

**The
American
College of
Trust
and Estate
Counsel**

3415 South Sepulveda Blvd.
Suite 330
Los Angeles, CA 90034



STUDIES

The summary of each state's laws reflected in this study has been based on an opinion received from a reporter for that state. With rare exceptions, reporters are Fellows of the College from that state. Following the reporter's name is the date as of which that state's material was most recently reviewed. Neither the College nor the individual reporters and editors (who have volunteered their time and experience in the preparation of the studies) assume any responsibility for the accuracy of the information contained in any study.

Study 3:

**Rights of Nonresident
Individuals to Act as
Fiduciaries in Various States**

This study applies only to individuals who are citizens of the United States of America

Compiled by

**Marshall M. Green
New York, New York**

Can a NONRESIDENT INDIVIDUAL act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
ALABAMA Judith F. Todd Birmingham, Alabama April 14, 1993	No	Yes	Yes	Yes	Yes
ALASKA Trigg T. Davis Anchorage, Alaska April 1, 1993	Yes	Yes	Yes	Yes	Yes
ARIZONA Richard H. Whitney Phoenix, Arizona March 26, 1993	Yes	Yes(9)	Yes	Yes(9)	Yes
ARKANSAS William D. Haught Little Rock, Arkansas October 19, 1992	Yes	Yes	Yes	Yes	Yes
CALIFORNIA Edward V. Brennan La Jolla, California May 7, 1993	Yes	Yes	Yes	Yes	Yes
COLORADO Donald H. Burkhardt Denver, Colorado May 20, 1993	Yes	Yes	Yes	Yes	Yes
CONNECTICUT Martin Wolman Hartford, Connecticut September 29, 1993	Yes	Yes	Yes	Yes	Yes
DELAWARE F. Edmund Lynch Wilmington, Delaware August 11, 1993	Yes(50)	Yes(50)	Yes(50)	Yes(50)	Yes

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
ALABAMA	Yes	Yes(1)(22)	Yes(1)(22)	Yes(1)(22)	Yes(1)(22)
ALASKA	Yes	Yes	Yes	Yes	Yes
ARIZONA	Yes	Yes	Yes(12)	Yes	Yes(12)
ARKANSAS	Yes	Yes	Yes	No	No
CALIFORNIA	Yes	Yes	Yes	Yes	Yes
COLORADO	Yes	Yes	Yes	Yes	Yes
CONNECTICUT	Yes	Yes(2)	Yes(2)	Yes(3)	Yes(3)
DELAWARE	Yes	Yes	Yes	Yes	Yes

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official or receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
DISTRICT OF COLUMBIA Richard H. Mayfield Washington, D.C. October 16, 1992	Yes	Yes(4)	Yes	Yes(4)	Yes
FLORIDA John Arthur Jones Tampa, Florida April 30, 1993	Yes(5)	Yes(5)	Yes(5)	Yes(5)	Yes
GEORGIA Verner F. Chaffin Athens, Georgia November 21, 1991	Yes(7)	Yes(7)	Yes	Yes	Yes(8)
HAWAII Arthur B. Reinwald Honolulu, Hawaii October 20, 1992	Yes	Yes	Yes	Yes	Yes
IDAHO Loren C. Ipsen Boise, Idaho August 2, 1993	Yes	Yes	Yes	Yes	Yes
ILLINOIS Judith W. McCue Chicago, Illinois January 18, 1992	No(9)(10)	No(4)(9)(10)	Yes	Yes(4)	Yes
INDIANA John W. Houghton Indianapolis, Indiana March 29, 1993	Yes	Yes(4)	Yes	Yes(4)	Yes
IOWA John B. Anderson Sioux City, Iowa April 26, 1993	Yes(13)	Yes(13)	Yes(13)	Yes(13)	Yes(13)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
DISTRICT OF COLUMBIA	Yes	Yes	Yes	Yes	Yes
FLORIDA	Yes	Yes(6)	Yes(6)	Yes(6)	Yes(6)
GEORGIA	Yes(8)	Yes	Yes	Yes	Yes
HAWAII	Yes	Yes	Yes	Yes	Yes
IDAHO	Yes	Yes	Yes	Yes	Yes
ILLINOIS	Yes(4)	No(9)	No(4)(9)	No(9)	No(4)(9)
INDIANA	Yes(4)	Yes(11)	Yes(12)	Yes(11)	Yes(12)
IOWA	Yes(13)	Yes(13)	Yes(13)	Yes(13)	Yes(13)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official or receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
KANSAS Don W. Noah Beloit, Kansas April 6, 1993	No	No	Yes	Yes(14)	Yes
KENTUCKY Harold G. Wren Louisville, Kentucky April 22, 1993	Yes(15)	Yes(15)	Yes(15)	Yes(15)	Yes(15)
LOUISIANA Quintin T. Hardtner, III Shreveport, Louisiana March 20, 1993	Yes(16)	Yes(16)	Yes	Yes	Yes
MAINE Sumner T. Bernstein Portland, Maine April 23, 1993	Yes	Yes(4)	Yes	Yes(4)	Yes
MARYLAND Melvin J. Sykes Baltimore, Maryland December 31, 1991	Yes	No(4)	Yes	No(4)	Yes
MASSACHUSETTS Francis S. Moulton, Jr. Boston, Massachusetts April 2, 1993	Yes	Yes	Yes	Yes	Yes
MICHIGAN Harry Calcutt Traverse City, Michigan April 2, 1993	Yes(17)(18)	Yes(17)(18)	Yes(17)(18)	Yes(17)(18)	Yes(17)(18)
MINNESOTA Gerald L. Thoreen St. Cloud, Minnesota March 31, 1993	Yes	Yes	Yes	Yes	Yes

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
KANSAS	Yes(14)	Yes	Yes(14)	Yes	Yes(14)
KENTUCKY	Yes(15)	Yes(15)	Yes(15)	Yes(15)	Yes(15)
LOUISIANA	Yes	Yes	Yes	Yes	Yes
MAINE	Yes(4)	Yes	Yes(4)	Yes	Yes(4)
MARYLAND	Yes(4)	Yes	Yes(4)	Yes	Yes(4)
MASSACHUSETTS	Yes	Yes	Yes	Yes	Yes
MICHIGAN	Yes(17)(18)	Yes(17)(18)	Yes(17)(18)	Yes(17)(18)	Yes(17)(18)
MINNESOTA	Yes	Yes	Yes	Yes	Yes

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official or receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
MISSISSIPPI William S. Mullins, III Laurel, Mississippi January 15, 1992	Yes	Yes(14)	Yes	Yes(14)	Yes
MISSOURI Roger T. Hurwitz Kansas City, Missouri April 6, 1993	Yes	Yes(14)	Yes	Yes(14)	Yes
MONTANA George D. Goodrich Missoula, Montana October 19, 1992	Yes	Yes	Yes	Yes	Yes
NEBRASKA James I. Shamberg Grand Island, Nebraska January 10, 1992	Yes	Yes	Yes	Yes	Yes
NEVADA Prince A. Hawkins Reno, Nevada March 24, 1993	No	No	Yes	Yes	Yes
NEW HAMPSHIRE Robert P. Bass, Jr. Concord, New Hampshire June 29, 1994	Yes(11)	Yes(11)	Yes(11)	Yes(11)	Yes(11)
NEW JERSEY Gordon A. Millspaugh, Jr. Warren, New Jersey August 2, 1993	Yes(17)	Yes(17)	Yes	Yes	Yes
NEW MEXICO William A. Sawtell, Jr. Santa Fe, New Mexico April 5, 1993	Yes	Yes	Yes	Yes	Yes

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
MISSISSIPPI	Yes	Yes(19)	Yes(19)	Yes	Yes
MISSOURI	Yes	Yes(20)	Yes(20)	Yes(20)	Yes(20)
MONTANA	Yes	Yes	Yes	Yes	Yes
NEBRASKA	Yes	Yes	Yes	Yes	Yes
NEVADA	Yes	Yes(21)	Yes(21)	Yes(21)	Yes(21)
NEW HAMPSHIRE	Yes(11)	Yes(11)	Yes(11)	Yes(11)	Yes(11)
NEW JERSEY	Yes	Yes(17)	Yes(17)	Yes(17)	Yes(17)
NEW MEXICO	Yes	Yes	Yes	Yes	Yes

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official or receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
NEW YORK Barbara Paul Robinson New York, New York April 9, 1993	Yes(23)	Yes(4)(23)	Yes(23)	Yes(4)(23)	Yes(23)
NORTH CAROLINA George A. Ragland Winston-Salem, North Carolina August 10, 1993	Yes	Yes(4)	Yes(24)	Yes(4)	Yes(24)
NORTH DAKOTA Charles A. Feste Fargo, North Dakota August 26, 1993	Yes	Yes(4)	Yes	Yes(4)	Yes
OHIO T. Stephen Phillips Cincinnati, Ohio July 9, 1990	No	No(25)	Yes(26)	No(25)	Yes(26)
OKLAHOMA R. Robert Huff Tulsa, Oklahoma November 21, 1991	Yes	Yes(14)	Yes	Yes(14)	Yes
OREGON Joseph J. Hanna, Jr. Portland, Oregon July 28, 1993	Yes	Yes(31)	Yes	Yes(31)	Yes
PENNSYLVANIA Edward J. Greene Pittsburgh, Pennsylvania July 26, 1993	Yes(32)	Yes(32)	Yes	Yes	Yes(33)
RHODE ISLAND Andrew H. Davis, Jr. Providence, Rhode Island March 31, 1993	Yes(11)(50)	Yes(11)(50)	Yes(50)	Yes(50)	Yes

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
NEW YORK	Yes(4)(23)	Yes(23)	Yes(4)(23)	Yes	Yes(4)
NORTH CAROLINA	Yes	Yes	Uncertain	No	Uncertain
NORTH DAKOTA	Yes	Yes	Yes	Yes	Yes
OHIO	Yes(26)(27)	Yes(28)	Yes(28)	Yes(29)	Yes(29)
OKLAHOMA	Yes	No(30)	No(30)	No(30)	No(30)
OREGON	Yes(31)	Yes	Yes	Yes	Yes
PENNSYLVANIA	Yes(33)	Yes	Yes	Yes	Yes
RHODE ISLAND	Yes	Yes(34)	Yes(34)	Yes(52)	Yes(52)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official or receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
SOUTH CAROLINA William L. Dennis Greenville, South Carolina October 8, 1993	Yes(35)	Yes	Yes(35)	Yes	Yes(35)
SOUTH DAKOTA Thomas H. Foye Rapid City, South Dakota October 19, 1992	Yes	Yes(14)	Yes	Yes(14)	Yes
TENNESSEE Albert W. Secor Chattanooga, Tennessee March 28, 1993	Yes(36)	Yes(36)	Yes(36)	Yes(36)	Yes(36)
TEXAS Jack M. Kinnebrew Dallas, Texas May 27, 1993	Yes	Yes	Yes	Yes	Yes
UTAH Clark P. Giles Salt Lake City, Utah October 15, 1992	Yes(37)	Yes(37)	Yes(37)	Yes(37)	Yes(37)
VERMONT Eugene V. Clark Bennington, Vermont October 16, 1992	Yes(38)	Yes	Yes(11)	Yes	Yes(11)
VIRGINIA Waller H. Horsley Richmond, Virginia April 7, 1993	Yes(40)	Yes(40)	Yes(40)	Yes(40)	Yes(40)
WASHINGTON Richard A. Klobucher Bellevue, Washington April 5, 1993	Yes	Yes	Yes	Yes	Yes

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
SOUTH CAROLINA	Yes	Yes	Yes	Yes	Yes
SOUTH DAKOTA	Yes	Yes	Yes	Yes	Yes
TENNESSEE	Yes(36)	Yes(36)	Yes(36)	Yes(36)	Yes(36)
TEXAS	Yes	Yes	Yes	Yes	Yes
UTAH	Yes(37)	Yes	Yes	Yes	Yes
VERMONT	Yes(11)	Yes(2)(39)	Yes(2)(39)	Yes(2)(39)	Yes(2)(39)
VIRGINIA	Yes(40)	No(41)	No(41)	No(41)	No(41)
WASHINGTON	Yes	Yes	Yes	Yes	Yes

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official row receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
WEST VIRGINIA Charles B. Stacy Charleston, West Virginia April 6, 1993	Yes(42)	Yes(43)	Yes(44)	Yes(45)	Yes(46)
WISCONSIN Neil J. McCarty Kaukauna, Wisconsin March 17, 1992	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
WYOMING Joseph F. Maier Cheyenne, Wyoming April 23, 1993	Yes(49)	Yes(49)	Yes(50)	Yes(50)	Yes(50)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT INDIVIDUAL act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
WEST VIRGINIA	Yes(46)	Yes(47)	Yes(48)	Yes	Yes
WISCONSIN	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
WYOMING	Yes(50)	Yes(39)	Yes(39)	Yes(39)(51)	Yes(39)(51)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official row receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

NOTES

- (1) Although there is no statutory bar, in some jurisdictions the probate courts are reluctant to appoint a nonresident.
- (2) Nonresident named in will may be appointed in court's discretion.
- (3) But, in practice, most probate courts are reluctant to appoint a nonresident. Statutes permit an individual to name his conservator, should he become incompetent, and allow him to excuse the conservator from posting a bond. There has not been sufficient experience with this statute to determine if the courts are following requests for appointments of nonresidents after someone who makes such a request becomes incompetent. MD
- (4) But ancillary administration is not required.
- (5) Provided that the person named is a legally adopted child or an adoptive parent of the decedent, is related by lineal consanguinity to the decedent, is a spouse, brother, sister, uncle, aunt, nephew, or niece of the decedent, or is a spouse of any of the foregoing. Although a federal district judge had held the Florida Statutes disqualifying other nonresidents to be unconstitutional, *Fain v. Hall*, 463 F.Supp. 661 (S.D. Fla. 1979), the Florida Supreme Court subsequently upheld the exclusionary statutes in *In re Estate of Greenberg*, 390 So.2d 40 (Fla. 1980), commenting that *Fain* decision was wholly unpersuasive, and the U.S. Supreme Court dismissed an appeal from the Florida decision, *Pincus v. Estate of Greenberg*, 101 S. Ct. 1475, 67 L. Ed.2d 610 (1981). E
- (6) Effective 10/01/90, a nonresident may act as guardian provided the person is related by lineal consanguinity to the ward; is a legally adopted child or adoptive parent of the ward; is a spouse, brother, sister, uncle, aunt, niece or nephew of the ward, or is related by lineal consanguinity to any such person; or is the spouse of any of the foregoing.
- (7) Provided that the nonresident is sole heir of the deceased or is an heir at law of equal or greater interest than resident heirs.
- (8) Where the trustee is a nonresident when appointed, he or she is not subject to removal because of nonresident status. *Munford v. Maclelland*, 258 Ga. 679, 373 S.E.2d 368 (1988). On the other hand, where the sole or surviving resident trustee removes beyond the jurisdiction of the courts of this state, he or she may be summarily removed upon petition by two or more interested parties or by the sole beneficiary.
- (9) But foreign representative may secure local court authority to sell, lease or mortgage real or personal property if no representative appointed in local court.
- (10) But a nonresident heir who is a United States resident may nominate a resident to act as administrator or administrator with the will annexed.
- (11) In court's discretion.
- (12) But foreign guardian may secure local court authority to exercise all the powers (including power to maintain local actions and proceedings) if no guardian appointed in local court and no petition for a local guardian is pending.
- (13) In conjunction with a resident or alone on proper showing and order of court and, if originally appointed as a resident, be removed by the court for removal from the state. yan
- (14) All appointments are original.
- (15) Any nonresident of legal age may serve as a fiduciary who is as to the decedent, ward or competent related by consanguinity, marriage, adoption, or is the spouse of such person so related.
- (16) Provided that the individual named is the spouse, heir, legatee, legal representative of an heir or legatee, or a creditor of the deceased or his estate, or the nominee of any such person (other than a creditor), or a co-owner of immovable property with the deceased. This note also applies to dative testamentary executors, but not to the executor named a will. b
ni
- (17) Where individuals would otherwise have equal standing for the fiduciary position, residents are generally favored over nonresidents. In the situation where minors are involved, however, the appointment of a guardian or ancillary guardian must be in the best interests of the minor.

- (18) A fiduciary not named in a testamentary document or in the petition filed by the person to be protected may not remove assets from the state without prior court approval.
- (19) Except that, in cases wherein the minor is above the age of 14 years and there is no testamentary guardian, he or she select a suitable person to be guardian of the person and estate who shall be a resident of this state and except further that, in such case, if a corporation is selected as guardian of the estate only, it must be duly qualified to business in this state.
- (20) Unless the court finds that such nonresident individual, taking into consideration his place of residence, is unable to effectively perform the duties of guardian or conservator. Certain additional requirement are imposed with respect to mortgage or sale of real estate by a nonresident conservator. (Missouri uses the term "conservator" when applied to the person appointed to have care and custody of the estate. The term "guardian" applies to care and custody of the person.)
- (21) Provided that the nonresident associates as a co-guardian a resident of Nevada or a banking corporation whose principal place of business is in Nevada.
- (22) Alabama law separates the authority and appointment of individuals to care for minors and incompetents. A "conservatorship" must be established for the care and custody of the estate and property of a minor or incompetent. A "guardianship" must be established for the care and custody of the person of a minor or incompetent. Although these appointments are made and administered separately, they can be applied for under the same petition and a single hearing held. Alabama has no concept known as a "committee".
- (23) Except that a non-domiciliary alien must be related to the decedent and must serve with at least one co-fiduciary who a resident of New York State.
- (24) Except that officers, employees and agents of a foreign corporation may not serve when acting on behalf of such corporation unless the corporation itself is eligible to so serve.
- (25) Foreign executor or administrator of nonresident may be authorized to sell real estate for the payment of debts, legacies and administration expenses.
- (26) Provided that the nonresident (a) is related to the testator by consanguinity or affinity, or (b) resides in a state that authorizes the appointment of a nonresident who is not related to a testator by consanguinity or affinity when named or nominated pursuant to a will. The court may require that assets in the county of appointment remain there until distribution or until the court permits removal from the county.
- (27) Foreign trustee may execute trust of real estate in Ohio.
- (28) If named in a will by a parent of a minor or if selected by a minor over age 14.
- (29) If nominated in or pursuant to a durable power of attorney or other writing satisfying statutory requirements.
- (30) Except a nonresident may be appointed for certain designated relatives, or upon written request or will of a parent or of kin of a minor child or incompetent.
- (31) The Oregon procedure for a nonresident individual to act as personal representative, which includes an administrator and an executor, is controlled by the general procedure of administration of domiciliary estates as Oregon has no statute dealing exclusively with ancillary administrators.
- (32) But register of wills may refuse to appoint a nonresident.
- (33) But court may appoint a resident as co-trustee to act with foreign trustee.
- (34) Provided that the person is a testamentary guardian.
- (35) Except that officers, employees and agents of a foreign corporation, whether or not residents of South Carolina, may serve when acting on behalf of such corporation unless the corporation itself is eligible to so serve.

(36) If the nonresident is the spouse, parent, child, grandchild or sibling of the deceased and the estate or trust passes to such persons. All other nonresidents must serve in conjunction with a resident. Some probate courts are reluctant to allow designated nonresidents to serve alone.

(37) Individuals may not hold themselves out to the public as being engaged in or authorized to engage in a trust business (acting in a fiduciary capacity) nor engage in a trust business on a regular recurring basis unless they comply with applicable provisions of the Utah Financial Institutions Act.

(38) In court's discretion, but court must appoint nonresident when requested to do so by the surviving spouse, surviving children, surviving parents or a guardian (in that sequence).

(39) Appointment of relative of ward discretionary with court.

(40) Provided that the individual named, if serving without a resident co-fiduciary, gives bond with surety, appoints a resident agent for service of process and is a parent, brother or sister of the decedent, a child or other descendant of decedent, the spouse of a child of the decedent or the spouse of the decedent. In addition, all of the decedent's distributees or all of the residuary beneficiaries under the decedent's will, regardless of relationship, may serve together without a resident co-fiduciary by giving bond with surety and appointing a resident agent for service of process.

(41) Only in conjunction with a resident.

(42) Bond must be given, and if the nonresident individual is anyone other than the spouse, parent, sibling, lineal descendant or sole beneficiary of the decedent, bond must be in an amount double the value of the personal property.

(43) Only the executor or administrator qualified in the state of residence may qualify as ancillary administrator.

(44) If named in the will of a resident decedent.

(45) Only executor qualified in state of residence may qualify as ancillary administrator.

(46) The authority to appoint a nonresident testamentary trustee is not covered by statute, and each of West Virginia's 55 counties may have a different approach. Apparently, some conveyance lawyers take the position that a nonresident trustee cannot convey good title to real property.

(47) If named guardian in the will of the infant's parents.

(48) If qualified as guardian in the state the infant's residence.

(49) A nonresident may act as a co-administrator if a Wyoming resident is also appointed administrator.

(50) A nonresident named in the will may serve so long as a resident is appointed as agent for service of process.

(51) For good cause shown, the court may appoint a resident conservator to act jointly with a foreign conservator.

(52) A resident agent must be appointed and guardianship may not be moved out of state.