



Ohio Revised Code

Section 2109.21 Residence qualifications of fiduciary.

Effective: October 3, 2023

Legislation: House Bill 33

(A) An administrator, special administrator, administrator de bonis non, or administrator with the will annexed shall be a resident of this state and shall be removed on proof that the administrator is no longer a resident of this state.

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

(i) An individual who is related to the testator by consanguinity or affinity;

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

(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.

(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)(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 one of the following:

- (i) An individual who is related to the testator by consanguinity or affinity;
 - (ii) A private trust company or family trust company organized under the laws of any state;
 - (iii) A person who resides in a state that has statutes or rules that authorize the appointment of a nonresident of that state who is not related to the testator by consanguinity or affinity, as an ancillary administrator when the nonresident is named in a will or nominated in accordance with any power of nomination conferred in a will.
- (b) If a person who is not a resident of this state and who is named or nominated as described in division (B)(2)(a) of this section so qualifies for appointment as an ancillary administrator and if the provisions of section 2129.08 of the Revised Code are satisfied, the court shall not refuse to appoint the person, and shall not remove the person, as ancillary administrator solely because the person is not a resident of this state.
- (c) The court may require that an ancillary administrator who is not a resident of this state and who is named or nominated as described in division (B)(2)(a) of this section, 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)(2)(a)(ii) of this section to appoint a resident agent to accept service of process, notices, and other documents.

(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.