qualifications are not defined in this section, shall be a resident of this state, and shall be removed on proof that the fiduciary is no longer a resident of this state.

(E) Any fiduciary, in order to assist in the carrying out of the fiduciary's fiduciary duties, may employ agents who are not residents of the county or of this state.

(F) Every fiduciary shall sign and file with the court a statement of permanent address and shall notify the court of any change of address. A court may remove a fiduciary if the fiduciary

fails to comply with this division." 108

In line 124626, after "2108.35," insert "2109.21," 109

After line 281848, insert: 110

"Section 2109.21 of the Revised Code as amended by both S.B. 111

117 and S.B. 124 of the 129th General Assembly." 112

The motion was _____ agreed to.

SYNOPSIS

Residence qualifications of fiduciaries 113

R.C. 2109.21 114

Expands the types of persons that qualify for appointment as 115

follows, to include a private trust company or family trust 116

company organized under the laws of any state: 117

-As an executor or trustee who is a nonresident executor or 118

trustee named in, or nominated pursuant to, a will; 119

-As an ancillary administrator who is a person who is not a 120

resident of this state and who is named in the will of a 121

nonresident decedent, or who is nominated in accordance with any 122

power of nomination conferred in the will of a nonresident 123

decedent. 124

Authorizes a court to require a nonresident private trust 125

company or family trust company appointed as described in the 126

above dot points to appoint a resident agent to accept service of 127

process, notices, and other documents. 128