

**THE STOCK TRANSFER  
GUIDE: A COMPILATION  
OF STATUTES**

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The Stock Transfer Guide: A Compilation of Statutes by Corporation Trust Company

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**CORPORATION TRUST COMPANY**

**THE STOCK TRANSFER  
GUIDE: A COMPILATION  
OF STATUTES**



# The Stock Transfer Guide

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## Compilation of Statutes

in force in the several states of the United States, on July 1st, 1912, with notes of cases, with respect to the power of executors, administrators and guardians of minors to sell or distribute stocks of corporations



COMPILED FOR

**The Corporation Trust Company**

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## ALABAMA

(References are to Code of Alabama 1907)

**(a) Has a general guardian authority to sell personal property without an order of Court?**

No; an order is required. The code provides:

"The Court of Probate may authorize the guardian to sell any property of the ward and direct the investment of the proceeds in bonds, notes or bills of exchange at interest on mortgage security or on other property or securities in the name of the ward." (Sec. 4411.)

"If the income of a minor is insufficient for his maintenance and education, in a manner suitable to his prospects and condition in life, and such maintenance and education cannot be furnished him otherwise than by a sale of his estate, real or personal, the Court of Probate may, on the application in writing of the guardian, order a sale of the property of the minor, real or personal, or so much thereof as may be necessary, for his maintenance and education." (Sec. 4409.)

In *Mason v. Buchanan*, 62 Ala., 110, the court holds that the statutes abridged the power of a guardian to sell personal assets, by requiring that sales shall be made under orders or decrees of the Court of Probate from which he derives his appointment.

**(b) Has an executor or an administrator authority to sell personal property without an order of Court?**

No; an order is required except in cases where power to sell is conferred by a will. The code provides:

"Any part of the personal property of a decedent, including land warrants, and choses in action, may be sold only by order of the court, on the written application of the executor or administrator, verified by affidavit, in the following cases, unless, in such cases, power to sell is conferred by the will:

1. For the payment of debts.
2. To make distribution among the distributees or legatees.
3. To prevent the waste or destruction of property liable to waste, or of a perishable nature, if it is proved that the sale would be beneficial to the estate." (Sec. 2606.)

In *Riddle, et al., v. Hill's Admr.*, 51 Ala., 224, the court in holding that a sale of personal property by an administrator without an order of court passes no title to the purchaser, and no recovery can be had against him on his note for the purchase money, says (p. 228):

"It is the settled law of this State that a sale of personalty made by an administrator, without an order of court, or under an order void on its face for want of jurisdiction in the court rendering it, passes no title to the purchaser. The authorities on this point are collected, and the discussion of the question exhausted, in *Ikelheimer v. Chapman*, 32 Ala., 676."

**(c) Has an executor or an administrator authority to distribute personal property without an order of Court, and, if so, is distribution of personal property forbidden within any fixed period?**

No; an order is required. The provisions of the code bearing on the question are:

"Every executor or administrator must make annual settlements of his administration; and he may when necessary for the interests of the estate, be required to make a settlement at any time." (Sec. 2666.)

"A final settlement may be made at any time after twelve months from the grant of letters if the debts are all paid and the condition of the estate, in other respects, will admit of it." (Sec. 2667.)

"Upon the filing of such account, vouchers, evidence and statement, the judge of probate must appoint a day for such settlement and must give notice of the same by publication in some newspaper published in the county for three successive weeks; or, if none is published in the county, by posting such notice at the court house and three other public places in such county, for the same length of

time; but if the settlement be only an annual one, publication shall only be given by posting up notices as above provided. If the settlement be a final one, the probate judge must also give notice to every adult distributee resident in the state of the day set for making the settlement." (Sec. 2671.)

"On the final settlement of an estate, the court may make such orders of distribution as may be necessary; and on the confirmation of the same, may render a decree thereon and the property must be delivered according to such decree; or if there is money only to be divided, it may render a decree in favor of each distributee entitled to the same for his distributive share, against the executor or administrator." (Sec. 2710.)

"All orders of distribution must be directed to five disinterested persons appointed by the court, must specify the property to be divided, the persons and their respective shares and must require them to return their proceedings on a day specified in such order." (Sec. 2713.)

"The persons therein named, or a majority of them, must proceed to make distribution according to such order, having first taken an oath to make such distribution fairly and impartially, if the same can be made, which oath may be administered by the executor or administrator and must return their proceedings in writing signed by them, to the court by the day specified in such order." (Sec. 2714.)

"Upon the confirmation of any order of distribution, the executor or administrator must deliver the property to the persons entitled thereto." (Sec. 2719.)

"When the executor or administrator is satisfied that the estate is solvent, he may at any time, so report it, and obtain an order of distribution as to the whole, or any part of the property; but in such case, if the order is made before a final settlement of such estate the order and proceedings thereon are not a defense in any action brought against such executor or administrator as such." (Sec. 2724.)

"The court may also, in cases of intestacy, make an order of distribution out of the assets of the decedent, on the application of any person entitled to distribution, after twelve months from the grant of letters." (Sec. 2725.)

"After the expiration of twelve months from the grant of letters testamentary, or of administration, with the will annexed, if there are more than sufficient assets in the hands of such executor or administrator to pay the debts