

2001 DRAFTING REQUEST

Bill

Received: **01/03/2001**

Received By: **kahlepj**

Wanted: **As time permits**

Identical to LRB:

For: **Tony Staskunas (608) 266-0620**

By/Representing: **Adrienne Ramirez**

This file may be shown to any legislator: **NO**

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

Subject: **Probate - miscellaneous**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Personal representatives in informal administration of estates

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 01/15/2001	jdyer 01/16/2001		_____			
/1			jfrantze 01/30/2001	_____	lrb_docadmin 01/30/2001	lrb_docadmin 01/31/2001	

FE Sent For:

<END>

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1?	kahlepj	1 1/16 jld	261/30	26/2a 1/30			

FE Sent For:

<END>

Kahler, Pam

From: Ramirez, Adrienne
Sent: Wednesday, January 03, 2001 4:06 PM
To: Kahler, Pam
Subject: Draft Request

Pam-

In the 1999-2000 Session you drafted LRB-4134/1 for Rep. Staskunas. This proposal, AB 750 passed the Assembly, but died in the Senate.

Could you please redraft this legislation for introduction in the 2001-2002 Session. Feel free to contact me if you have any questions.

Thank you for your assistance.

Adrienne Ramirez
Office of Rep. Tony Staskunas
6-0620



1763/1
LRB-41341
PJK:cjs:kmr
jld

1999 ASSEMBLY BILL 750

D-note

February 15, 2000 - Introduced by Representatives STASKUNAS, BOCK, STONE, SHERMAN, SYKORA, LADWIG, SPILLNER, LA FAYE, MUSSER, GUNDERSON, RYBA, PETTIS, KREUSER, JESKEWITZ, CULLEN and HUBER, cosponsored by Senators GEORGE, RISSER, HUELSMAN, BURKE, ROESSLER and FARROW. Referred to Committee on Judiciary and Personal Privacy.

regenerate

1 AN ACT to repeal 865.08 (1) (a) 1., 2. and 3.; and to renumber and amend 865.08
2 (1) (intro.) and 865.08 (1) (a) (intro.) of the statutes; relating to: who may be
3 appointed personal representative in informal administration.

Analysis by the Legislative Reference Bureau

Under current law, in the informal administration of an estate, the probate registrar may appoint a personal representative. If there is a will, the personal representative appointed by the probate registrar must be the person nominated in the will or a person requested by the parties interested in the estate, subject to qualification and acceptance. If no person is nominated in the will, if the person nominated in the will fails to qualify or if there is no will, the personal representative appointed by the probate registrar must be either a bank or trust company that is entitled to exercise fiduciary powers in this state or a natural person. In either case, the personal representative must have the consent of all of the parties interested in the estate. In addition, if the personal representative is a natural person, he or she must be an attorney admitted to practice law in this state, someone who takes under the will if there is a will, or an heir of the decedent if there is no will.

This bill changes the natural persons who may be appointed personal representative in informal administration if no person is nominated in the will, if the person nominated in the will fails to qualify or if there is no will. Under the bill, any person who has the consent of all interested parties and who qualifies may be

→
→
→

ASSEMBLY BILL 750

→ appointed. The person does not have to be an attorney ~~or~~ a beneficiary under the will
→ if there is a will or an heir if there is no will.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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SECTION 1. 865.08 (1) (intro.)^x of the statutes is renumbered 865.08 (1) (ac) and amended to read:

865.08 (1) (ac) Upon receipt of an application and making the determinations required by s. 865.07, the probate registrar may enter a statement of informal administration, admit a will to informal[✓] probate^{→ 2} and may appoint the personal representative nominated by the will or requested by the interested parties, subject to qualification and acceptance.

Subpart 2-15

SECTION 2. 865.08 (1) (a) (intro.) of the statutes is renumbered 865.08 (1) (am) and amended to read:

865.08 (1) (am) Where if no personal representative is named or where if the named personal representative fails to qualify, the personal representative shall be either a bank or trust company that is entitled to exercise fiduciary powers in this state which and that has the consent of all interested persons, other than creditors of the deceased, or, subject to s. 856.23, a natural person who has the consent of all interested parties, other than creditors of the deceased, and is:

SECTION 3.^x 865.08 (1) (a) 1., 2.,~~and~~ and 3. of the statutes are repealed.

SECTION 4. Initial applicability.

(1) This act first applies to informal administrations commenced as a result of deaths occurring on the effective date of this subsection.[✓]

(END)

D-note

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1763/ins

RJK.....

INSERT 2-15

(intro.)

1 SECTION 1. 865.08 (1) (a) (intro.)^X of the statutes is renumbered 865.08 (1) (am)[^]

2 and amended to read:

3 865.08 (1) (am) ^(intro.) ~~Where~~ If no personal representative is named or ~~where~~ if the
4 named personal representative fails to qualify, the personal representative shall be
5 either ~~a~~ any of the following:

6 1. A bank or trust company that is entitled to exercise fiduciary powers in this
7 state ~~which and that~~ has the consent of all interested persons, other than creditors
8 of the deceased, ~~or a~~.[✓]

9 2. A natural person who has the consent of all interested parties, other than
10 creditors of the deceased, and ~~is~~ who is not disqualified under s. 856.23.[✓]

History: 1973 c. 39; 1975 c. 331; 1993 a. 486.

(END OF INSERT 2-15)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1763/1 dn

PJK.....

↑
jld

I changed the format of s. 865.08 (1) (a) (renumbered to s. 865.08 (1) (am) in the bill) ✓
I think it is more readable this way.

← Peran

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1763/1dn
PJK:jld:jf

January 30, 2001

I changed the format of s. 865.08 (1) (a) (renumbered to s. 865.08 (1) (am) in the bill).
I think it is more readable this way.

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State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

January 30, 2001

MEMORANDUM

To: Representative Staskunas

From: Pamela J. Kahler, Senior Legislative Attorney

Re: LRB-1763 Personal representatives in informal administration of estates

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-2682 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

OK