

Memorandum 2013-57

**Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act:  
Conforming Revisions**

If California enacts a version of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (“UAGPPJA”), some existing California statutes will have to be repealed or revised due to that enactment. Some such conforming revisions are already included at pages 77-84 of the draft recommendation attached to Memorandum 2013-56.<sup>1</sup> This memorandum discusses other conforming revisions that might be necessary or advisable.

The following materials are attached for the Commission’s consideration:

- Exhibit p.*
- Jennifer Wilkerson, State Bar Trusts & Estates Section (6/27/13) ..... 1
- Prob. Code §§ 2800-2808 ..... 2
- Prob. Code §§ 3800-3803 ..... 4

The staff is continuing to review and analyze the codes to determine whether other conforming revisions are in order. If the Commission approves a final recommendation at the upcoming meeting, **we suggest that such approval be made subject to the possibility of incorporating additional conforming revisions (either in the same recommendation or in a supplemental recommendation).**

Unless otherwise indicated, all statutory references in this memorandum are to the Probate Code.

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1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

SECTION 2107. POWERS AND DUTIES OF GUARDIAN OR  
CONSERVATOR OF NONRESIDENT

Section 2107 concerns the powers and duties of a guardian or conservator of a nonresident:

2107. (a) Unless limited by court order, a guardian or conservator of the person of a nonresident has the same powers and duties as a guardian or conservator of the person of a resident while the nonresident is in this state.

(b) A guardian or conservator of the estate of a nonresident has, with respect to the property of the nonresident within this state, the same powers and duties as a guardian or conservator of the estate of a resident. The responsibility of such a guardian or conservator with regard to inventory, accounting, and disposal of the estate is confined to the property that comes into the hands of the guardian or conservator in this state.

The section was enacted in 1990, on Commission recommendation.

The Commission's Comment to Section 2107 clarifies that the section is only intended to apply with respect to a guardian or conservator *appointed in California* for a nonresident:

**Comment.** Section 2107 continues Section 2107 of the repealed Probate Code without substantive change. This section prescribes powers and duties of a guardian or conservator *appointed in California* for a nonresident. The court may limit the powers and duties of a guardian or conservator of the person of a nonresident. For example, if a guardian or conservator of the person is appointed for a nonresident for a limited purpose such as to consent to medical treatment, the court may limit the powers and duties of the guardian or conservator to accomplishment of that purpose. Subdivision (a) states only the powers and duties while the ward or conservatee is in this state. Section 2107 does not deal with the powers of the California guardian or conservator of the person when the nonresident ward or conservatee is not in California. See generally *Mayer v. Willing*, 196 Cal. App. 2d 379, 16 Cal. Rptr. 476 (1961); 39 Am. Jur. 2d Guardian and Ward §§ 26, 219 (1968 & Supp. 1989). For background on the provisions of this part, see the Comment to this part under the part heading.<sup>2</sup>

To prevent confusion if UAGPPJA is enacted in California, it might be helpful to expressly state that limitation in the statutory text.

**That could be done by amending Section 2107 along the following lines:**

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2. Emphasis added.

**Prob. Code § 2107 (amended). Powers and duties of guardian or conservator of nonresident**

2107. (a) Unless limited by court order, when a court of this state appoints a guardian or conservator of the person of a nonresident, the appointee has the same powers and duties as a guardian or conservator of the person of a resident while the nonresident is in this state.

(b) A When a court of this state appoints a guardian or conservator of the estate of a nonresident, the appointee has, with respect to the property of the nonresident within this state, the same powers and duties as a guardian or conservator of the estate of a resident. The responsibility of such a guardian or conservator with regard to inventory, accounting, and disposal of the estate is confined to the property that comes into the hands of the guardian or conservator in this state.

**Comment.** Section 2107 is amended to prevent confusion regarding its application, which might otherwise arise due to the enactment of the California Conservatorship Jurisdiction Act (Section 1980 *et seq.*). This clarification is not a substantive change. See Section 2107 Comment (1990 enactment), which explains that “[t]his section prescribes powers and duties of a guardian or conservator *appointed in California* for a nonresident.” (Emphasis added.)

**Would the Commission like to include such an amendment in its proposal?**

SECTIONS 2800-2808. TRANSFER OF CONSERVATEE’S PERSONAL PROPERTY FROM CALIFORNIA CONSERVATOR TO OUT-OF-STATE CONSERVATOR

Sections 2800-2808 (reproduced at Exhibit pp. 2-3) apply when conservatorship proceedings for the same conservatee are pending in two places: (1) California and (2) another jurisdiction, which is where the conservatee resides. In such circumstances, the California conservator (or the out-of-state conservator or the conservatee) can petition to transfer some of the conservatee’s personal property from California to the other jurisdiction.<sup>3</sup> Under specified conditions, in accordance with a specified procedure, a California court may issue an order granting such a transfer.<sup>4</sup> “If the court’s order provides for the transfer of *all* of the property of the estate to the foreign ... conservator, the court, upon settlement of the final account, shall order the ... conservatorship of the

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3. Section 2802.

4. Section 2801.

estate terminated upon the filing with the clerk of the court of a receipt for the property executed by the foreign ... conservator.”<sup>5</sup>

Jennifer Wilkerson of the State Bar Trusts and Estates Section drew the Commission’s attention to Sections 2800-2808 earlier in this study, but concluded that they would not conflict with UAGPPJA.<sup>6</sup> The staff discussed the situation in detail in a staff memorandum, and similarly concluded that if California enacted UAGPPJA, Sections 2800-2808 would still be useful for some purposes.<sup>7</sup>

For example, the staff pointed out that the multiple conservatorship situation addressed by Sections 2800-2808 could still arise if the conservatee resided in a non-UAGPPJA state. The staff also explained that although UAGPPJA seeks to assure that a conservator is appointed “in only one state,”<sup>8</sup> it provides special jurisdiction to appoint a conservator “with respect to real or tangible personal property located in a state, even though that state would otherwise lack jurisdiction under UAGPPJA.”<sup>9</sup> Thus, the situation addressed by Sections 2800-2808, involving a request to transfer a conservatee’s personal property from a California conservator to an out-of-state conservator, could occur even if both California and the other state had enacted UAGPPJA.

In the same memorandum, the staff went on to ask whether compliance with Sections 2800-2808 should be required “to transfer personal property to an out-of-state conservator who has already gone through the UAGPPJA registration process.”<sup>10</sup> Without making a recommendation, the staff queried whether such a requirement would be consistent with UAGPPJA’s objective of alleviating the costs and stress of conservatorship situations that span state lines.<sup>11</sup> The staff encouraged input on whether Sections 2800-2808 should be made inapplicable to a conservatorship that is registered in California.<sup>12</sup>

In June, the Commission considered the memorandum in question, but did not reach the issues relating to Sections 2800-2808. It instructed the staff to present those issues for consideration at a future meeting.<sup>13</sup>

More recently, Ms. Wilkerson informed us that no one in TEXCOM’s working group on UAGPPJA, nor any of the colleagues or court investigators they asked,

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5. Section 2808 (emphasis added).

6. See Memorandum 2013-27, Exhibit p. 1.

7. See *id.* at 8-12.

8. UAGPPJA Prefatory Note, p. 2.

9. UAGPPJA § 204(a)(2); see also proposed Prob. Code § 1994(a)(2).

10. Memorandum 2013-27, p. 11.

11. *Id.*

12. *Id.*

13. Minutes (June 2013), p. 14.

had ever used or seen a petition filed under Section 2800 (or Section 3800, which is a similar provision discussed later in this memorandum).<sup>14</sup> She concluded that “it seems to be a seldom-used procedure.”<sup>15</sup> She did not refer to, or take any position on, the staff’s question about creating an exception to Sections 2800-2808 for an out-of-state conservatorship that has been registered in California.

**On reflection, the staff does not think such an exception would be a good idea.** The UAGPPJA registration process is essentially ministerial. In contrast, Sections 2800-2808 provide for court scrutiny of a proposed transfer of personal property, and permit a court to approve such a transfer only if it determines all of the following:

- (a) The transfer will promote the best interests of the ward or conservatee and the estate.
- (b) The substantial rights of creditors or claimants in this state will not be materially impaired by the transfer.
- (c) The foreign guardian or conservator is qualified, willing, and able to administer the property to be transferred.<sup>16</sup>

The UAGPPJA registration process would not be a good substitute for such scrutiny. **The staff therefore recommends that Sections 2800-2808 be left alone.** If the procedure they prescribe is unduly burdensome, that problem should be fixed across-the-board (as a separate reform), not just for an out-of-state conservatorship that has been registered in California.

#### SECTIONS 3800-3803. TRANSFER OF CONSERVATEE’S PERSONAL PROPERTY TO OUT-OF-STATE CONSERVATOR WITHOUT CREATING CALIFORNIA CONSERVATORSHIP

Sections 3800-3803 (reproduced at Exhibit pp. 4-5) are similar to Sections 2800-2808, but they apply when there is only one conservatorship proceeding: a proceeding in the conservatee’s place of residence, which is located outside California. In that situation, the out-of-state conservator “may petition to have property owned by the nonresident removed [from California] to the place of residence.”<sup>17</sup> A California court may grant such a petition if certain conditions are satisfied and the court determines that “removal of the property will not conflict with any restriction or limitation on the property or impair the right of

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14. Exhibit p. 1.

15. *Id.*

16. Section 2806.

17. Section 3800(a).

the nonresident to the property or the rights of creditors or claimants in th[e] state.”<sup>18</sup>

In the same memorandum that discussed Sections 2800-2808, the staff raised the possibility of creating an exception to Sections 3800-3803 for an out-of-state conservatorship that has been registered in California.<sup>19</sup> **That idea should be rejected for the same reasons expressed above with regard to Sections 2800-2808.**

The staff also posed another question with respect to Sections 3800-3803, which the Commission has not yet discussed or resolved:

Suppose California enacts UAGPPJA and a conservatorship is transferred from California to another UAGPPJA state .... The California conservatorship is terminated in the UAGPPJA transfer process, leaving only the out-of-state conservatorship. *To move the conservatee’s assets from California to the other state, must the out-of-state conservator follow the procedure specified in Sections 3800-3803?*<sup>20</sup>

The staff noted that requiring compliance with Sections 3800-3803 in those circumstances might be overkill, given the protections already provided by the UAGPPJA transfer process. In particular, we pointed out that the Commission’s proposal would not permit a California court to transfer a conservatorship to another state unless it finds (among other things) that “[a]dequate arrangements will be made for management of the conservatee’s property.”<sup>21</sup> We observed that because such a determination would necessarily be made in connection with UAGPPJA’s transfer process, it might be unnecessary to also require compliance with the property transfer procedure specified in Sections 3800-3803.

We suggested that if the Commission agreed with that perspective, it could address the situation by proposing to amend Section 3800 along the following lines:

**Prob. Code § 3800 (amended). Petition by nonresident’s out-of-state fiduciary for removal of nonresident’s property**

3800. (a) If a nonresident has a duly appointed, qualified, and acting guardian, conservator, committee, or comparable fiduciary in the place of residence and if no proceeding for guardianship or conservatorship of the nonresident is pending or contemplated in this state, the nonresident fiduciary may petition to have property owned by the nonresident removed to the place of residence.

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18. Section 3803(a).

19. Memorandum 2013-27, pp. 11-12.

20. *Id.* at 12 (emphasis added).

21. Proposed Prob. Code § 2001(e).

(b) The petition for removal of property of the nonresident shall be filed in the superior court of the county in which the nonresident is or has been temporarily present or in which the property of the nonresident, or the principal part thereof, is located.

(c) If a conservatorship was transferred from this state to another state pursuant to Article 3 (commencing with Section 2001) of Chapter 8 of Part 3, the foreign conservator may remove the conservatee's personal property from this state without seeking a petition under this chapter.

**Comment.** Section 3800 is amended to reflect the enactment of the California Conservatorship Jurisdiction Act (Section 1980 *et seq.*).

We cautioned, however, that one could reasonably maintain that the property transfer procedure specified in Sections 3800-3803 is more attuned to protecting the rights of a California claimant or creditor than the UAGPPJA transfer process. Under that alternative viewpoint, the two different procedures would complement rather than duplicate each other.

We suggested that if the Commission agreed with that perspective, it should attempt to coordinate the two procedures.<sup>22</sup> That could be done by amending Sections 3800-3803 along the following lines:

**Prob. Code § 3800 (amended). Petition by nonresident's out-of-state fiduciary for removal of nonresident's property**

3800. (a)(1) If a nonresident has a duly appointed, qualified, and acting guardian, conservator, committee, or comparable fiduciary in the place of residence and if no proceeding for guardianship or conservatorship of the nonresident is pending or contemplated in this state, the nonresident fiduciary may petition to have property owned by the nonresident removed to the place of residence.

~~(b)(2) The~~ A petition under paragraph (1) for removal of property of the nonresident shall be filed in the superior court of the county in which the nonresident is or has been temporarily present or in which the property of the nonresident, or the principal part thereof, is located.

(b)(1) If a conservator petitions to transfer a conservatorship to another state under Section 2001, the conservator may also petition to have property owned by the conservatee removed to the state where the conservatee will reside upon transfer of the conservatorship.

(2) A petition under paragraph (1) shall be filed in the same court as the petition to transfer the conservatorship.

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22. Memorandum 2013-27, pp. 13-15; see also First Supplement to Memorandum 2013-27.

**Comment.** Section 3800 is amended to reflect the enactment of the California Conservatorship Jurisdiction Act (Section 1980 *et seq.*).

**Prob. Code § 3801 (amended). Notice**

3801. (a) The A petition under this chapter shall be made upon at least 15 days' notice, by mail or personal delivery, to all of the following persons:

(1) The personal representative or other person in whose possession the property may be.

(2) Persons in this state, known to the petitioner, who are obligated to pay a debt, perform an obligation, or issue a security to the nonresident or the estate of the nonresident.

(b) If a petition is filed under subdivision (b) of Section 3800, notice shall also be given to any person entitled to notice of the petition to transfer the conservatorship under Section 2001.

~~(b)~~ (c) The A petition under this chapter shall be made upon such additional notice, if any, as the court may order.

(d) Unless the court otherwise directs, a petition under subdivision (b) of Section 3800 shall be heard at the same time as the petition to transfer the conservatorship under Section 2001.

**Comment.** Section 3801 is amended to reflect the enactment of the California Conservatorship Jurisdiction Act (Section 1980 *et seq.*).

**Prob. Code § 3802 (amended). Certificate**

3802. (a) The A nonresident fiduciary petitioning under subdivision (a) of Section 3800 shall produce and file one of the following certificates:

(1) A certificate that the fiduciary is entitled, by the laws of the place of appointment of the fiduciary, to the possession of the estate of the nonresident. The certificate shall be under the hand of the clerk and seal of the court from which the appointment of the fiduciary was derived and shall show a transcript of the record of appointment and that the fiduciary has entered upon the discharge of the duties of the fiduciary.

(2) A certificate that the fiduciary is entitled, by the laws of the place of residence, to custody of the estate of the nonresident, without the appointment of any court. The certificate shall be under the hand of the clerk and seal of either (i) the court in the place of residence having jurisdiction of estates of persons that have a guardian, conservator, committee, or comparable fiduciary or (ii) the highest court in the place of residence.

(b) In the case of a foreign country, the certificate shall be accompanied by a final statement certifying the genuineness of the signature and official position of (1) the court clerk making the original certificate or (2) any foreign official who has certified either the genuineness of the signature and official position of the court clerk making the original certificate or the genuineness of the

signature and official position of another foreign official who has executed a similar certificate in a chain of such certificates beginning with a certificate of the genuineness of the signature and official position of the clerk making the original certificate. The final statement may be made only by a secretary of an embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States.

**Comment.** Section 3802 is amended to reflect the enactment of the California Conservatorship Jurisdiction Act (Section 1980 *et seq.*).

**Prob. Code § 3803 (amended). Order on petition for removal of property**

3803. (a) Upon ~~the~~ a petition under this chapter, if the court determines that removal of the property will not conflict with any restriction or limitation on the property or impair the right of the nonresident or proposed nonresident to the property or the rights of creditors or claimants in this state, the court shall make an order granting to the nonresident fiduciary or proposed nonresident fiduciary leave to remove the property of the nonresident or proposed nonresident to the place of residence or proposed place of residence unless good cause to the contrary is shown.

(b) The order is authority to the fiduciary to sue for and receive the property in his or her own name for the use and benefit of the nonresident or proposed nonresident.

(c) The order is a discharge of the personal representative or other person in whose possession the property may be at the time the order is made and of the person obligated to pay a debt, perform an obligation, or issue a security to the nonresident or proposed nonresident or the estate of the nonresident or proposed nonresident, upon filing with the clerk of the court the receipt of the nonresident fiduciary or proposed nonresident fiduciary for the property and transmitting a duplicate receipt, or a certified copy of the receipt, to the court, if any, from which the nonresident fiduciary received his or her appointment, or, if the proceeding is to be transferred under Article 3 (commencing with Section 2001) of Chapter 8 of Part 3, to the court to which the proceeding is being transferred.

**Comment.** Section 3803 is amended to reflect the enactment of the California Conservatorship Jurisdiction Act (Section 1980 *et seq.*).

We did not take a position on whether the Commission should follow this approach, as opposed to the other approach described above.

TEXCOM's working group on UAGPPJA considered the two alternatives and concluded that the first one is preferable — i.e., Section 3800 should be amended

to excuse compliance with Sections 3800-3803 when a conservatorship is transferred from California to another UAGPPJA state. As Ms. Wilkerson put it,

We agree with your suggested approach (on page 13 of 2013-27) to add a new subsection c) allowing the Order transferring the conservatorship to another jurisdiction to act as authority to also transfer the conservatee's personal property, without the requirement of a separate petition under 3800.<sup>23</sup>

In light of the input from the TEXCOM working group, **the staff leans towards the approach they recommend**, but we do not feel strongly about this matter. **How would the Commission like to proceed?**

Respectfully submitted,

Barbara Gaal  
Chief Deputy Counsel

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23. Exhibit p. 1.

**EMAIL FROM JENNIFER WILKERSON, STATE BAR  
TRUSTS & ESTATES SECTION (6/27/13)**

**Re: TEXCOM input on conforming revision to section 3800**

Dear Barbara:

Our TEXCOM working group reviewed your Memo 2013-27 and First Supplement proposal on needed revisions to Probate Code section 3800. Interestingly, none of us (nor colleagues and court investigators we asked) have ever used or seen a Petition filed under either section 2800 or 3800 – Petition to transfer personal property when the conservatee is not in this state. Hence, it seems to be a seldom-used procedure.

We agree with your suggested approach (on page 13 of 2013-27) to add a new subsection c) allowing the Order transferring the conservatorship to another jurisdiction to act as authority to also transfer the conservatee's personal property, without the requirement of a separate petition under 3800.

We are also wondering when you anticipate the Tentative Recommendation to be officially released for public comment.

Thanks for your good efforts, Barbara.

**Jennifer L. Wilkerson**

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PROBATE CODE §§ 2800-2808

2800. As used in this chapter, “foreign guardian or conservator” means a guardian, conservator, committee, or comparable fiduciary in another jurisdiction.

2801. Subject to the limitations and requirements of this chapter, the court in which the guardianship of the estate or conservatorship of the estate is pending may order the transfer of some or all of the personal property of the estate to a foreign guardian or conservator in another jurisdiction outside this state where the ward or conservatee resides at the time the petition for the order authorizing the transfer is filed.

2802. A petition for an order authorizing a transfer may be filed by any of the following:

- (a) The guardian of the estate or the conservator of the estate.
- (b) The ward or conservatee.
- (c) A foreign guardian or conservator.

2803. The petition shall set forth all of the following:

- (a) The name and address of:
  - (1) The foreign guardian or conservator, who may but need not be the guardian or conservator appointed in this state.
  - (2) The ward or conservatee.
  - (3) The guardian or conservator, so far as is known to the petitioner.
- (b) The names, ages, and addresses, so far as they are known to the petitioner, of the spouse of the ward or the spouse or domestic partner of the conservatee and of relatives of the ward or conservatee within the second degree.
- (c) A brief description of the character, condition, value, and location of the personal property sought to be transferred.
- (d) A statement whether the foreign guardian or conservator has agreed to accept the transfer of the property. If the foreign guardian or conservator has so agreed, the acceptance shall be attached as an exhibit to the petition or otherwise filed with the court.
- (e) A statement of the manner in which and by whom the foreign guardian or conservator was appointed.
- (f) A general statement of the qualifications of the foreign guardian or conservator.
- (g) The amount of bond, if any, of the foreign guardian or conservator.
- (h) A general statement of the nature and value of the property of the ward or conservatee already under the management or control of the foreign guardian or conservator.
- (i) The name of the court having jurisdiction of the foreign guardian or conservator or of the accounts of the foreign guardian or conservator or, if none,

the court in which a proceeding may be had with respect to the guardianship or conservatorship if the property is transferred.

(j) Whether there is any pending civil action in this state against the guardian or conservator, the ward or conservatee, or the estate.

(k) A statement of the reasons for the transfer.

2804. At least 30 days before the hearing, the petitioner shall mail a notice of the time and place of the hearing and a copy of the petition to each person required to be listed in the petition at the address stated in the petition.

2805. Any of the following may appear and file written objections to the petition:

(a) Any person required to be listed in the petition.

(b) Any creditor of the ward or conservatee or of the estate.

(c) The spouse of the ward or the spouse or domestic partner of the conservatee or any relative or friend of the ward or conservatee.

(d) Any other interested person.

2806. The court may grant the petition and order the guardian or conservator to transfer some or all of the personal property of the estate to the foreign guardian or conservator if the court determines all of the following:

(a) The transfer will promote the best interests of the ward or conservatee and the estate.

(b) The substantial rights of creditors or claimants in this state will not be materially impaired by the transfer.

(c) The foreign guardian or conservator is qualified, willing, and able to administer the property to be transferred.

2807. If a transfer is ordered, the court may direct the manner of transfer and impose such terms and conditions as may be just.

2808. (a) If the court's order provides for the transfer of all of the property of the estate to the foreign guardian or conservator, the court, upon settlement of the final account, shall order the guardianship of the estate or the conservatorship of the estate terminated upon the filing with the clerk of the court of a receipt for the property executed by the foreign guardian or conservator.

(b) Unless notice is waived, a copy of the final account of the guardian or conservator and of the petition for discharge, together with a notice of the hearing thereon, shall be mailed at least 30 days before the date of the hearing to all persons required to be listed in the petition for transfer, including the foreign guardian or conservator.

PROBATE CODE §§ 3800-3803

3800. (a) If a nonresident has a duly appointed, qualified, and acting guardian, conservator, committee, or comparable fiduciary in the place of residence and if no proceeding for guardianship or conservatorship of the nonresident is pending or contemplated in this state, the nonresident fiduciary may petition to have property owned by the nonresident removed to the place of residence.

(b) The petition for removal of property of the nonresident shall be filed in the superior court of the county in which the nonresident is or has been temporarily present or in which the property of the nonresident, or the principal part thereof, is located.

3801. (a) The petition shall be made upon 15 days' notice, by mail or personal delivery, to all of the following persons:

(1) The personal representative or other person in whose possession the property may be.

(2) Persons in this state, known to the petitioner, who are obligated to pay a debt, perform an obligation, or issue a security to the nonresident or the estate of the nonresident.

(b) The petition shall be made upon such additional notice, if any, as the court may order.

3802. (a) The nonresident fiduciary shall produce and file one of the following certificates:

(1) A certificate that the fiduciary is entitled, by the laws of the place of appointment of the fiduciary, to the possession of the estate of the nonresident. The certificate shall be under the hand of the clerk and seal of the court from which the appointment of the fiduciary was derived and shall show a transcript of the record of appointment and that the fiduciary has entered upon the discharge of the duties of the fiduciary.

(2) A certificate that the fiduciary is entitled, by the laws of the place of residence, to custody of the estate of the nonresident, without the appointment of any court. The certificate shall be under the hand of the clerk and seal of either (i) the court in the place of residence having jurisdiction of estates of persons that have a guardian, conservator, committee, or comparable fiduciary or (ii) the highest court in the place of residence.

(b) In the case of a foreign country, the certificate shall be accompanied by a final statement certifying the genuineness of the signature and official position of (1) the court clerk making the original certificate or (2) any foreign official who has certified either the genuineness of the signature and official position of the court clerk making the original certificate or the genuineness of the signature and official position of another foreign official who has executed a similar certificate in a chain of such certificates beginning with a certificate of the genuineness of the

signature and official position of the clerk making the original certificate. The final statement may be made only by a secretary of an embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States.

3803. (a) Upon the petition, if the court determines that removal of the property will not conflict with any restriction or limitation on the property or impair the right of the nonresident to the property or the rights of creditors or claimants in this state, the court shall make an order granting to the nonresident fiduciary leave to remove the property of the nonresident to the place of residence unless good cause to the contrary is shown.

(b) The order is authority to the fiduciary to sue for and receive the property in his or her own name for the use and benefit of the nonresident.

(c) The order is a discharge of the personal representative or other person in whose possession the property may be at the time the order is made and of the person obligated to pay a debt, perform an obligation, or issue a security to the nonresident or the estate of the nonresident, upon filing with the clerk of the court the receipt of the nonresident fiduciary for the property and transmitting a duplicate receipt, or a certified copy of the receipt, to the court, if any, from which the nonresident fiduciary received his or her appointment.