

13 municipal function without approval of the governing body shall sim-
 14 ilarly defend, save harmless and indemnify its officers and, employees,
 15 and agents against such tort claims or demands. This section is
 16 intended to confer power in addition to that conferred by section
 17 368A.1.

18 *The duty to defend, save harmless, and indemnify shall apply*
 19 *whether or not the municipality is a party to the action and shall*
 20 *include but not be limited to cases arising under title forty-two (42)*
 21 *United States Code section one thousand nine hundred eighty-three*
 22 *(1983).*

Approved May 27, 1974

CHAPTER 1264

SCHOOL GUIDANCE COUNSELORS

H. F. 753

AN ACT relating to confidential communications with certified guidance counselors.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section six hundred twenty-two point ten (622.10),
 2 Code 1973, is amended by adding the following new unnumbered para-
 3 graph:
 4 NEW UNNUMBERED PARAGRAPH. No qualified school guidance coun-
 5 selor, who has met the certification and approval standards of the de-
 6 partment of public instruction as provided in section two hundred fifty-
 7 seven point twenty-five (257.25), subsection nine (9) of the Code, who
 8 obtains information by reason of his employment as a qualified school
 9 guidance counselor shall be allowed, in giving testimony, to disclose
 10 any confidential communications properly entrusted to him by a pupil
 11 or his parent or guardian in his capacity as a qualified school guidance
 12 counselor and necessary and proper to enable him to perform his duties
 13 as a qualified school guidance counselor.

Approved May 27, 1974

CHAPTER 1265

PROBATE CODE

S. F. 442

AN ACT relating to the Iowa probate code.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section six hundred thirty-three point three (633.3),
 2 unnumbered paragraph one (1), Code 1973, is amended to read as fol-
 3 lows:

4 When used in this Code, unless otherwise required by the context
 5 *or another division of this Code*, the following words and phrases shall
 6 be construed as follows:

1 SEC. 2. Section six hundred thirty-three point forty (633.40), sub-
 2 section four (4), Code 1973, is amended to read as follows:

3 4. Notice otherwise provided. In lieu of the foregoing the notice
 4 may direct each interested party ~~to appear in the court in which the~~
 5 ~~proceedings are pending~~, and to file his objections thereto in writing,
 6 of any he has, ~~within twenty days after the day such notice is served~~
 7 ~~upon him and that unless he does so appear and if any, on or before a~~
 8 ~~date certain, to be set out in the notice and to be not less than twenty~~
 9 ~~days after the day the notice is served upon him and that unless he~~
 10 ~~does so file his objections in writing that he will be forever barred~~
 11 from making any objections thereto. Said notice may be served upon
 12 each interested party either by ordinary United States mail or per-
 13 sonally in compliance with the rules of civil procedure. In the event
 14 objections thereto are timely filed, the court shall fix the time and
 15 place of the hearing for the judicial determination of the issues raised.

1 SEC. 3. Section six hundred thirty-three point two hundred eleven
 2 (633.211), subsection four (4), Code 1973, is amended to read as fol-
 3 lows:

4 4. If the property received by the surviving spouse under subsec-
 5 tions 1, 2 and 3 of this section is not equal in value to the sum of
 6 twenty-five thousand dollars, then so much additional of *any remain-*
 7 *ing homestead interest and of the remaining real and personal prop-*
 8 *erty of the decedent that is subject to payment of debts and charges*
 9 *against the decedent's estate, after payment of such debts and charges,*
 10 *even to the extent of the whole of the net estate, as may be necessary*
 11 *to make the amount of twenty-five thousand dollars.*

1 SEC. 4. Section six hundred thirty-three point two hundred twelve
 2 (633.212), subsection four (4), Code 1973, is amended to read as fol-
 3 lows:

4 4. If the property received by the surviving spouse under subsec-
 5 tions 1 and 3 of this section is not equal in value to the sum of twenty-
 6 five thousand dollars, then so much additional of *any remaining home-*
 7 *stead interest and of the nonexempt real and personal property of the*
 8 *decedent remaining after payment of the debts and charges against*
 9 *the estate, as may be necessary, (even to the extent of the entire net*
 10 *estate), to make the amount of twenty-five thousand dollars.*

1 SEC. 5. Section six hundred thirty-three point two hundred sev-
 2 enty-eight (633.278), Code 1973, is amended to read as follows:

3 **633.278 Devise of encumbered property.** When any property sub-
 4 ject to a mortgage ~~or~~, other lien *or security interest* is specifically
 5 devised, the devisee shall take such property so devised subject to such
 6 mortgage ~~or~~, other lien *or security interest*, unless the will provides
 7 expressly or by necessary implication that such mortgage ~~or~~, other
 8 lien *or security interest* be otherwise paid. If there is a testamentary
 9 direction to discharge such mortgage ~~or~~, other lien *or security interest*,
 10 the rules of abatement specified in section 633.436 shall be applied.
 11 The term "mortgage ~~or other lien~~" as used in this section shall not
 12 include a pledge of personal property.

1 SEC. 6. Section six hundred thirty-three point three hundred
2 eighty-nine (633.389), Code 1973, is amended to read as follows:

3 **633.389 Notice and hearing on sale, mortgage, exchange, pledge or**
4 **lease of property.** Upon the filing of the petition, the court shall fix
5 the time and place of hearing of the petition, and prescribe the time
6 and manner of service of the notice of such hearing unless notice is
7 waived in writing, notice of hearing in accordance with section six
8 hundred thirty-three point forty (633.40) of the Code, shall be served
9 on all persons interested in such property, provided, however, that as
10 to personal property and as to the lease of real property not specifically
11 devised, for a period of not to exceed one year, the court may, in its
12 discretion, hear the petition without notice. In those instances where
13 notice is required, the notice shall state briefly the nature of the appli-
14 cation. At the hearing and upon satisfactory proof, the court may
15 order the sale, mortgage, exchange, pledge or lease of the property
16 described, or any part thereof, at such price and upon such terms and
17 conditions as the court may authorize. For the purposes of this section,
18 the term "all persons interested" shall include only distributees in the
19 estate and persons who have requested notice as provided by this Code.

1 SEC. 7. Section six hundred thirty-three point four hundred sev-
2 enty-eight (633.478), Code 1973, is amended to read as follows:

3 **633.478 Notice of application for discharge.** Unless notice be
4 waived in writing, no No personal representative shall be discharged
5 from further duty or responsibility upon final settlement until notice
6 of hearing on his final report or of an application for discharge shall
7 have been served upon all persons interested at such time and in such
8 manner as the court may prescribe by an order made before or after
9 the filing of the final report, in accordance with section six hundred
10 thirty-three point forty (633.40) of the Code, unless such notice is
11 waived. An order prescribing notice may be made before or after the
12 filing of the final report.

1 SEC. 8. Section six hundred thirty-three point six hundred seventy-
2 seven (633.677), Code 1973, is amended to read as follows:

3 **633.677 Accounting to ward—notice of hearing.** Upon the termina-
4 tion of a conservatorship, the conservator shall pay the costs of admin-
5 istration, and render a full and complete accounting to the ward or his
6 personal representative and to the court. Notice of hearing on the final
7 report of a conservator shall be served on the ward or his personal
8 representative, in accordance with section six hundred thirty-three
9 point forty (633.40) of the Code, unless such notice is waived, at such
10 time and in such manner as the court may prescribe. An order pre-
11 scribing notice may be made before or after the filing of the final
12 report.

1 SEC. 9. Section six hundred thirty-three point seven hundred two
2 (633.702), Code 1973, is amended to read as follows:

3 **633.702 Notice of application for discharge.** Unless notice is
4 waived in writing, no No final report of a trustee of a trust pending
5 in court shall be approved, and no such trustee shall be discharged
6 from further duty or responsibility upon final settlement, until notice
7 of his application for discharge shall have been served upon all persons
8 interested at such time and in such manner as the court may prescribe

9 by an order made either before or after the filing of the final report
 10 of the trustee, in accordance with section six hundred thirty-three
 11 point forty (633.40) of the Code, unless notice is waived. An order
 12 prescribing notice may be made before or after the filing of the final
 13 report.

1 SEC. 10. Section six hundred thirty-three point seven hundred four
 2 (633.704), subsection one (1), unnumbered paragraph one (1), Code
 3 1973, is amended to read as follows:

4 No person, including a person designated to take pursuant to a
 5 power of appointment, shall be required to take as a distributee, or
 6 otherwise, under the laws of Iowa, and any person may disclaim in
 7 whole or in part, the succession to any property, real or personal, or
 8 interest therein, including a power of appointment, by filing a written
 9 instrument within the time and at the place hereinafter provided. The
 10 instrument shall:

1 SEC. 11.* Chapter six hundred thirty-three (633), division three
 2 (III), part two (2), Code 1973, is amended by adding the following
 3 new section:

4 **NEW SECTION. Power of fiduciary or custodian to deposit securi-**
 5 **ties.** Notwithstanding any other provision of law, any fiduciary as
 6 defined in section six hundred thirty-three point three (633.3), sub-
 7 section seventeen (17), of the Code holding securities in its fiduciary
 8 capacity, any bank, trust company or private banker holding securities
 9 as a custodian or managing agent, and any bank, trust company or
 10 private banker holding securities as custodian for a fiduciary is author-
 11 ized to deposit or arrange for the deposit of such securities in a clear-
 12 ing corporation, as defined in section five hundred fifty-four point eight
 13 thousand one hundred two (554.8102), subsection three (3) of the
 14 Code. When such securities are so deposited, certificates representing
 15 securities of the same class of the same issuer may be merged and held
 16 in bulk in the name of the nominee of such clearing corporation with
 17 any other such securities deposited in such clearing corporation by
 18 any person regardless of the ownership of such securities, and certifi-
 19 cates of small denomination may be merged into one or more certifi-
 20 cates of larger denomination. The records of such fiduciary and the
 21 records of such bank, trust company or private banker acting as cus-
 22 todian, as managing agent or as custodian for a fiduciary shall at all
 23 times show the name of the party for whose account the securities are
 24 so deposited. Title to such securities may be transferred by bookkeep-
 25 ing entry on the books of such clearing corporation without physical
 26 delivery of certificates representing such securities. A bank, trust
 27 company or private banker so depositing securities pursuant to this
 28 section shall be subject to such rules and regulations as, in the case of
 29 state-chartered institutions, the state superintendent of banking and,
 30 in the case of national banking associations, the comptroller of the cur-
 31 rency may from time to time issue. A bank, trust company or private
 32 banker acting as custodian for a fiduciary shall, on demand by the
 33 fiduciary, certify in writing to the fiduciary the securities so deposited
 34 by such bank, trust company or private banker in such clearing cor-
 35 poration for the account of such fiduciary. A fiduciary shall, on
 36 demand by any party to a judicial proceeding for the settlement of

*This section repealed by 65 GA, ch 1249, §72

37 such fiduciary's account or on demand by the attorney for such party,
 38 certify in writing to such party the securities deposited by such
 39 fiduciary in such clearing corporation for its account as such fiduciary.
 40 This section shall apply to any fiduciary holding securities in its
 41 fiduciary capacity, and to any bank, trust company or private banker
 42 holding securities as a custodian, managing agent or custodian for a
 43 fiduciary, acting on the effective date of this section or who thereafter
 44 may act regardless of the date of the agreement, instrument or court
 45 order by which it is appointed and regardless of whether or not such
 46 fiduciary, custodian, managing agent or custodian for a fiduciary owns
 47 capital stock of such clearing corporation.

Approved April 25, 1974

CHAPTER 1266

ADMINISTRATION OF SMALL ESTATES

H. F. 453

AN ACT relating to administration of small estates.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. NEW SECTION.

2 1. When the total value of the probate and nonprobate property of
 3 a decedent subject to the jurisdiction of this state including life insur-
 4 ance payable to the estate but not including other life insurance does
 5 not exceed ten thousand dollars, if the decedent dies intestate and is
 6 survived by a spouse or children or both, or if the decedent leaves a
 7 last will and testament and that will is admitted to probate but there
 8 is no present administration and the only beneficiaries are a spouse or
 9 children or both, then upon the petition of the spouse or a child of the
 10 decedent who is a resident of the state of Iowa, the clerk shall issue to
 11 the petitioner letters of appointment of executor or administrator for
 12 administration of a small estate.

13 2. When the total value of the probate and nonprobate property of
 14 a decedent subject to the jurisdiction of this state including life insur-
 15 ance payable to the estate but not including other life insurance does
 16 not exceed ten thousand dollars, if the decedent dies intestate without
 17 a surviving spouse or issue and with a surviving parent or parents, or
 18 if the decedent dies without a surviving spouse or issue and leaves a
 19 last will and testament and that will is admitted to probate but there
 20 is no present administration and the only beneficiaries are a surviving
 21 parent or parents, then upon the petition of a parent of the decedent
 22 who is a resident of the state of Iowa the clerk shall issue to the peti-
 23 tioner letters of appointment as executor or administrator for admin-
 24 istration of a small estate.

1 SEC. 2. NEW SECTION. The petition for administration of a small
 2 estate must contain the following:

3 1. The name, domicile and date of death of the decedent.

4 2. The name and address of the surviving spouse, if any, the name
 5 and address of each child of the decedent, and the name and address