



Ohio Revised Code

Section 2127.04 Action for authority to sell real property.

Effective: January 13, 2012

Legislation: Senate Bill 124 - 129th General Assembly

(A) With the consent of all persons entitled to share in an estate upon distribution, the executor, administrator, or administrator with the will annexed may, and upon the request of these persons shall, commence an action in the probate court for authority to sell any part or all of the decedent's real property, even though the real property is not required to be sold to pay debts or legacies. A guardian may make a request under this division, or give consent, on behalf of the guardian's ward.

(B) An executor, administrator, or administrator with the will annexed may commence an action in the probate court, on the executor or administrator's own motion, to sell any part or all of the decedent's real property, even though the real property is not required to be sold to pay debts or legacies. The court shall not issue an order of sale in the action unless one of the categories specified in divisions (B)(1)(a), (b), and (c), (B)(2)(a), (b), and (c), and (B)(3) of this section applies:

(1)(a) At least fifty per cent of all the persons interested in the real property proposed to be sold have consented to the sale.

(b) Prior to the issuance of the order, no written objection is filed with the court by any person or persons who hold aggregate interests in the interest of the decedent in the real property proposed to be sold, that total in excess of twenty-five per cent.

(c) The court determines that the sale is in the best interest of the decedent's estate.

(2)(a) No person's interest in the interest of the decedent in the real property proposed to be sold exceeds ten per cent.

(b) Prior to the issuance of the order, no written objection is filed with the court by any person or persons who hold aggregate interests in the interest of the decedent in the real property proposed to be sold, that total in excess of twenty-five per cent.



(c) The court determines that the sale is in the best interest of the decedent's estate.

(3) The real property proposed to be sold escheats to the state under division (K) of section 2105.06 of the Revised Code.

(C) Notwithstanding any provision of the Revised Code, an executor, administrator, or administrator with the will annexed shall commence an action in the probate court to sell any part or all of the decedent's real property if any person who is entitled to inherit all or part of the real property cannot be found after a due and diligent search. The court shall not issue an order of sale in the action unless the sale is in the best interest of the person who cannot be found and in the best interest of the decedent's estate.

If a sale is ordered under this division, the costs of its administration shall be taken from the proceeds of the sale.

(D) A surviving spouse who is an executor or administrator of the decedent spouse's estate is not disqualified, by reason of being executor or administrator, as a person to whom a parcel of real property may be sold pursuant to this section.