



Ohio Revised Code

Section 2113.53 Distribution of assets of estate.

Effective: April 8, 2004

Legislation: House Bill 51 - 125th General Assembly

(A) At any time after the appointment of an executor or administrator, the executor or administrator may distribute to the beneficiaries entitled to assets of the estate under the will, if there is no action pending to set aside the will, or to the heirs entitled to assets of the estate by law, in cash or in kind, any part or all of the assets of the estate. Each beneficiary or heir is liable to return the assets or the proceeds from the assets to the estate if they are necessary to satisfy the share of a surviving spouse who elects to take against the will pursuant to section 2106.01 of the Revised Code or if the will is set aside.

(B) After distribution pursuant to division (A) of this section, a distributee shall be personally liable to a claimant who presents a valid claim within the time set forth in division (B) of section 2117.06 of the Revised Code, subject to the limitations described in this division.

If presentation of a claim is made pursuant to division (A)(2) of section 2117.06 of the Revised Code, only those distributees who have received timely presentation of the claim pursuant to division (B) of that section have any liability for the claim, subject to the limitations described in this division.

The personal liability of any distributee shall not exceed the lesser of the following:

(1) The amount the distributee has received reduced by the amount, if any, previously returned or otherwise used for the payment of the spouse's share or claims finally allowed;

(2) The distributee's proportionate share of the spouse's share or of claims finally allowed. Any distributee's proportionate share of the spouse's share or of claims finally allowed shall be determined by the following fraction:

(a) The numerator shall be the total amount received by the distributee, reduced by all amounts, if any, previously returned or otherwise used for the payment of the spouse's share or claims finally



allowed.

(b) The denominator shall be the total amount received by all distributees reduced by all amounts, if any, previously returned or otherwise used for the payment of the spouse's share or claims finally allowed.

(C) If there is a surviving spouse and if the executor or administrator distributes any part of the assets of the estate before the expiration of the times described in division (E) of section 2106.01 of the Revised Code for the making of an election by a surviving spouse, the executor or administrator shall be personally liable to any surviving spouse who subsequently elects to take against the will. If the executor or administrator distributes any part of the assets of the estate within three months after the death of the decedent, the executor or administrator shall be personally liable only to those claimants who present their claims within that three-month period. If the executor or administrator distributes any part of the assets of the estate more than three months but less than one year after the death of the decedent, the executor or administrator shall be personally liable only to those claimants who present their claims before the time of distribution and within the time set forth in division (B) of section 2117.06 of the Revised Code.

The executor or administrator shall be liable only to the extent that the sum of the remaining assets of the estate and the assets returned by the beneficiaries or heirs is insufficient to satisfy the share of the surviving spouse and to satisfy the claims against the estate. The executor or administrator shall not be liable in any case for an amount greater than the value of the estate that existed at the time that the distribution of assets was made and that was subject to the spouse's share or to the claims.

(D) The executor or administrator may provide for the payment of rejected claims or claims in suit by setting aside a sufficient amount of the assets of the estate for paying the claims. The assets shall be set aside for the payment of the claims in a manner approved by the probate court. Each claimant for whom assets are to be set aside shall be given notice, in the manner as the court shall order, of the hearing upon the application to set aside assets and shall have the right to be fully heard as to the nature and amount of the assets to be set aside for payment of the claim and as to all other conditions in connection with the claim. In any case in which the executor or administrator may set aside assets as provided in this section, the court, upon its own motion or upon application of the executor or administrator, as a condition precedent to any distribution, may require any beneficiary



or heir to give a bond to the state with surety approved and in an amount fixed by the court, conditioned to secure the return of the assets to be distributed, or the proceeds from the assets or as much of the assets as may be necessary to satisfy the claims that may be recovered against the estate, and to indemnify the executor or administrator against loss and damage on account of such distribution. The bond may be in addition to the assets to be set aside or partially or wholly in lieu of the assets, as the court shall determine.