

# **7 FAM 200 DEATH AND PERSONAL ESTATES OF U.S. CITIZENS ABROAD**

## **7 FAM 210 CONSULAR ROLE UPON LEARNING OF THE DEATH OF U.S. CITIZEN(S) ABROAD**

### **7 FAM 211 CRUCIAL ROLE**

(TL:CON-58; 10-12-93)

a. Providing assistance to the relatives of U.S. citizens who die abroad is one of the most difficult and important services performed by consular officers, *requiring sensitivity, tact, and a high degree of competence, particularly in those cases where death occurs under unusual circumstances. Officers must deal sympathetically and effectively with the decedent's relatives or next of kin (NOK) who are experiencing emotional stress, and who are often unprepared, financially and otherwise, for the important decisions that must be made in an atmosphere of urgency. The consular officer's actions are governed by the desires of the closest relative, who is usually in the United States, far from the scene of death, and unfamiliar with foreign laws concerning death and the disposition of remains.*

b. All arrangements relating to the death of a U.S. citizen overseas must be handled with care, empathy, and understanding. Consular officers must become familiar with their responsibilities and the procedures to be followed. Each post should maintain an information sheet listing the contacts and telephone numbers of host country offices or agencies which must be dealt with when deaths occur. Advance preparation *will assist greatly in carrying out the wishes of the NOK and significantly reduce the potential for criticism.*

c. For 200 years consular officers have been empowered to dispose of the personal estates of citizens who die abroad. As early as 1792, laws were enacted by Congress giving consular officers certain powers and authority with respect to estates of deceased citizens.

## 7 FAM 212 AUTHORITY

### 7 FAM 212.1 U.S. Statutory and Regulatory Authority - Reports of Death

(TL:CON-58; 10-12-93)

a. The statutory authority *and responsibility* for an American diplomatic or consular officer to act in the event of the death of a U.S. citizen abroad is contained in 22 U.S.C. 4195 through 4197 [see 7 FAM 212 Exhibit 212.1a ].

b. Pursuant to this statutory authority, the consular officer's duties and authority are defined in 22 CFR Part 72 (Deaths and Estates).

c. The extent to which a consular officer can exercise the authorities and responsibilities established by U.S. statutes and regulations, or otherwise be of assistance, is subject to the cooperation of the local authorities and the laws of the country where the U.S. citizen died.

d. A consular agent has no legal authority, *with respect to the death of a U.S. citizen abroad*. Actions taken by a consular agent must be under the close and direct supervision of a consular officer, *who retains sole responsibility under the law*.

### 7 FAM 212.2 Disposition of Estates Abroad

(TL:CON-58; 10-12-93)

The statutory responsibility of consular officers for handling the estates of deceased citizens is set forth in title 22 of the U.S. Code, sections 4195 through 4197 (formerly sections 1175 through 1179) *and is reflected in 22 CFR 72.15 through 72.55*.

### 7 FAM 212.3 Treaty Provisions Regarding Estates

(TL:CON-58; 10-12-93)

a. Consular officers should be familiar with the provisions of consular treaties *in force, pertaining to estates* or between the United States and the host country.

b. Vienna Convention on Consular Relations

Article 5(g) of the "Vienna Convention on Consular Relations of 1963" (VCCR) provides that consular functions include safeguarding the interests of deceased U.S. citizens in accordance with the laws of the host country. *For a list of parties to the Convention, see 7 FAM 112 Exhibit 112c* . Consular officers should be familiar with this treaty article in the Vienna Convention, which states:

Article 5, Consular functions

Consular functions consist in:

(g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases in succession *mortis causa* in the territory of the receiving State, in accordance with the laws and regulations of the receiving State; . . . .

### c. Bilateral Consular Treaties

Many current bilateral consular conventions embody specific consular responsibilities for handling the personal estates of deceased citizens of countries that are parties to the conventions [see 7 FAM 112 Exhibit 112c]. *Such conventions typically provide for the following:*

(1) Notice to a consular officer of the death of a citizen or of the death of a person in whose estate a citizen may have an interest;

(2) The right of a consular officer to act as provisional or temporary conservator of the property of the deceased citizen until an administrator is appointed;

(3) The right of a consular officer to act as the administrator of an estate of a citizen or of an estate in which a U.S. citizen may have an interest if no person having a superior right under the applicable local law is competent or willing to act; and

(4) The right of a consular officer to represent the interests of citizens in estate proceedings within the consular officer's jurisdiction [see section 7 FAM 263.3].

## **7 FAM 213 DEFINITIONS**

(TL:CON-58; 10-12-93)

For purposes of the Department's role in responding to the death of U.S. citizens abroad, and services involving the settlement of their estates, the following terms and definitions apply.

### **7 FAM 213.1 Death Cases Abroad**

(TL:CON-58; 10-12-93)

(1) "Autopsy" means an inspection and dissection of the remains to determine the cause of death.

(2) "Certificate of death" means a document issued by bcal authorities to *verify* a person's death.

(3) "Cremation certificate" means a certificate issued by a crematorium to *verify a person's cremation*. *It normally* contains the name of the deceased, date of death, and date of cremation.

(4) "DIRECT RELAY CASUALTY MESSAGE HAND DELIVER" means a telegram to the Department to be relayed directly to an individual or company, usually to a next of kin. This caption ensures immediate delivery at no cost to the recipient.

(5) "Disposition of remains" means the method of disposition of the deceased which will include one of the following: local interment, preparation of the remains and air shipment to a designated area in the United States, cremation and local disposition of the ashes, or cremation and air shipment to a designated area in the United States.

(6) "Disposition of remains report" means the annual report submitted to the Department setting forth the local requirements and costs for interment, cremation, embalming, preparation and shipment of the remains, and exhumation.

(7) "Legal representative", *for the purposes of reports of death and disposition of remains*, means the person authorized to act in all matters relating to the death and disposition of the remains of a U.S. citizen who has died abroad.

(8) "Next of kin" (NOK) means a person's closest relative, such as spouse, children, or parents.

(9) "Notification telegram" means a detailed, official, direct relay telegram informing the closest known relative of a death abroad.

(10) "Postmortem": see "Autopsy".

(11) "Report of Death, Form OF-180", means the Department of State form, *REPORT OF THE DEATH OF AN AMERICAN CITIZEN ABROAD*, used to report the death of a U.S. citizen abroad.

(12) "Waybill" means a document prepared by the carrier of a shipment of goods or freight (including shipment of remains), containing the details of the shipment, route, and charges.

## 7 FAM 213.2 Definitions for the Purpose of Settlement of Estates Abroad

(TL:CON-58; 10-12-93)

(1) "Administration," as it relates to an estate, means the management and settlement of the estate of an intestate, or of a testator who has no executor, performed by a duly qualified person generally under the supervision of a court. It usually involves collecting the decedent's assets, paying the debts, and distributing the remainder of the estate.

(2) "Administrator" ("*administratrix*," if female) is a person appointed by a court to administer the estate of a decedent. Such person, if named in the decedent's will, is designated as "executor" or "executrix".

(3) "Affinity" means a relationship that one spouse has to blood relatives of the other spouse because of marriage.

(4) "Ancillary administration" means administration of an estate in a jurisdiction where the decedent had property but was not domiciled. It may be performed in any foreign jurisdiction where assets are located and is usually for the purpose of collecting such assets and paying debts there.

(5) "Beneficiary" means a person having the benefits of property of which a trustee, or executor, has legal possession or, *broadly speaking*, a person who is entitled to proceeds of an estate.

(6) "Codicil" means an addition, supplement, or modification to a will. A codicil does not dispose of the entire estate, and does not normally revoke in toto a prior will.

(7) "Collateral consanguinity" means the relationship that exists between persons who have the same ancestors, but who do not descend/ascend one from the other (for example, an uncle and nephew).

(8) "Consanguinity" means the relationship of persons descended from a common ancestor.

(9) "Devise" means the testamentary disposition of land or other real estate.

(10) "Devisee" means a person to whom land or other real property is given by a will.

(11) "Distributee" means a person entitled to share in the distribution of an estate pursuant to a statute of distribution, rather than pursuant to a will.

(12) "Executor" or "Executrix" means a male or female named in the will of the decedent to administer the decedent's estate.

(13) "Fiduciary" means a person holding a position similar to that of a trustee with a duty to act in good faith for the benefit of another person. A fiduciary relationship may exist between client and attorney, or executor and distributee. A breach of fiduciary responsibility would make the fiduciary liable to the beneficiaries for any damage caused by such breach.

(14) "Heir" means a person who inherits property by will or under a statute of descent and distribution.

(15) "Intestate" means without having made a will; also, *the term* "an intestate" means a decedent who leaves no will.

(16) "Legacy" means a disposition of real or personal property by will.

(17) "Legal representative" *in its broadest sense means someone who stands in place of, and has legal authority to represent the interests of, another. For the purpose of the handling of estates by consular officers the term "legal representative" is defined in 22 CFR 72.18 as:*

(a) *An executor designated by will or testament;*

(b) *An administrator appointed in interstate proceedings;*

(c) *An agent of executor or administrator qualifying by power of attorney;*

(d) *A child of legal age;*

(e) *A parent;*

(f) *The next of kin (nearest blood relative); or*

(g) *The surviving spouse.*

(18) "Legatee" means a person to whom a legacy is given.

(19) "Letters of administration" means an official document, issued by a court, which authorizes a person to administer the estate *of a decedent*: who dies intestate or makes a will without naming any executors; when the executor named in the will is incompetent or refuses to act; or when the executor in the will is deceased.

(20) "Letters testamentary" means an official *document* issued by a court authorizing the executor named in the will to administer the estate.

(21) "Lineal consanguinity" means the relationship between persons of whom one is descended or ascended in a direct line from the other, as between a particular person and the person's father, grandfather, or great-grandfather.

(22) "Mortis causa" means by reason *or in contemplation of death*.

(23) "Next of kin"(NOK) *may mean either the persons most nearly related to the decedent by blood or the persons related to the decedent by blood or marriage who are entitled to participate in the distribution of an estate under a statute of distribution.*

(24) "Nisi" is a Latin term meaning "unless" and is often affixed to words such as "rule," "order," and "decree." It is used to indicate that a judgement will stand as valid and operative unless action is taken to avoid it, *or to procure its revocation.*

(25) "Personal estate", *sometimes used synonymously with "personal property,"* means any *tangible* property of the decedent that does not fall into the category of real estate. It includes furniture, household furnishings, motor vehicles, clothing, luggage, and other effects of a *tangible, movable nature. It also includes convertible assets, non-negotiable instruments, and the like. For purposes of the Department's regulations, however, a personal estate does not include bank deposits [see 22 CFR 72.30].*

(26) "Per stirpes" means the method of dividing an estate by which a group of distributees takes the share which a deceased *distributee* would have been entitled to take (e.g., *three children take one-third share each of their deceased mother's share of their grandfather's estate*).

(27) "Probate" means *the procedure by which a will is proven to be valid or invalid, before a competent judicial authority, such as a probate court. The term is more broadly used to include all matters and proceedings pertaining to the administration of an estate.*

(28) "Self-proving will" means a will that eliminates some of the formalities of proof by execution in compliance with the applicable statute. A will may be made self-proving by an affidavit of attesting witnesses in the form prescribed by statute.

(29) "Statute of descent and distribution" means a law prescribing the manner in which an estate is to be distributed among the heirs or relatives of an intestate person. The statute for a *particular state* may be found under the section "Descent and Distribution" for each state law summary contained in the *United States Law Digest published by Martindale Hubbell (Martindale Hubbell Law Digest - United States Law Digest, multiple volumes).*

(30) "Succession" generally means *the devolution of title to property under the law of descent and distribution, by will or inheritance (as opposed to, by sale).*

(31) "Testate" means leaving a valid will.

(32) "Testator" means a male decedent who dies testate.

(33) "Testatrix" means a female decedent who dies testate.

(34) "Will" is a *written instrument by which a person makes a disposition of his or her property, to take effect after death.*

## **7 FAM 214 RESPONSIBILITY FOR ACTION**

### **7 FAM 214.1 Death Notification and Reporting**

(TL:CON-58; 10-12-93)

a. A consular officer (or a diplomatic officer) is responsible for reporting to the Department, to the legal representative, and to the closest known relative the death of *non-military* U.S. citizens occurring in *his or her* consular district.

b. A consular officer is responsible for the proper completion and distribution of the REPORT OF THE DEATH OF AN AMERICAN CITIZEN ABROAD (ROD; Form OF-180, formerly Form FS-192) [see subchapter 7 FAM 230 ], which reports a U.S. citizen's death abroad to the Department of State, and to the closest known relative of the deceased. Notification of death by telegram or by other means does not remove the requirement for reporting the death on Form OF-180.

c. *In the case of a stillborn child, the consular officer may issue the ROD, provided local authorities have issued a death certificate [see section 7 FAM 1444.5 ] and the parents submit required evidence of their own identity and citizenship.*

d. When a legal representative of the next of kin is not present at the place of death, the consular officer should exert all reasonable efforts to carry out the express wishes, if known, of the deceased or the next of kin as to the disposition of the remains *and the decedent's estate*.

## **7 FAM 214.2 Estate Settlement Services**

(TL:CON-58; 10-12-93)

### *a. Department Action*

The Office of Citizens Consular Services (CA/OCS) is the action office in the Department on all cases involving the personal estate of deceased U.S. citizens. Posts should address all inquiries to that office.

### *b. Consular Officer Action*

(1) The U.S. Code (22 U.S.C. 4195) [see section 7 FAM 212.3 ] requires that a consular officer or, if no consular officer is present, a diplomatic officer, must serve as "provisional conservator" of the personal property of U.S. citizens who have died, or who were domiciled at the time of death, in the officer's consular district, provided that the decedent left no legal representative, partner in trade, or trustee to take care of the decedent's estate.

(2) The consular officer who actually takes possession and disposes of the personal estate of the deceased is the responsible officer. Upon departure from the post, either on transfer or extended leave, this consular officer is responsible for transferring accountability to a successor officer for any estate that is not closed. The succeeding officer then becomes the responsible officer.

(3) To transfer accountability, prepare a receipt [see subchapter 7 FAM 260 and 7 FAM 262 Exhibit 262.2 ].

## **7 FAM 215 DEATH OF NON-U.S. CITIZEN ABROAD**

(TL:CON-58; 10-12-93)



a. A consular officer should report to the Department, CA/OCS, by immediate telegram (SUBJECT: Death Abroad of NON-U.S. Citizen), the death abroad of a U.S. national, or a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or Palau, provided there is no diplomatic or consular representation for these states where the death occurred, and the decedent left no legal representative or trustee to take care of the estate. The telegram should contain details concerning the death and information on the availability and cost of disposition of remains. No form FS-180 should be prepared, and no further action should be taken by the post unless instructed to do so by the Department.

b. A consular officer has no specific responsibility in reporting the death of, or providing assistance to, the relatives of aliens except in certain specific circumstances stated in sections 7 FAM 215 c and d.

c. If the deceased was an alien or a legal permanent resident (LPR) of the United States but the next of kin (NOK) is/are U.S. citizens, as a helpful service to the U.S. citizens, the consular officer may, if requested, provide the next of kin with information concerning procedures for local burial or shipment of the remains. Do not assume responsibility for arranging burial or shipment, but advise the NOK to make direct arrangements by contacting local authorities, funeral homes, or diplomatic representatives of the deceased's nationality. In no case prepare a Report of Death (Form OF-180) for the deceased, as this document can be issued only for deceased U.S. citizens.

d. If the remains of an alien are being shipped to or through the United States, the consular officer should issue the documents necessary to effect the entering into the United States of the remains [see sections 7 FAM 254 and 7 FAM 255 ].

## **7 FAM 216 EXCEPTIONS TO CONSULAR REPORTING**

### **7 FAM 216.1 Department of Defense Personnel**

(TL:CON-58; 10-12-93)

a. The Department of Defense (DOD) is responsible for officially reporting the death abroad of its military and civilian personnel. If no representative of DOD is present in the consular district or the host country in which the death occurred the consular officer reports the particulars of the death to the Department of State for action by the Defense Department [see 22 CFR 72.2(a)]. The DOD will provide instructions to the consular officer for the disposition and transport of remains, and for the safeguarding and disposition of the personal estate of the decedent.

b. The Defense Department responsibility does not extend to dependents of Defense Department military or civilian personnel or civilian contractors of the Defense Department and their dependents. Consular officers report the death of these persons as set forth in subchapter 7 FAM 220 .

### **7 FAM 216.2 U.S. Coast Guard Personnel**

(TL:CON-58; 10-12-93)

a. The United States Coast Guard is responsible for reporting the death of its military and civilian personnel. If a person dies in a European country where no Coast Guard detail is assigned, the consular officer notifies the Senior Coast Guard Merchant Marine Detail Officer (Europe), London, by telegram. If the death occurs outside Europe, the consular officer should send the details of the death to the Department for action by the Coast Guard [see 22 CFR 72.2(b)]. *The U.S. Coast Guard will provide instructions to the consular officer for the disposition and transport of remains, and for the safeguarding and disposition of the personal estate of the decedent.*

b. The responsibility of the Coast Guard does not extend to reporting the deaths of dependents of Coast Guard personnel. Consular officers report these deaths as set forth in subchapter 7 FAM 220 .

## **7 FAM 216.3 Peace Corps Personnel**

(TL:CON-58; 10-12-93)

*a. In no case should a consular officer report the death of Peace Corps (PC) personnel to the NOK by direct relay telegram.*

*b. The PC country director is responsible for immediately reporting the details about the death to the Director of the Peace Corps, through the PC Office of Special Services (M/SS). The country director also is responsible for the disposition and shipment of the remains, and for the safeguarding and disposition of the personal estate of the decedent (as stated in the PC Manual Section (PCMS or MS) 265, Overseas Disappearances and Deaths).*

*c. The PC country director generally will seek the advice and guidance of the consular officer, particularly on issues not specifically addressed in PCMS 265, including the proper manner for preparing the inventories and appraisals of personal possessions.*

*d. The PC country director, coordinating with the consular officer, also assists dependents who are not PC Volunteers, trainees, or employees: a spouse (most spouses are also PCT's or PCV's), or a dependent child (in the death of PCT, PCV, or employee parents), or parents (in the death of the PCTs, PCVs, or employees' child).*

*e. In addition to notifications sent by Peace Corps personnel, the consular officer promptly reports the death of PC personnel to the Department (CA/OCS) with an information copy to the Peace Corps headquarters in Washington, D.C. [see 7 FAM 216 Exhibit 216.3, sample text]. The consular officer also completes the official report of death (Form OF-180) [see section 7 FAM 232 ], as soon as all pertinent information is available and provides guidance to the Peace Corps Country Director, as necessary.*

## **7 FAM 217 THROUGH 219 UNASSIGNED**

# 7 FAM 212 Exhibit 212.1a

## EXCERPT, 22 U.S.C. 4195 THROUGH 4197

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### EXHIBIT 212.1a

#### EXCERPT, 22 U.S.C. 4195 THROUGH 4197

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TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

§ 4195

##### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4191 of this title.

##### § 4195. Estates of decedents generally; General Accounting Office as conservator

It shall be the duty of a consular officer, or, if no consular officer is present, a diplomatic officer, under such procedural regulations as the Secretary of State may prescribe—

First. To take possession and to dispose of the personal estate left by any citizen of the United States, except a seaman who is a member of the crew of an American vessel, who shall die within or is domiciled at time of death within his jurisdiction: *Provided*, That such procedure is authorized by treaty provisions or permitted by the laws or authorities of the country wherein the death occurs, or the decedent is domiciled, or that such privilege is accorded by established usage: *Provided further*, That the decedent shall leave in the country where the death occurred or where he was domiciled, no legal representative, partner in trade, or trustee by him appointed to take care of his personal estate. A consular officer or, in his absence, a diplomatic officer shall act as the provisional conservator of the personal property within his jurisdiction of a deceased citizen of the United States but, unless authorized by treaty provisions, local law, or usage, he shall not act as administrator of such personal property. He shall render assistance in guarding, collecting, and transmitting the property to the United States to be disposed of according to the law of the decedent's domicile.

Second. After having taken possession of the personal property, as provisional conservator, to inventory and carefully appraise the effects, article by article, with the assistance of two competent persons who, together with such officer, shall sign the inventory and annex thereto an appropriate certificate as to the accuracy of the appraised value of each article.

Third. To collect the debts due to the decedent in his jurisdiction and pay from the estate the obligations owed there by the decedent.

Fourth. To sell at auction, after reasonable public notice, unless the amount involved does not justify such expenditure, such part of the estate as shall be of a perishable nature, and after reasonable public notice and notice to next of kin if they can be ascertained by reasonable diligence such further part, if any, as shall be necessary for the payment of the decedent's debts incurred in such country, and funeral expenses, and expenses incident to the disposition of the estate. If, at the expiration of one year from the date of death (or for such additional period as may be required for final settlement of the estate), no claimant shall appear, the residue of the estate, with the exception of investments of bonds, shares of stocks, notes of indebtedness, jewelry or heirlooms, or other articles having a sentimental value, shall be sold.

Fifth. To transmit to the General Accounting Office the proceeds of the sale (and any unsold effects, such as investments of bonds, shares of stocks, notes of indebtedness, jewelry or heirlooms, or other articles having a sentimental

value), there to be held in trust for the legal claimant. If, however, at any time prior to such transmission, the decedent's legal representative should appear and demand the proceeds and effects in the officer's hands, he shall deliver them to such representative after having collected the prescribed fee therefor.

The Comptroller General of the United States, or such member of the General Accounting Office as he may duly empower to act as his representative for the purpose, shall act as conservator of such parts of these estates as may be received by the General Accounting Office or are in its possession, and may, when deemed to be in the interest of the estate, sell such effects, including bonds, shares of stock, notes of indebtedness, jewelry, or other articles, which have heretofore or may hereafter be so received, and pay the expenses of such sale out of the proceeds: *Provided*, That application for such effects shall not have been made by the legal claimant within six years after their receipt. The Comptroller General is authorized, for and in behalf of the estate of the deceased, to receive any balances due to such estates, to draw therefor on banks, safe deposits, trust or loan companies, or other like institutions, to endorse all checks, bills of exchange, promissory notes, and other evidences of indebtedness due to such estates, and take such other action as may be deemed necessary for the conservation of such estates. The net proceeds of such sales, together with such other moneys as may be collected by him, shall be deposited into the Treasury to a fund in trust for the legal claimant and reported to the Secretary of State.

If no claim to the effects the proceeds of which have been so deposited shall have been received from a legal claimant of the deceased within six years from the date of the receipt of the effects by the General Accounting Office, the funds so deposited, with any remaining unsold effects, less transmittal charges, shall be transmitted by that office to the proper officer of the State or Territory of the last domicile in the United States of the deceased citizen. If known, or, if not, such funds shall be covered into the general fund of the Treasury as miscellaneous receipts on account of proceeds of deceased citizens, and any such remaining unsold effects shall be disposed of by the General Accounting Office in such manner as, in the judgment of the Comptroller General, is deemed appropriate, or they may be destroyed if considered no longer possessed of any value: *Provided*, That when the estate shall be valued in excess of \$500, and no claim therefor has been presented to the General Accounting Office by a legal claimant within the period specified in this paragraph or the legal claimant is unknown, before disposition of the estate as provided herein, notice shall be given by publishing once a week for four consecutive weeks in a newspaper published in the county of the last known domicile of the deceased, in the United States, the expense thereof to be deducted from the proceeds of such estate, and any lawful claim received as the result of such advertisement shall be adjusted and settled as provided for herein.

## Excerpt, 22 U.S.C. 4195 through 4197—Continued

§ 4196

## TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

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(R.S. § 1709; Mar. 3, 1911, ch. 223, 36 Stat. 1083; June 10, 1921, ch. 18, § 304, 42 Stat. 24; July 12, 1940, ch. 618, 54 Stat. 758.)

## CODIFICATION

R.S. § 1709 was from act Apr. 14, 1792, ch. 24, § 2, 1 Stat. 255.

Section was not enacted as part of the Foreign Service Act of 1980, which comprises this chapter.

The words "The General Accounting Office," were substituted in the fifth provision of this section, for the words "The Auditor for the State and other Departments" and "The Auditor" which were used in former sixth provision, presently fifth, by act June 10, 1921.

Act Mar. 3, 1911, added a sixth provision, the substance of which is presently incorporated in the second par. of the fifth provision.

Section was formerly classified to section 1175 of this title, and prior thereto to section 75 of this title.

## AMENDMENTS

1940—Act July 12, 1940, amended section generally.

## ADMINISTRATIVE ASSISTANCE IN ARRANGEMENTS FOLLOWING DEATH OF UNITED STATES CITIZEN ABROAD; REPORT TO CONGRESS ON ALTERNATIVE PROCEDURES

Pub. L. 95-426, title I, § 121, Oct. 7, 1978, 92 Stat. 970, provided that:

"(a) The Congress finds that the Department of State should, in the performance of its consular duties, render all reasonable administrative assistance to a United States citizen who is making necessary arrangements following the death of another United States citizen abroad.

"(b) The Secretary of State shall—

"(1) analyze alternative procedures by which the Department of State could, where necessary and appropriate, provide loans or other forms of assistance to facilitate such arrangements; and

"(2) not later than January 20, 1979, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report describing fully and completely such alternate procedures, including associated costs, and presenting his views and recommendations with respect to such procedures."

## AMERICAN INSTITUTE IN TAIWAN

Employees of the American Institute in Taiwan authorized to assist and protect interests of United States persons by performing acts such as are authorized to be performed outside the United States for consular purposes by this section, see section 1-201 of Ex. Ord. No. 12143, June 22, 1979, 44 P.R. 37191, set out as a note under section 3301 of this title.

## CROSS REFERENCES

Acceptance by consular officers of appointment from any foreign state as administrator, guardian, etc., see sections 4198 and 4199 of this title.

Duties of consular officers where seaman, dying out of United States, leaves money or effects not on board of his vessel, see section 824 of Title 46, Shipping.

Embezzlement by a consular officer of money, property, etc., of a citizen of the United States received by him made punishable, see section 4217 of this title.

Estates of Decedents, Department of State, Trust Fund, see section 725s of Title 31, Money and Finance.

Permanent appropriation for payment of the proceeds of the personal estates of American citizens who die abroad, to their legal representatives, see section 711 of Title 31.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4191 of this title.

§ 4196. Notification of death of decedent; transmission of inventory of effects

For the information of the representative of the deceased, the consular officer, or, if no consular officer is present, a diplomatic officer, in the settlement of his estate shall immediately notify his death in one of the gazettes published in the consular district, and also to the Secretary of State, that the same may be notified in the State to which the deceased belonged; and he shall, as soon as may be, transmit to the Secretary of State an inventory of the effects of the deceased taken as before directed.

(R.S. § 1710; July 12, 1940, ch. 618, 54 Stat. 760.)

## CODIFICATION

R.S. § 1710 was from act Apr. 14, 1792, ch. 24, § 2, 1 Stat. 255.

Section was not enacted as part of the Foreign Service Act of 1980, which comprises this chapter.

Section was formerly classified to section 1176 of this title, and prior thereto to section 76 of this title.

## AMENDMENTS

1940—Act July 12, 1940, substituted "the consular officer, or, if no consular officer is present, a diplomatic officer," for "the consul or vice-consul."

## AMERICAN INSTITUTE IN TAIWAN

Employees of the American Institute in Taiwan authorized to assist and protect interests of United States persons by performing acts such as are authorized to be performed outside the United States for consular purposes by this section, see section 1-201 of Ex. Ord. No. 12143, June 22, 1979, 44 P.R. 37191, set out as a note under section 3301 of this title.

## CROSS REFERENCES

Inventory directed to be taken, see paragraph "Second" of section 4195 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4191 of this title.

§ 4197. Following testamentary directions; assistance to testamentary appointee

When a citizen of the United States dies in a foreign country and leaves, by any lawful testamentary disposition, special directions for the custody and management, by the consular officer, or in his absence a diplomatic officer, within whose jurisdiction the death occurred, of the personal property in the foreign country which he possessed at the time of death, such officer shall, so far as the laws of the foreign country permit, strictly observe such directions if not contrary to the laws of the United States. If such citizen has named, by any lawful testamentary disposition, any other person than a consular officer or diplomatic officer to take charge of and manage such property, it shall be the duty of the officer, whenever required by the person so named, to give his official aid in whatever way may be practicable to facilitate the proceedings of such person in the lawful execution of his trust, and, so far as the laws of the country or treaty provisions permit, to protect the property of the deceased from any in-

## Excerpt, 22 U.S.C. 4195 through 4197—Continued

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## TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

§ 4200

ference by the authorities of the country where such citizen died. To this end it shall be the duty of the consular officer, or if no consular officer is present a diplomatic officer, to safeguard the decedent's property by placing thereon his official seal and to break and remove such seal only upon the request of the person designated by the deceased to take charge of and manage his property.

(R.S. § 1711; July 12, 1940, ch. 618, 54 Stat. 760.)

## CODIFICATION

R.S. § 1711 was from act Aug. 18, 1856, ch. 127, § 28, 11 Stat. 63.

Section was not enacted as part of the Foreign Service Act of 1980, which comprises this chapter.

Section was formerly classified to section 1177 of this title, and prior thereto to section 77 of this title.

## AMENDMENTS

1940—Act July 12, 1940, amended section generally.

## AMERICAN INSTITUTE IN TAIWAN

Employees of the American Institute in Taiwan authorized to assist and protect interests of United States persons by performing acts such as are authorized to be performed outside the United States for consular purposes by this section, see section 1-201 of Ex. Ord. No. 12143, June 22, 1979, 44 F.R. 37191, set out as a note under section 3301 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4191 of this title.

§ 4198. Bond as administrator or guardian; action on bond

No consular officer of the United States shall accept an appointment from any foreign state as administrator, guardian, or to any other office or trust for the settlement or conservation of estates of deceased persons or of their heirs or of persons under legal disabilities, without executing a bond, with security, to be approved by the Secretary of State, and in a penal sum to be fixed by him and in such form as he may prescribe, conditioned for the true and faithful performance of all his duties according to law and for the true and faithful accounting for delivering, and paying over to the persons thereto entitled of all moneys, goods, effects, and other property which shall come to his hands or to the hands of any other person to his use as such administrator, guardian, or in other fiduciary capacity. Said bond shall be deposited with the Secretary of the Treasury. In case of a breach of any such bond, any person injured by the failure of such officer faithfully to discharge the duties of his said trust according to law, may institute, in his own name and for his sole use, a suit upon said bond and thereupon recover such damages as shall be legally assessed, with costs of suit, for which execution may issue in due form; but if such party fails to recover in the suit, judgment shall be rendered and execution may issue against him for costs in favor of the defendant; and the United States shall in no case be liable for the same. The said bond shall remain, after any judgment rendered thereon, as a security for the benefit of any person injured by a breach

of the condition of the same until the whole penalty has been recovered.

(June 30, 1902, ch. 1331, § 1, 32 Stat. 546.)

## CODIFICATION

Section was not enacted as part of the Foreign Service Act of 1980, which comprises this chapter.

Section was formerly classified to section 1173 of this title, and prior thereto to section 78 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4199 of this title.

§ 4199. Penalty for failure to give bond and for embezzlement

Every consular officer who accepts any appointment to any office of trust mentioned in section 4198 of this title without first having complied with the provisions thereof by due execution of a bond as therein required, or who shall willfully fail or neglect to account for, pay over, and deliver any money, property, or effects so received to any person lawfully entitled thereto, after having been requested by the latter, his representative or agent so to do, shall be deemed guilty of embezzlement and shall be punishable by imprisonment for not more than five years and by a fine of not more than \$5,000.

(June 30, 1902, ch. 1331, § 2, 32 Stat. 547.)

## CODIFICATION

Section was not enacted as part of the Foreign Service Act of 1980, which comprises this chapter.

Section was formerly classified to section 1179 of this title, and prior thereto to section 79 of this title.

## CROSS REFERENCES

Embezzlement and theft, see section 641 et seq. of Title 18, Crimes and Criminal Procedure.

Embezzlement of fees or of effects of American citizens, see section 4217 of this title.

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 4200. Certification of invoices generally

No consular officer shall certify any invoice unless he is satisfied that the person making oath thereto is the person he represents himself to be, that he is a credible person, and that the statements made under such oath are true; and he shall, thereupon, by his certificate, state that he was so satisfied.

(R.S. § 1715.)

## CODIFICATION

R.S. § 1715 was from act Aug. 18, 1856, ch. 127, § 27, 11 Stat. 62.

Section was not enacted as part of the Foreign Service Act of 1980, which comprises this chapter.

Section was formerly classified to section 1180 of this title, and prior thereto to section 83 of this title.

## CROSS REFERENCES

Certification of invoices, see sections 338 to 341, and 1482 of Title 19, Customs Duties.

False certification of invoices and other papers, by consular officers, see section 1019 of Title 18, Crimes and Criminal Procedure.

## 7 FAM 216 Exhibit 216.3

(TL:VISA-58; 10-12-93)

### **SUGGESTED LANGUAGE TO USE IN REPORTING TELEGRAM ON PEACE CORPS CASUALTY ABROAD**

TAGS: CASC (Greta Brown)

SUBJECT: Death of Peace Corps Volunteer

1. Embassy was notified COB yesterday of the death of PCV Greta Brown when caught in crossfire of two rebel forces who converged unexpectedly at the village where she was teaching. We were informed that she was struck down while leading her young students to a protected area.
2. Identification was established by U.S. Passport No. xxxxx, issued to Greta Brown on September 25, 1992, at Washington, D.C.
3. PC Country Director notified PC Director, Washington, D.C. about the casualty late yesterday by telephone.

Marguerite Whist  
Consul General  
U.S. Embassy  
Bangkok, Thailand

