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State of Wisconsin  
1999 - 2000 LEGISLATURE

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LRB-3059/02

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DNOTES

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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of act

1 AN ACT relating to: repealing, consolidating, renumbering, amending and  
2 revising various provisions of the statutes for the purpose of correcting errors,  
3 supplying omissions, correcting and clarifying references, eliminating defects,  
4 anachronisms, conflicts, ambiguities and obsolete provisions (Revision Bill).

Revisor's

**Analysis by the Legislative Reference Bureau**

This revision bill is explained in the NOTES provided by the revisor of statutes in the body of the bill.

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

**Introductory Note:** This revision bill replaces obsolete references to persons authorized to administer decedent's estates and updates language, style and numbering in otherwise affected provisions.

Historically a person named in a will to administer the decedent's estate was denominated the executor and issued letters testamentary. If a person died without a will, the court appointed an administrator and issued letters of administration. In certain special cases where no executor or administrator was appointed, persons denominated by various titles were granted authority to administer a decedent's estate or to take certain actions regarding the estate. Chapter 300 of the Laws of 1953 introduced the term "personal representative" into the probate code and included the following definition:

"Personal representative" includes executor, administrator, special administrator, administrator de bonis non, administrator with will annexed, ancillary administrator and public administrator, when the latter is administering an estate, but does not include guardian or trustee.

Chapter 300 of the Laws of 1953 used the term "personal representative" in several new and significantly amended statutes in the probate code, but did not otherwise replace the previously used statutory terminology either within the probate code or in other statutes.

Chapter 339 of the Laws of 1969 completely revised and renumbered the probate code. The terms "administrator" and "letters of administration" were eliminated from the probate code and the term "executor" was replaced, except in ch. 856 where it was (and still is) used to refer to the person named in a will to administer the estate prior to court authorization. Under the revised probate code a person authorized by a court to administer an estate whether or not nominated by will, except in very limited circumstances, was denominated as a "personal representative", defined in section 851.23 as follows:

"Personal representative" means any person to whom letters to administer a decedent's estate have been granted by the court, but does not include a special administrator.

Neither Chapter 339 of the Laws of 1969 or the recently enacted 1997 Wisconsin Act 188, which made major changes to the probate code, made any changes to conform the terminology used in statutes outside the probate code with that used in the probate code. As a result, throughout the statutes, there are many references to "executors and administrators" rather than "personal representatives", many of which predate the 1953 introduction of the term personal representative into the Probate Code.

This bill revises the terminology outside the Probate Code regarding persons administering the estates of decedents for conformity with terminology used in the Probate Code by replacing "executors and administrators" with "personal representatives". A definition of "personal representative" as "a person, however denominated, who is authorized to administer a decedent's estate" applicable to all statutes except the probate code is added to s. 990.01. The use of "executor" in ch. 856 is also eliminated and replaced with the phrase "person named in the will to act as personal representative".

This bill also renumbers ch. 777, currently titled "Actions By and Against Executors, Administrators, Heirs and Legatees", to ch. 877 to locate it within the Probate Code with all other statutes that relate directly to the administration of the estates of decedents.

Throughout the bill other revisions are made to modernize language and structure for the purpose of adding specific references, improving readability and increasing conformity of the affected provisions with current style. The subdivision of long provisions and sentences into smaller numbered units is especially emphasized. Specific changes are explained in notes inserted by the Revisor throughout the bill.

No substantive change to any affected statute is intended to be made by this bill.

1 SECTION 1. 18.62 of the statutes is renumbered 18.62 (intro.) and amended to

2 read:

3 18.62 Revenue obligations as legal investments. (intro.) Any other

4 provision of law to the contrary notwithstanding, ~~the any of the following persons or~~

1 Entities may legally invest any sinking funds, moneys or other funds belonging to  
2 them or within their control in any revenue obligations issued under this subchapter.

3 which shall be authorized security for all public deposits:

4 (1) The state, the investment board, all public officers, municipal corporations,  
5 political subdivisions and public bodies, all banks. ✓

6 (2) Banks and bankers, savings and loan associations, credit unions, trust  
7 companies, savings banks and institutions, investment companies, insurance  
8 companies, insurance associations and other persons carrying on a banking or  
9 insurance business, and all executors, administrators. ✓

10 (3) Personal representatives, guardians, trustees and other fiduciaries, may  
11 legally invest any sinking funds, moneys or other funds belonging to them or within  
12 their control in any revenue obligations issued under this subchapter. Such revenue  
13 obligations shall be authorized security for all public deposits. ✓

NOTE: Text is reordered to accommodate subdivision of this provision.

14 SECTION 2. 24.33 of the statutes is renumbered 24.33 (1) (intro.) and amended  
15 to read:

16 24.33 (1) (intro.) Whenever any land has been so forfeited and resold The board,  
17 within 3 months thereafter after a resale under s. 24.32, may by a written recorded  
18 order, a copy of which shall be immediately served on the purchaser of the resold land,  
19 avoid and cancel the resale and restore and revive the certificate issued to the  
20 original purchaser of the land under s. 24.17, upon proof all of the following:

21 (a) Proof that there are valuable improvements thereon and that such on the  
22 resold land.

1 (b) Proof that the forfeiture was occasioned by the death of the holder of the first  
 2 certificate, or the neglect of ~~that person's executor or administrator, and payment the~~  
 3 first certificate holder's personal representative.

4 (c) Payment to the treasurer of the amount actually due on such the first  
 5 certificate at the time of ~~such~~ the resale, with interest, costs and charges, with  
 6 interest on the amount for which ~~such~~ the land was sold at the rate of 10% per year,  
 7 ~~the board, by its order in writing, duly recorded, of which a copy shall be forthwith~~  
 8 ~~served on the last purchaser, may avoid and cancel such resale and restore and revive~~  
 9 ~~such first certificate. Thereafter there,~~

10 (2) Upon the ~~resale purchaser's~~ surrender of the certificate, receipt or patent  
 11 given upon the resale, the ~~resale purchaser~~ shall be paid out of the state treasury  
 12 the last purchaser the amount paid by the last ~~resale~~ purchaser and together with  
 13 the said interest thereon collected of such from the person so redeeming, on  
 14 surrender of the certificate, receipt or patent given the last purchaser at such resale  
 15 under sub. ~~1.~~ the land

plain space

NOTE: Subdivides provision, reorders text and inserts cross-references and more specific language for improved readability and conformity with current style.

SECTION 3. 30.35 (7) (d) of the statutes is amended to read:

30.35 (7) (d) Administrators, executors Personal representatives, guardians,  
 trustees and other fiduciaries.

SECTION 4. 30.541 (3) (d) 1. a. and b. of the statutes are amended to read:

30.541 (3) (d) 1. a. Evidence satisfactory to the department of the issuance of  
 the letters of administration, letters testamentary or other letters authorizing the  
administration of a decedent's estate, letters of guardianship, letters of trust or  
 appointment of a trustee in bankruptcy.

of the

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or

,

1 b. Title executed by the ~~administrator, executor~~ personal representative,  
2 guardian or trustee.

3 SECTION 5. 39.32 (6) of the statutes is amended to read:

4 39.32 (6) The board shall satisfy the loan of any student who obtained a loan  
5 under this section or s. 39.023, 1965 stats., between July 1, 1966, and December 15,  
6 1968, ~~where such~~ if the student died or dies after July 1, 1966, and before completing  
7 repayment thereof of the loan, and shall write off the balance of principal and  
8 interest owing on the loan on the date it received confirmation of ~~such~~ the student's  
9 death. Obligation to repay such a loan shall terminate on the date of the student's  
10 death and any payments made ~~thereon~~ on the loan to the board after ~~such~~ the date  
11 of the student's death shall be refunded to the payor or the payor's heirs, ~~executor~~  
12 or ~~administrator~~ personal representative upon receipt by the board of an application  
13 for refund.

BONDS ELIGIBLE FOR INVESTMENT.

14 SECTION 6. 66.073 (15) of the statutes is ~~renumbered 66.073 (15) (a) (intro.) and~~  
15 amended to read:

16 66.073 (15) (a) (intro.) Bonds ~~Any of the following persons or entities may~~  
17 ~~properly and legally invest funds, including capital in their control or belonging to~~

18 ~~them, in bonds~~ issued by a company under this section are hereby made securities  
19 in which all public

20 ~~officers and agencies of the state and all political subdivisions, all~~  
21 ~~insurance~~

22 ~~insurance~~ companies, trust companies, banks, savings banks, savings and  
23 loan associations, ~~and~~ investment companies, ~~executors, administrators.~~

WPO please fix component

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no 9

no 9

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w.p.o. leave "executors, administrators" stricken

SECTION 6

plain

1 ~~Personal representatives, trustees and other fiduciaries may properly and~~  
2 ~~legally invest funds, including capital in their control or belonging to them. Such~~  
3 ~~bonds are hereby made.~~

plain

leave strikethrough

that

4 ~~(b) Bonds issued by a company under this section are securities which may~~  
5 ~~properly and legally be deposited with and received by any officer or agency of the~~  
6 ~~state or any political subdivision for any purpose for which the deposit of bonds or~~  
7 ~~obligation of the state or any political subdivision is now or may hereafter be~~  
8 ~~authorized by law.~~

BONDS ELIGIBLE FOR INVESTMENT.

9 SECTION 7. 66.0735 (13) of the statutes is renumbered 66.0735 (13) (a) 1. and  
10 amended to read:

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plain

11 66.0735 (13) (a) 1. Public officers and agencies of the state, ~~and~~ political  
12 subdivisions, ~~insurance,~~ plain.

WFO

plain

13 ~~2. Insurance~~ companies, trust companies, banks, savings banks, savings and  
14 loan associations, ~~and~~ investment companies, ~~personal,~~ plain.

plain

15 ~~3. Personal~~ representatives, executors, administrators, trustees and other  
16 ~~fiduciaries may properly and legally invest funds, including capital in their control~~  
17 ~~or belonging to them, in bonds of the authority.~~

18 ~~The authority's bonds are securities that may properly and legally be~~  
19 ~~deposited with and received by any officer or agency of the state or any political~~  
20 ~~subdivision for any purpose for which the deposit of bonds or obligation of the state~~  
21 ~~or any political subdivision is authorized by law.~~

strike

NOTE: Text is reordered to accommodate the subdivision of this provision. See the next section of this bill.

22 SECTION 8. 66.0735 (13) (a) (intro.) of the statutes is created to read:

1 66.0735 (13) (a) (intro.) Any of the following persons or entities may properly  
2 and legally invest funds, including capital in their control or belonging to them, in  
3 bonds of an authority:

4 SECTION 9. 66.412 of the statutes is (renumbered 66.412 (intro.) and amended  
5 to read: (B) Urban redevelopment ; transfer of land.

6 66.412 (intro.) Notwithstanding any requirement of law to the contrary or the  
7 absence of direct provision therefor in the instrument under which a fiduciary is  
8 acting, every (executor, administrator, trustee, guardian or other person, holding  
9 trust funds or acting in a fiduciary capacity, unless the instrument under which such  
10 fiduciary is acting expressly forbids, the state, its subdivisions, cities, all other public  
11 bodies, all public officers, corporations organized under or subject to the provisions  
12 of the banking law, the division of banking as conservator, liquidator or rehabilitator  
13 of any such person, partnership or corporation, persons, partnerships and  
14 corporations organized under or subject to the provisions of the banking law, the  
15 commissioner of insurance as conservator, liquidator or rehabilitator of any such  
16 person, partnership or corporation, any of which ~~Any of the following persons or~~  
17 ~~entities that~~ owns or holds any real property within a development area, may grant,  
18 sell, lease or otherwise transfer any such ~~of that~~ real property to a redevelopment  
19 corporation, and receive and hold any cash, stocks, income debentures, mortgages,  
20 or other securities or obligations, secured or unsecured, ~~exchanged therefor given in~~  
21 ~~(exchange for the real property)~~ by such ~~the~~ redevelopment corporation, and may  
22 execute such ~~any~~ instruments and do such ~~any~~ acts as may be deemed ~~that the person~~  
23 ~~or entity and the redevelopment corporation consider~~ necessary or desirable by them  
24 or it and by the redevelopment corporation in connection with the development and  
25 the development plan.

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**SECTION 9**

NOTE: Text is reordered to accommodate the subdivision of this provision. See the next section of this bill.

1       **SECTION 10.** 66.412 (1) to (3) of the statutes are created to read:

2       66.412 (1) The state, its subdivisions, cities, all other public bodies and all  
3 public officers.

4       (2) Corporations organized under or subject to the provisions of the banking  
5 law, the division of banking as conservator, liquidator or rehabilitator of any such  
6 person, partnership or corporation, persons, partnerships and corporations  
7 organized under or subject to the provisions of the banking law and the commissioner  
8 of insurance as conservator, liquidator or rehabilitator of any such person,  
9 partnership or corporation.

10       (3) Notwithstanding any requirement of law to the contrary or the absence of  
11 direct provision therefor in the instrument under which a fiduciary is acting, every  
12 personal representative, trustee, guardian or other person holding trust funds or  
13 acting in a fiduciary capacity, unless the instrument under which the fiduciary is  
14 acting expressly forbids.

NOTE: Subdivides text of s. 66.412 into separate subsections. See the previous section of this bill.

15       **SECTION 11.** 66.416 (2) (a) 1. of the statutes is amended to read:

16       66.416 (2) (a) 1. Every ~~executor, administrator~~ personal representative,  
17 trustee, guardian, committee or other person or corporation holding trust funds or  
18 acting in a fiduciary capacity.

19       **SECTION 12.** 66.94 (17) of the statutes is renumbered 66.94 (17) (a) 1. and  
20 amended to read:

1           66.94 (17) (a) 1. The state and all counties, cities, villages, incorporated towns  
2 and other municipal corporations, political subdivisions and public bodies, and  
3 public officers of any thereof, ~~all banks,~~

4           2. Banks, bankers, trust companies, savings banks and institutions, building  
5 and loan associations, investment companies and other persons carrying on a  
6 banking business, ~~all insurance,~~

7           3. Insurance companies, insurance associations and other persons carrying on  
8 an insurance business, ~~and all executors, administrators,~~

9           4. Personal representatives, <sup>plain comma</sup> guardians, trustees and other fiduciaries ~~may~~  
10 ~~legally invest any debt service funds, moneys or other funds belonging to them or~~  
11 ~~within their control in any bonds or certificates issued pursuant to this section, but~~  
12 ~~nothing.~~

13           (b) Nothing contained in this subsection shall be construed as relieving any  
14 person from any duty of exercising reasonable care in selecting securities for  
15 purchase or investment.

NOTE: Subdivides provision and reorders text. Under s. 60.01 (1) a town is a body corporate and politic. Therefore, "incorporated" is redundant. See also the next section of this bill.

16           SECTION 13. 66.94 (17) (a) (intro.) of the statutes is created to read:

17           66.94 (17) (a) (intro.) Any of the following persons or entities may ~~legally~~ invest  
18 any debt service funds, moneys or other funds belonging to them or within their  
19 control in any bonds or certificates issued <sup>under</sup> ~~pursuant to~~ this section:

NOTE: Repositions text to facilitate subdivision of provision. See the previous section of this bill.

20           SECTION 14. 70.19 (1) of the statutes is amended to read:

21           70.19 (1) When personal property shall be is assessed under s. 70.18 (1) to some  
22 a person in charge or possession thereof ~~other than the owner or person beneficially~~

of the personal property

1 ~~entitled thereto as hereinbefore provided~~, the assessment thereof of that personal  
 2 property shall be entered upon the assessment roll separately from the ~~same person's~~  
 3 assessment of the ~~that~~ person's own personal property, adding to the person's name  
 4 upon ~~such~~ the tax roll words briefly indicating that ~~such~~ the assessment is made to  
 5 the person as the person in charge or possession ~~the reof as occupant or possessor of~~  
 6 ~~the premises on which such property is stored or piled or as the spouse, agent, lessee,~~  
 7 ~~occupant, mortgagee, pledgee, executor, administrator, trustee, assignee, receiver or~~  
 8 ~~other representative of the owner or person beneficially entitled thereto; but a~~ of the  
 9 property. The failure to enter ~~such~~ the assessment separately or to indicate the  
 10 representative capacity or other relationship of the person assessed shall not affect  
 11 the validity of the assessment.

NOTE: See the note following the next section of this bill. *← stays*

12 ~~SECTION 15.~~ 70.19 (2) of the statutes is renumbered 70.19 (2) (a) (intro.) and  
 13 amended to read:

14 70.19 (2) (a) (intro.) The person so assessed is under sub. (1) and s. 70.18 (1):

- 15 1. Is personally liable for the tax on the property. ~~The person has;~~
- 16 2. Has a personal right of action against the owner or person beneficially  
 17 entitled to of the property for the amount of the taxes and has a lien for that amount  
 18 upon the property with the rights and remedies for the preservation and enforcement  
 19 of that lien provided in ss. 779.45 and 779.48, and is; and
- 20 3. Is entitled to retain possession of the property until the owner or person  
 21 beneficially entitled to of the property pays the tax on the property or reimburses the  
 22 person assessed for the tax if paid by that person.

INSERT 10-11

1           (b) The lien under par. (a) 2. and right of possession under par. (a) 3. relate back  
2           and exist from the time when assessment is made, but may be released and  
3           discharged by giving to the person assessed such either of the following:

4           1. An undertaking or other indemnity as that the person assessed accepts or  
5           by giving the person a.

6           2. A bond in the amount and with the sureties as is directed and approved by  
7           the circuit judge court of the county in which the property is assessed, upon 8 days'  
8           notice to the person assessed. The bond shall be conditioned to hold and keep the  
9           person against whom the assessment is made assessed free and harmless from any  
10          and all costs, expense, liability or damage by reason of the assessment.

NOTE: Conforms provision to s. 70.18, which provides for the assessment of personal property to a person other than the owner. Prior to enactment of ch. 366 of the laws of 1959, ss. 70.18 and 70.19 referred to "owner or person beneficially interested" and the capacity of persons who might hold property for a person beneficially interested. The references to persons beneficially interested and the capacity of the persons holding the property were deleted from s. 70.18 by ch. 366 of the laws of 1959, but not from s. 70.19. As s. 70.19 relates to assessments under s. 70.18 and s. 70.18 as affected by ch. 366 of the laws of 1959 applies to persons possessing personal property of others regardless of capacity, the references to persons beneficially interested and the capacity of persons holding property for those persons in s. 70.19 are unnecessary after their deletion from s. 70.18.

11           **SECTION 16.** 70.21 (title) of the statutes is amended to read:

12           **70.21 (title) Partnership; estates in hands of executor personal**  
13           **representative; personal property, how assessed.**

14           **SECTION 17.** 70.21 (1) of the statutes is amended to read:

15           70.21 (1) Except as provided in sub. (2), the personal property of a partnership  
16           may be assessed in the names of the persons composing such the partnership, so far  
17           as known or in the firm name or title under which the partnership business is  
18           conducted, and each partner shall be liable for the taxes levied thereon on the  
19           partnership's personal property

X

1        **(1m)** Undistributed personal property belonging to the estate of a person  
2 ~~deceased decedent~~ shall be assessed to the executor or administrator if one shall have  
3 as follows:

4        (a) If a personal representative has been appointed and qualified, on the first  
5 day of January in the year in which the assessment is made, otherwise it the property  
6 shall be assessed to the personal representative.

7        (b) If a personal representative has not been appointed and qualified, on the  
8 first day of January in the year in which the assessment is made, the property may  
9 be assessed to the decedent's estate of such deceased person, and the. The tax  
10 thereon on the property shall be paid by the executor or administrator personal  
11 representative if one be is thereafter appointed, otherwise and by the person or  
12 persons in possession of such the property at the time of the assessment if a personal  
13 representative is not thereafter appointed.

NOTE: Subdivides provision, reorders text and inserts specific references to  
improve readability and conformity with current style.

14        **SECTION 18.** 70.22 (1) of the statutes is amended to read:

15        70.22 (1) In case one or more of 2 or more ~~executors of the will or administrators~~  
16 personal representatives or trustees of the estate of a decedent ~~whose domicile at the~~  
17 ~~time of the decedent's death was~~ who died domiciled in this state are not residents  
18 of the state, the taxable personal property belonging to the estate shall be assessed  
19 to the ~~executors, administrators~~ personal representatives or trustees residing in this  
20 state. In case there are 2 or more executors, administrators personal representatives  
21 or trustees of the same estate residing in this state, but in different taxation districts,  
22 the assessment of the taxable personal property belonging to the estate shall be in  
23 the name of all of the ~~executors, administrators~~ personal representatives or trustees

1 of the estate residing in this state. In case ~~the executor, administrator~~ no personal  
2 representative or trustee, ~~or all of them if more than one, do not reside~~ resides in this  
3 state, the taxable personal property belonging to the estate may be assessed in the  
4 name of the ~~executors or administrators~~ personal representative or trustee or in the  
5 name of the estate.

NOTE: In the last sentence, "trustee" is added and the singular form of personal representative is used for internal consistency within the sentence.

6 **SECTION 19.** 70.22 (2) (b) of the statutes is amended to read:

7 70.22 (2) (b) Before allowing the final account of a nonresident ~~executor,~~  
8 ~~administrator~~ personal representative or trustee, the court shall ascertain whether  
9 there are or will be any taxes remaining unpaid or to be paid on account of personal  
10 property belonging to the estate, and shall make any order or direction that is  
11 necessary to provide for the payment of the taxes.

12 **SECTION 20.** 70.22 (3) of the statutes is amended to read:

13 70.22 (3) The provisions of this section shall not impair or affect any remedy  
14 given by other provisions of law for the collection or enforcement of taxes upon  
15 personal property assessed to ~~executors, administrators~~ personal representatives or  
16 trustees.

17 **SECTION 21.** 70.36 (1) of the statutes is amended to read:

18 70.36 (1) Any person, ~~firm or corporation~~ in this state owning or holding any  
19 personal property of any nature or description that is subject to assessment,  
20 individually or as agent, trustee, guardian, ~~administrator, executor~~ personal  
21 representative, assignee or receiver or in some other representative capacity, which  
22 property is subject to assessment, who shall intentionally ~~make~~ makes a false  
23 statement to the assessor of that person's, ~~firm's or corporation's~~ assessment district

1 or to the board of review ~~thereof~~ of the assessment district with respect to such  
 2 property, or who ~~shall omit~~ omits any property from any return required to be made  
 3 under s. 70.35, with the intent of avoiding the payment of the just and proportionate  
 4 taxes thereon, shall forfeit the sum of \$10 for every \$100 or major fraction thereof so  
 5 withheld from the knowledge of ~~such~~ the assessor or board of review.

NOTE: Reorders text, inserts specific references and eliminates unnecessary language.

6 **SECTION 22.** 71.03 (2) (b) of the statutes is amended to read:

7 71.03 (2) (b) *Deceased person.* The ~~executor, administrator~~ personal  
 8 representative or other person charged with the property of a decedent shall file a  
 9 the return of such individual the decedent required under this section.

10 **SECTION 23.** 71.13 (2) (a) (intro.), 1. and 2. and (b) of the statutes are amended  
 11 to read:

12 71.13 (2) (a) (intro.) <sup>plain space</sup> ~~An executor, administrator,~~ A personal representative or  
 13 trustee applying to a court having jurisdiction for a discharge of his or her trust and  
 14 a final settlement of his or her accounts, before ~~his or her~~ the application is granted,  
 15 shall file all of the following with the department:

16 1. Returns of income received by the ~~deceased~~ decedent, any previous guardian,  
 17 ~~executor, administrator,~~ personal representative or trustee, during each of the years  
 18 open to assessment under s. 71.77, if such returns had not theretofore been filed,  
 19 including a return of income for the year of death to the date of death.

20 2. Returns of income received during the period of ~~his or her~~ the personal  
 21 representative's or trustee's administration or trust except for the final income tax  
 22 year of the estate or trust.

1 (b) Upon receipt of such the returns described in par. (a), the department shall  
2 immediately determine the amount of taxes including interest, penalties and costs  
3 to be payable, as well as any delinquent income, withholding, sales, use and gift  
4 taxes, penalties, interest and costs due, and shall certify such amounts to the court.  
5 The court shall thereupon enter an order directing the ~~executor, administrator,~~  
6 personal representative or trustee to pay the amounts found to be due by the  
7 department and take its receipt therefor. The receipt shall be evidence of the  
8 payment and shall be filed with the court before a final distribution of the estate or  
9 trust is ordered and the ~~executor, administrator,~~ personal representative or trustee  
10 is discharged. The filing of such the receipt shall in no manner affect the obligation  
11 of the ~~executor, administrator,~~ personal representative or trustee to file income, sales  
12 and withholding returns covering transactions reportable during the final taxable  
13 year of the estate or trust and to pay income, sales, use and withholding taxes,  
14 penalties, interest and costs due as the result of such transactions.

15 **SECTION 24.** 71.15 (2) of the statutes is amended to read:

16 71.15 (2) A personal exemption for the decedent under s. 71.07 (8) shall not be  
17 allowed the ~~executor or administrator,~~ personal representative except against the  
18 tax on income of the decedent in the year of death. If the decedent would have been  
19 entitled to an exemption for the decedent's spouse or a dependent under s. 71.07 (8),  
20 had the decedent lived, such the exemption shall be allowed to the ~~executor or~~  
21 ~~administrator~~ personal representative so long as over one-half of the support of the  
22 spouse or dependent is supplied by the decedent or by the executor or administrator  
23 personal representative from the decedent's estate and the gross income of the  
24 spouse or dependent for the calendar year in which the taxable year of the ~~executor~~  
25 ~~or administrator~~ personal representative begins is less than \$500.

1 SECTION 25. 71.17 (3) of the statutes is renumbered 71.17 (3) (intro.) and  
2 amended to read:

3 71.17 (3) LIABILITY FOR PAYMENT OF TAXES DUE FROM DECEDENT. (intro.) Any  
4 income, withholding, sales, use or gift taxes, penalties, interest and costs found to be  
5 due from a decedent, an estate or a trust for any of the years open to assessment  
6 under s. 71.77 and any delinquent income, withholding, sales, use or gift taxes,  
7 penalties, interest and costs found to be due shall be assessed:

8 ~~(a) Assessed~~ against and paid by ~~the executor, administrator,~~ personal <sup>plain</sup> representative or trustee; ~~any of such items found to be due after the executor,~~ <sup>strike</sup>  
9 administrator, personal representative or trustee is discharged shall be assessed <sup>one of the following: #</sup> ~~or~~ <sup>(a)</sup>  
10 The

11 ~~(b) Assessed~~ against and paid by the <sup># (b) The</sup> beneficiaries, in the same ratio that their  
12 interest in the estate or trust bears to the total estate or trust, if found to be due after  
13 the personal representative or trustee is discharged.

14 SECTION 26. 71.80 (12) (title) of the statutes is amended to read:

15 71.80 (12) (title) DEPARTMENT ~~DEEMED~~ CONSIDERED LAWFUL ATTORNEY FOR  
16 NONRESIDENT.

17 SECTION 27. 71.80 (12) (a) <sup>of the statutes</sup> is renumbered 71.80 (12) (a) (intro.) and amended  
18 to read:

19 71.80 (12) (a) (intro.) The transaction of business or the performance of  
20 personal services in this state or the derivation of income from property the income  
21 from which has a taxable situs in this state by any nonresident person, except where  
22 the nonresident is a foreign corporation that has been licensed <sup>under</sup> pursuant to ch. 180,  
23 shall be deemed: all of the following

- 24 1. Considered an irrevocable appointment by such person the nonresident,  
25 binding upon ~~that person, that person's executor, administrator or~~ the nonresident

1 or the nonresident's personal representative, of the department of financial  
 2 institutions to be ~~that person's~~ the nonresident's lawful attorney upon whom may be  
 3 served any notice, order, pleading or process ~~(, including without limitation by~~  
 4 ~~enumeration~~ any notice of assessment, denial of application for abatement or denial  
 5 of claim for refund), by any administrative agency or in any proceeding by or before  
 6 any administrative agency, or in any proceeding or action in any court, to enforce or *plain*  
 7 effect full compliance with or involving the provisions of this chapter. ~~The~~  
 8 ~~transaction of business, the performance of personal services or derivation of income~~  
 9 ~~from such property in this state shall be,~~ and

10 2. A signification of ~~that person's~~ the nonresident's agreement that any such  
 11 notice, order, pleading or process ~~which~~ described in subd. 1. that is so served shall  
 12 be of the same legal force and validity as if served on ~~that person~~ the nonresident  
 13 personally, or ~~upon that person's executor, administrator or~~ on the nonresident's  
 14 personal representative.

15 SECTION 28. 71.80 (12) (b) <sup>of the statutes</sup> is renumbered 71.80 (12) (b) (intro.) and amended  
 16 to read:

17 71.80 (12) (b) (intro.) The transaction of business in this state or the derivation  
 18 of income ~~which~~ that has a situs in this state under the provisions of this chapter by  
 19 any person while a resident of this state shall be deemed all of the following

20 1. Considered an irrevocable appointment by such that person, binding upon  
 21 that person, ~~or that person's executor, administrator or~~ personal representative,  
 22 effective upon such that person becoming a nonresident of this state, of the  
 23 department of financial institutions to be that person's true and lawful attorney upon  
 24 whom may be served any notice, order, pleading or process ~~(, including without~~  
 25 ~~limitation by enumeration~~ any notice of assessment, denial of application for

1 abatement or denial of claim for refund), by any administrative agency or in any  
2 proceeding by or before an administrative agency, or in any proceeding or action in  
3 any court, to enforce or effect full compliance with or involving the provisions of this  
4 chapter. ~~And the transaction of such business or the derivation of such income shall~~

5 be ~~and~~

plain

6 2. A signification of that person's agreement that any such notice, order,  
7 pleading or process ~~which~~ described in subd. 1. that is so served shall be of the same  
8 legal force and validity as if served on that person personally, or upon that person's  
9 executor, administrator or personal representative.

10 SECTION 29. 71.80 (12) (c) of the statutes is amended to read:

11 71.80 (12) (c) Service ~~on a person~~ under par. (a) 1. or (b) 1. shall be made by  
12 serving a copy of the notice, order, pleading or process upon the department of  
13 financial institutions or by filing ~~such a copy of the notice, order, pleading or process~~

14 with the department of financial institutions, and ~~such~~ <sup>WFO connect striking</sup> ~~service shall be~~  
15 ~~sufficient service~~ <sup>service</sup> upon ~~such the person, or that person's executor, administrator or~~  
16 ~~personal representative,~~ <sup>shall be sufficient</sup> if notice of ~~such the service and~~ a copy of the notice, order,

17 pleading or process ~~and notice that an affidavit of compliance with this section is filed~~  
18 ~~with the department of financial institutions~~ are sent within 10 days thereafter sent

19 by mail by the state department, officer or agency making ~~such the~~ service to ~~such~~  
20 ~~the person, or that person's executor, administrator or personal representative, at~~

21 ~~that person's last-known address, and that an affidavit of compliance herewith is~~  
22 filed with the department of financial institutions. The department of financial

23 institutions shall keep a record of all ~~such~~ notices, orders, pleadings, processes and  
24 affidavits ~~and shall note~~ served upon or filed with it under this section, noting in such

25 the record the day and hour of service upon the department or filing.

plain

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Keep stricken under this section

plain

NOTE: In SECTIONS ~~26~~<sup>26</sup>, 27, 28 and 29, the text is reordered to accommodate the subdivision of this provision and to improve sentence structure.

1           **SECTION 30.** 71.91 (6) (g) 2. of the statutes is amended to read:

2           71.91 (6) (g) 2. The owners of any real property sold under par. (f), their heirs,  
3 ~~executors or administrators~~ or personal representatives or any person having an  
4 interest in or a lien on that property or any person in behalf of a person specified in  
5 this subdivision may redeem the property sold or any part of that property within 120  
6 days after the sale by payment to the purchaser or, if the purchaser cannot be found  
7 in the county in which the property to be redeemed is situated, then to the  
8 department, for the use of the purchaser or the purchaser's heirs or assigns, the  
9 amount paid by the purchaser and interest at the rate of 18% per year.

10           **SECTION 31.** 77.51 (10) of the statutes is amended to read:

11           77.51 (10) "Person" includes any natural person, firm, partnership, limited  
12 liability company, joint venture, joint stock company, association, public or private  
13 corporation, the United States, the state of Wisconsin, including any unit or division  
14 thereof, any county, city, village, town, municipal utility, municipal power district or  
15 other governmental unit, cooperative, estate, trust, receiver, ~~executor, administrator~~  
16 personal representative, any other fiduciary, and any representative appointed by  
17 order of any court or otherwise acting on behalf of others. "Person" also includes the  
18 owner of a single-owner entity that is disregarded as a separate entity under ch. 71.

19           **SECTION 32.** 100.18 (3m) of the statutes is amended to read:

20           100.18 (3m) It is deceptive advertising to represent the retailing of  
21 merchandise to be a selling-out or closing-out sale if the merchandise is not of a  
22 bankrupt, insolvent, assignee, liquidator, adjuster, ~~administrator~~, trustee, ~~executor~~  
23 personal representative, receiver, wholesaler, jobber, manufacturer, or of any

1 business that is in liquidation, that is closing out, closing or disposing of its stock,  
2 that has lost its lease or has been or is being forced out of business or that is disposing  
3 of stock on hand because of damage by fire, water or smoke. This subsection does not  
4 apply to any "closing-out sale" of seasonable merchandise or any merchandise  
5 having a designated model year if the person conducting the sale is continuing in  
6 business.

7 **SECTION 33.** 100.20 (1m) of the statutes is amended to read:

8 100.20 (1m) It is an unfair trade method of competition in business to represent  
9 the retailing of merchandise to be a selling-out or closing-out sale if the merchandise  
10 is not of a bankrupt, insolvent, assignee, liquidator, adjuster, ~~administrator~~, trustee,  
11 ~~executor~~ personal representative, receiver, wholesaler, jobber, manufacturer, or of  
12 any business that is in liquidation, that is closing out, closing or disposing of its stock,  
13 that has lost its lease or has been or is being forced out of business or that is disposing  
14 of stock on hand because of damage by fire, water or smoke. This subsection does not  
15 apply to any "closing-out sale" of seasonable merchandise or any merchandise  
16 having a designated model year if the person conducting the sale is continuing in  
17 business.

18 **SECTION 34.** 109.03 (3) of the statutes is renumbered 109.03 (3) <sup>(a)</sup> and amended  
19 to read: <sup>(a)</sup>

20 109.03 (3) <sup>(a)</sup> In case of the death of an employe to whom wages are due, the  
21 full amount of the wages due shall upon demand be paid by the employer to the  
22 spouse, children, or other dependent living with such the employe at the time of  
23 death. ~~In the case of an employe of the state, the amount of the wage due includes~~  
24 ~~all unused vacation allowance. Any county or municipality may include unused~~  
25 ~~vacation allowances for any employe who died after January 1, 1961.~~

that

(b)

1 An employer may, not less than 5 days after the death of an employe and  
2 before the filing of a petition or application for letters testamentary or of  
3 administration ~~in the matter~~ of the decedent's estate, make payments of the wage  
4 due the deceased employe to the spouse, children, parent, brother or sister or sibling  
5 of the decedent, giving preference in <sup>strike</sup> the foregoing order; or, if no such

(c)

6 ~~(d)~~ If none of the relatives survive listed in par. ~~(d)~~ survives, the employer may  
7 apply such the payment of the wage or so much thereof as may be necessary to paying  
8 creditors of the decedent in the order of preference prescribed in s. 859.25 for  
9 satisfaction of debts by executors and administrators personal representatives.

(d)

10 ~~(e)~~ The making of payment in such the manner described in this subsection  
11 shall be a discharge and release of the employer to the amount of such the payment.

~~NOTE: By its terms s. 859.25 relates to the satisfaction of debts by personal representatives.~~

**SECTION 35.** 109.03 (3) (a) of the statutes is created to read:

109.03 (3) (a) In this subsection:

- 1. The amount of wages due a deceased employe of the state shall include all unused vacation allowance.
- 2. The amount of wages due a deceased employe of a county or municipality may include unused vacation allowances.

~~NOTE: Relocates and reorders the material shown as stricken in the previous section of this bill for improved readability and conformity with current style. The reference to deaths after 1-1-61 is removed as obsolete as the statute of limitations for claims for wages owed to persons dying prior to that date has run.~~

**SECTION 36.** 112.01 (1) (b) of the statutes is amended to read:

112.01 (1) (b) "Fiduciary" includes a trustee under any trust, expressed, implied, resulting or constructive, executor, administrator personal representative, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the

Insert  
21-17

1 benefit of creditors, prime contractor or subcontractor who is a trustee under ch. 779,  
2 partner, agent, officer of a corporation, public or private, public officer, or any other  
3 person acting in a fiduciary capacity for any person, trust or estate.

4 **SECTION 37.** 112.01 (11) of the statutes is amended to read:

5 112.01 (11) DEPOSIT OR SAFE DEPOSIT BOX RENTAL IN NAME OF ESTATE OR TWO OR  
6 MORE FIDUCIARIES. When a deposit is made in a bank account or a safe deposit box or  
7 storage space rented, in the name of 2 or more persons as trustees, ~~executors~~ or  
8 ~~administrators~~ personal representatives, or in the name of an estate having 2 or  
9 more ~~executors or administrators~~ personal representatives, and a check is drawn  
10 upon ~~such~~ the account, or access to ~~said~~ the safe deposit box or storage space is sought  
11 by any one or more of ~~such~~ the fiduciaries authorized by the other fiduciary or  
12 fiduciaries to draw checks upon ~~such~~ the account, or to enter ~~said~~ the safe deposit box  
13 or ~~said~~ storage space, neither the payee nor <sup>the</sup> other holder nor the bank is bound to  
14 inquire whether it is a breach of trust to authorize ~~such~~ the fiduciary or fiduciaries  
15 to draw checks upon ~~such~~ the account, or to enter ~~said~~ the safe deposit box or storage  
16 space, and is not liable unless the circumstances be such that the action of the payee  
17 or other holder or the bank amounts to bad faith.

18 **SECTION 38.** 112.02 (1) of the statutes is renumbered 112.02 (2m) and amended  
19 to read:

20 112.02 (2m) Whenever an ~~executor, administrator, guardian or testamentary~~  
21 trustee a fiduciary is engaged in war service as ~~defined in this section, such, the~~  
22 fiduciary <sup>2</sup> or any other person interested in the estate or fund for which the fiduciary  
23 is acting <sup>2</sup> may present a petition to the court having jurisdiction praying for a decree  
24 suspending the powers of ~~such~~ the fiduciary while the fiduciary is engaged in war  
25 service and until the further order of the court, ~~and if.~~ If the suspension of ~~such~~ the

1 fiduciary will leave no person acting as ~~executor, administrator, guardian or~~  
2 ~~testamentary trustee~~ fiduciary, or will leave the sole beneficiary of a trust as the only  
3 acting trustee thereof, the petition must pray for the appointment of a successor  
4 unless a successor has been named in the will and ~~such~~ the named successor is not  
5 engaged in war service or is not for other reasons unable or unwilling to act as a  
6 fiduciary.

NOTE: Fiduciary is made a defined term to eliminate duplication. See the next  
section of this bill.

7 **SECTION 39.** 112.02 (1m) of the statutes is created to read:

8 112.02 (1m) In this section, "fiduciary" means a personal representative,  
9 guardian or testamentary trustee.

10 **SECTION 40.** 112.02 (2) (intro.) of the statutes is amended to read:

11 112.02 (2) (intro.) ~~For the purposes of~~ In this section a fiduciary shall be deemed  
12 considered to be engaged in war service in any of the following cases:

13 **SECTION 41.** 112.02 (4) of the statutes is amended to read:

14 112.02 (4) Upon the filing of the petition and the proof of service of the notice  
15 prescribed, the court may, notwithstanding any other provision of law, suspend ~~the~~  
16 a fiduciary engaged in war service from the exercise of all of the fiduciary's powers  
17 and duties while ~~such~~ the fiduciary remains engaged in war service and until the  
18 further order of the court. The decree may further provide that the remaining  
19 ~~executor, administrator, guardian or testamentary trustee~~ fiduciary or, if there be is  
20 none, the successor named in the will or appointed by the court is possessed of and  
21 may exercise all of the powers and duties incidental to the person's office as fiduciary.

22 **SECTION 42.** 112.02 (5) of the statutes is renumbered 112.02 (5) (a) and amended  
23 to read:

1           112.02 (5) (a) When the suspended fiduciary ceases to be engaged in war service  
 2 the suspended fiduciary may be reinstated as ~~executor, administrator, guardian or~~  
 3 ~~testamentary trustee~~ if any of the duties of ~~such~~ the office remain unexecuted, upon  
 4 application to the court and upon such notice as the presiding judge thereof may  
 5 direct. <sup>Upon reinstatement of the</sup> ~~If the suspended fiduciary is reinstated,~~ the court shall ~~thereupon~~ remove the  
 6 suspended fiduciary's successor ~~and,~~ revoke the successor fiduciary's letters and  
 7 make ~~such~~ <sup>any</sup> other order or decree as justice requires, ~~but such.~~

8           (b) The removal and revocation of letters under par. (a) <sup>plain space</sup> shall not bar the  
 9 successor from subsequently qualifying as a fiduciary in accordance with the  
 10 provisions of the will or if for any reason it ~~thereafter~~ <sup>again</sup> becomes necessary that a  
 11 fiduciary be appointed.

12           **SECTION 43.** 113.06 of the statutes is amended to read:

13           **113.06 Death of obligor, estate liable.** On the death of a joint obligor in  
 14 contract, the joint obligor's ~~executor or administrator~~ (personal representative or  
 15 estate) shall be bound as such jointly and severally bound with the surviving obligor  
 16 or obligors.

17           **SECTION 44.** 137.01 (7) of the statutes is amended to read:

18           **137.01 (7) OFFICIAL RECORDS TO BE FILED.** When any notary public ceases to hold  
 19 office, the notary public, or in case of the notary public's death the notary public's  
 20 ~~executor or administrator~~ personal representative, shall deposit the notary public's  
 21 official records and papers in the office of the clerk of the circuit court of the county  
 22 of the notary public's residence. If any such notary or any ~~executor or administrator~~  
 23 personal representative, after such records and papers come to his or her hands,  
 24 neglects for 3 months to deposit them, he or she shall forfeit not less than \$50 nor  
 25 more than \$500. If any person knowingly destroys, defaces or conceals any records

1 or papers of any notary public, the person shall forfeit not less than \$50 nor more  
2 than \$500, and shall be liable to the party injured for all damages thereby sustained.  
3 The clerks of the circuit courts shall receive and safely keep all such papers and  
4 records in their office.

5 **SECTION 45.** 179.65 of the statutes is amended to read:

6 **179.65 Power of estate of deceased or incompetent partner.** If a partner  
7 who is an individual dies or is adjudged incompetent to manage his or her person or  
8 property, the partner's ~~executor, administrator~~ personal representative, guardian,  
9 conservator or other legal representative may exercise all of the partner's rights for  
10 the purpose of settling his or her estate or administering his or her property,  
11 including any power the partner had to give an assignee the right to become a limited  
12 partner. If a partner is a corporation, limited liability company, trust or other entity  
13 and is dissolved or terminated, the powers of that partner may be exercised by its  
14 legal representative or successor.

15 **SECTION 46.** 214.01 (1) (jg) of the statutes is amended to read:

16 214.01 (1) (jg) "Fiduciary" means a trustee, ~~executor, administrator~~ personal  
17 representative, guardian, agent, receiver, trustee in bankruptcy, assignee for  
18 creditors, or any holder of a similar position of trust.

19 **SECTION 47.** 215.14 (6) of the statutes is amended to read:

20 215.14 (6) SAVINGS ACCOUNTS ELIGIBLE INVESTMENT FOR TRUST FUNDS. ~~An~~  
21 ~~administrator, executor,~~ A personal representative, guardian, trustee or other  
22 fiduciary authorized to invest trust funds, may acquire, own or hold savings accounts  
23 in an association, within the limits of standards contained in s. 881.01, and shall  
24 have the same rights and be subject to the same obligations and limitations as other  
25 savings account owners, except the right to be an officer or director. Savings accounts

1 owned or held by an ~~administrator, executor,~~ a personal representative, guardian,  
2 trustee or other fiduciary shall specifically name the trust represented.

3 SECTION 48. 215.14 (9) of the statutes is amended to read:

4 215.14 (9) SAVINGS ACCOUNTS OF DECEASED OR INCOMPETENT PERSONS. ~~The~~ <sup>A</sup>  
5 <sup>Decedent's</sup> savings account of a deceased individual ~~decedent~~ may be held and controlled by the  
6 administrator, executor, personal representative or trustee of the estate, or after 60  
7 days after death, the legal <sup>personal</sup> representative <sup>or trustee</sup> may be paid the withdrawal value of such  
8 the ~~decedent's~~ savings accounts account. If the savings account is pledged to the  
9 association for a loan, such the loan shall first be fully repaid.

10 SECTION 49. 218.01 (1) (o) 1. of the statutes is amended to read:

11 218.01 (1) (o) 1. Receivers, trustees, administrators, ~~executors~~ personal  
12 representatives, guardians or other persons appointed by or acting under the  
13 judgment or order of any court; or

14 SECTION 50. 218.10 (3) (a) of the statutes is amended to read:

15 218.10 (3) (a) A receiver, trustee, administrator, ~~executor~~ personal  
16 representative, guardian or other person appointed by or acting under the judgment  
17 or order of any court.

18 SECTION 51. 219.01 (intro.) of the statutes is amended to read:

19 **219.01 Loans, advances of credit, investment in securities, insured or**  
20 **guaranteed by specified agencies.** (intro.) Credit unions, savings and loan  
21 associations, investment associations, state banks, savings banks, trust company  
22 banks, land mortgage associations, ~~executors~~ personal representatives, guardians,  
23 trustees, administrators, and other fiduciaries, except where it is contrary to the will  
24 or other instrument of trust, the state of Wisconsin and its agencies and its  
25 municipalities, districts, and other subdivisions, and all institutions and agencies

1 thereof, and all other persons, associations, and corporations, subject to the laws of  
2 this state, are authorized:

3 **SECTION 52.** 219.04 (1) (a) 2. of the statutes is amended to read:

4 219.04 (1) (a) 2. All ~~executors, administrators~~ personal representatives,  
5 guardians, trustees and other fiduciaries.

6 **SECTION 53.** 219.06 (1) of the statutes is renumbered 219.06 (1) (a) (intro.) and  
7 amended to read:

8 219.06 (1) (a) (intro.) ~~The state and all public officers, municipal corporations,~~  
9 ~~political subdivisions, and public bodies, all banks, bankers, savings and loan~~  
10 ~~associations, credit unions, trust companies, savings banks and institutions,~~  
11 ~~investment companies and other persons carrying on a banking business, and all~~  
12 ~~executors, administrators, guardians, trustees and other fiduciaries, Any of the~~  
13 following <sup>plain space</sup> may legally invest any sinking funds, moneys or other funds belonging to  
14 them or within their control in any bonds or other obligations issued by a  
15 metropolitan sewerage district under ss. 66.88 to 66.918 or by a housing authority  
16 created by or pursuant to the housing authorities law of this state or issued by any  
17 public housing authority or agency in the United States, ~~when such~~ if the bonds or  
18 other obligations are secured by a pledge of annual contributions to be paid by the  
19 ~~United States~~ <sup>U.S.</sup> government or any agency thereof ~~of the United States~~ <sup>U.S.</sup> government,  
20 by the city, village, town or county in which ~~operates~~ the housing authority issuing  
21 such <sup>the</sup> bonds or other obligations operates or by the district under s. 66.91 or are  
22 guaranteed by the state. ~~Such:~~

23 (b) The bonds and other obligations described in par. (a) shall be authorized  
24 security for all public deposits and shall be fully negotiable in this state.

*replaces United States*  
~~replaces~~ SECTION 53  
*with U.S.*

NOTE: Subdivides provision, reorders text, and inserts specific references for greater conformity with current style and improved readability. See also the next section of this bill.

1 SECTION 54. 219.06 (1) (a) 1. to 3. of the statutes are created to read:

2 219.06 (1) (a) 1. The state and all public officers, municipal corporations,  
3 political subdivisions and public bodies.

4 2. All banks, bankers, savings and loan associations, credit unions, trust  
5 companies, savings banks and institutions, investment companies and other persons  
6 carrying on a banking business.

7 3. All personal representatives, guardians, trustees and other fiduciaries.

NOTE: See the previous section of this bill.

8 SECTION 55. 219.07 of the statutes is renumbered 219.07 (1) (intro.) and  
9 amended to read:

10 219.07 (1) (intro.) ~~All banks, trust companies, bankers, savings banks and~~  
11 ~~institutions, building and loan associations, savings and loan associations, credit~~  
12 ~~unions, investment companies, and other persons carrying on a banking business,~~  
13 ~~all executors, administrators, guardians, trustees and other fiduciaries, and the~~  
14 ~~state and all public officers, municipal corporations, political subdivisions, and~~  
15 ~~public bodies, except those under ch. 604, Any of the following may legally invest any~~  
16 ~~sinking funds, moncys, or other funds belonging to them or within their control in~~  
17 ~~any bonds or other obligations issued by a redevelopment authority created by s.~~  
18 ~~66.431, or issued by any redevelopment authority or urban renewal agency in the~~  
19 ~~United States, ~~when such~~ if the bonds or other obligations are secured by an~~  
20 ~~agreement between the issuer and the federal government in which the issuer agrees~~  
21 ~~to borrow from the federal government and the federal government agrees to lend to~~  
22 ~~the issuer, prior to the maturity of ~~such~~ the bonds or other obligations, moneys in an~~

1 amount ~~which~~ <sup>that</sup> together with any other moneys irrevocably committed to the  
2 payment of principal and interest on ~~such~~ the bonds or other obligations), will suffice  
3 to pay the principal of ~~such~~ the bonds or other obligations with interest to maturity  
4 thereon, ~~which~~ <sup>that</sup> moneys under the terms of said agreement are required to be used  
5 for the purpose of paying the principal of and the interest on ~~such~~ the bonds or other  
6 obligations at their maturity. ~~Such:~~

7 (2) The bonds and other obligations described in sub. (1) shall be authorized  
8 security for all public deposits.

9 (3) It is the purpose of this section to authorize any persons, political  
10 subdivisions and officers, public or private, to use any funds owned or controlled by  
11 them for the purchase of any ~~such~~ bonds or other obligations described in sub. (1).  
12 Nothing contained in this section with regard to legal investments shall be construed  
13 as relieving any person of any duty of exercising reasonable care in selecting  
14 securities. This section shall apply notwithstanding any restrictions on investments  
15 contained in other provisions of the statutes.

NOTE: Subdivides provision, reorders text and inserts specific references for  
greater conformity with current style and improved readability consistent with the  
treatment of s. 219.06 (1) by this bill. See also the next section of this bill.

16 **SECTION 56.** 219.07 (1) (a) to (c) of the statutes are created to read:

17 219.07 (1) (a) The state and all public officers, municipal corporations, political  
18 subdivisions and public bodies, except those under ch. 604.

19 (b) All banks, bankers, building and loan associations, savings and loan  
20 associations, credit unions, trust companies, savings banks and institutions,  
21 investment companies and other persons carrying on a banking business.

22 (c) All personal representatives, guardians, trustees and other fiduciaries.

NOTE: See the previous section of this bill.

1 SECTION 57. 220.17 (2) of the statutes is renumbered 220.17 (2) (intro.) and  
2 amended to read:

3 220.17 (2) (intro.) ~~And such~~ All of the following ~~shall~~ apply to a consolidated  
4 bank or trust company ~~as~~ described in sub. (1), if <sup>the consolidated bank or trust company is</sup> authorized to perform fiduciary  
5 services, as of the time of the taking effect of such the consolidation shall:

6 (a) The consolidated bank or trust company shall succeed to all rights,  
7 obligations, relations and trusts, and the duties and liabilities connected therewith,  
8 held by any bank or trust company party to ~~such~~ the consolidation, and without  
9 further appointment shall act as trustee, ~~executor, administrator or personal~~  
10 representative or in any other fiduciary capacity in which any such ~~consolidating~~  
11 bank or trust company <sup>party to the consolidation</sup> ~~was acting at the time of such~~ the consolidation, ~~and shall~~  
12 execute.

13 (b) The consolidated bank or trust company shall execute and perform each and  
14 every ~~such~~ trust or relation described in par. (a) in the same manner as if the  
15 consolidated bank or trust company itself had assumed the trust or relation,  
16 including the obligations and liabilities connected therewith. ~~And such~~

17 (c) The consolidated bank or trust company shall be entitled to be appointed  
18 or to act as trustee or ~~executor~~ personal representative or other fiduciary to the same  
19 extent and with the same effect as would any bank or trust company party to ~~such~~  
20 the consolidation if prior ~~thereto~~ to the consolidation any bank or trust company  
21 party to ~~such~~ the consolidation has been designated as trustee or any other fiduciary  
22 in any trust deed or other writing, or has been ~~nominated~~ named to act as executor  
23 personal representative in any will.

24 SECTION 58. 221.0316 (1) of the statutes is amended to read:

INSERT text  
from page 33

1           221.0316 (1) GENERAL. When authorized by the division, and after the bank has  
 2 in good faith complied with all requirements of law and fulfilled all the conditions  
 3 precedent to the exercise of trust powers imposed by law upon trust company banks,  
 4 a bank may act as trustee, ~~executor, administrator~~ personal representative, registrar  
 5 of stocks and bonds, guardian of estates, assignee, receiver, and in any other  
 6 fiduciary capacity in which trust company banks are permitted to act. A bank  
 7 authorized by the division to exercise trust powers under this section shall comply  
 8 with s. 223.02 before exercising such authority. Upon compliance with s. 223.02, the  
 9 bank is entitled to the same exemption as to making and filing any oath or giving any  
 10 bond or security as is conferred on trust company banks by s. 223.03 ~~(8)~~ (6) (a).

11           **SECTION 59.** 223.03 (intro.) of the statutes is amended to read:

12           **223.03** (intro.) <sup>explain spec</sup> ~~Any such corporation~~ <sup>A</sup> trust company bank shall have the  
 13 following powers: Corporate powers.

14           **SECTION 60.** 223.03 (6) of the statutes is is renumbered 223.03 (6) (intro.) and  
 15 amended to read:

16           223.03 (6) (intro.) To act as trustee, <sup>guardian of any person subject to</sup> ~~executor, administrator~~ personal  
 17 representative, registrar of stocks and bonds, custodian, agent, guardian of estates,  
 18 assignee, receiver, and in any other fiduciary capacity authorized by the division,  
 19 subject to all of the following conditions:

NOTE: Subsections (8) and (9) are renumbered sub. (6) (a) and (b) by this bill for more logical placement within the section.

INSERT  
31-20

20           **SECTION 61.** 223.03 (7) of the statutes is amended to read:

21           223.03 (7) ~~And any such corporation may~~ To act generally as agent or attorney  
 22 for the transaction of business, the management of estates, the collection of rents,  
 23 interests, dividends, mortgages, bonds, bills, notes, and other securities, or moneys,

1 and also as agent for the purpose of issuing, negotiating, registering, transferring,  
 2 or countersigning certificates of stock, bonds, or other obligations of any corporation,  
 3 association, or municipality, and any sinking fund or debt service fund therefor, on  
 4 such terms as may be agreed upon; and ~~may also accept and execute the offices of~~  
 5 ~~executor, administrator, trustee, receiver, assignee, or guardian of any minor or~~  
 6 ~~insane or incompetent person or any person subject to guardianship; and in all cases~~  
 7 ~~in which application shall be made to any court for the appointment of any person~~  
 8 ~~in any such capacity, it shall be lawful to appoint such corporation, with its consent,~~  
 9 to hold such office or offices.

NOTE: Deletes redundant language. The authority to so act is under sub. (6) after the repeal and recreation of that provision by 1995 Wis. Act 336. The authorization for guardianship of the person was not contained in 1995 Act 336 can

10 SECTION 62. 223.03 (8) of the statutes is renumbered 223.03 (6) (a) and amended  
 11 to read:

12 223.03 (6) (a) In case of such appointment, or in case such corporation shall be  
 13 named as an executor in any will or as assignee in any assignment for the benefit of  
 14 creditors, it <sup>A</sup> ~~the~~ appointed by a court to act in a capacity described in this subsection trust company bank shall not be required to make and file any oath  
 15 or give any bond or security, except in the discretion of the court making such the  
 16 appointment, or ~~for an assignee in any assignment for the benefit of creditors,~~  
 17 having jurisdiction of such will or over the assignment matter

18 SECTION 63. 223.03 (9) of the statutes is renumbered 223.03 (6) (b) and amended  
 19 to read:

20 223.03 (6) (b) The accounts of said corporation, <sup>a</sup> ~~the~~ trust company bank <sup>move</sup> as such  
 21 trustee, receiver, assignee, executor, administrator ~~personal representative, or~~  
 22 appointed by a court to act in a capacity described in this subsection guardian shall be regularly settled and adjusted by the proper officers or tribunals;  
 23 and all proper, legal, usual, and customary charges, costs and expenses shall be

1 allowed to ~~such corporation~~ the trust company bank for the care and management  
2 of the estate so committed to it.

3 **SECTION 64.** 223.03 (13) <sup>X</sup> of the statutes is amended to read:

4 223.03 (13) ~~It shall be lawful for any such corporation to~~ To lease, purchase,  
5 hold and convey such land as may be necessary to carry on its business, and execute  
6 any trust committed to it, as well as such real or personal estate as ~~it may deem~~ the  
7 trust company bank may consider necessary to acquire in the enforcement or  
8 settlement of any claims or demands arising out of its business transactions, ~~and to~~

9 (13m) To execute and issue in the transaction of its business all necessary  
10 receipts, certificates and contracts, ~~which~~ <sup>that</sup> shall be signed by ~~such~~ the person or  
11 ~~persons as may be~~ designated by its bylaws.

move text  
to page 31

12 **SECTION 65.** 221.0324 (4) of the statutes is amended to read:

13 221.0324 (4) BOND REQUIREMENTS. A bank that is authorized to exercise trust  
14 powers and that complies with s. 223.02 is exempt from furnishing the bond specified  
15 in s. 221.0316 and is entitled to the same exemption as to making and filing any oath  
16 or giving any bond or security as is conferred on trust company banks by s. 223.03  
17 ~~(8)~~ (6) (a).

18 **SECTION 66.** 223.05 (1) of the statutes is renumbered 223.05 (1) (a) and  
19 amended to read:

20 223.05 (1) (a) Every ~~such corporation~~ trust company bank shall keep its trust  
21 accounts in books separate from its own general books of account. All funds and  
22 property held by it ~~a trust company bank~~ in a trust capacity shall, at all times, be kept  
23 separate from the funds and property of the ~~corporation~~ trust company bank, and all  
24 deposits by it of ~~such funds~~ held in a trust capacity in any banking institution shall  
25 be deposited as trust funds to its credit as trustee ~~and not otherwise~~. Trust funds may

1 be deposited with funds belonging to other trusts in one account in any banking  
2 institution to the credit of ~~such corporation~~ the trust company bank as trustee.

3 (b) Every security in which trust funds or property are invested shall at once,  
4 upon the receipt thereof, be transferred to it, as trustee, ~~executor, administrator~~  
5 personal representative, guardian, receiver, assignee or other trustee as the case  
6 may be for each particular trust or fund by name and immediately entered in the  
7 proper books as belonging to the particular trust whose funds have been invested  
8 therein. Any change in such the investment of trust funds or property shall be fully  
9 specified in and under the account of the particular trust to which it belongs, so that  
10 all trust funds and property shall be readily identified at any time by any person.

11 SECTION 67. 223.05 (2) of the statutes is renumbered 223.05 (2) (a) and amended  
12 to read:

13 223.05 (2) (a) <sup>plain space</sup> ~~Any~~ In this subsection, "bank" means a trust company bank, or  
14 any a state bank or national banking association authorized to exercise trust powers  
15 in this state.

16 (b) 1. Any bank acting alone as executor, administrator personal  
17 representative, guardian, testamentary trustee or trustee of any inter vivos trust,  
18 unless prohibited by the terms of the trust instrument, whether alone or may have  
19 of the that are the any stock or other securities held in any such fiduciary capacity registered and held  
20 in the name of a nominee of the bank.

21 2. Any bank acting jointly with an individual or individuals as personal  
22 representative, guardian, testamentary trustee or trustee of any inter vivos trust,  
23 unless prohibited by the terms of the trust instrument may, with the consent of the  
24 individual fiduciary or fiduciaries, if any ( who are is hereby authorized to give such  
25 consent) cause, have any of the that are the any such fiduciary capacity

please connect striking

1 to be registered and held in the name of a nominee or nominees of such trust company  
2 bank or ~~the bank exercising trust powers; and provided further, that any bank,~~  
3 individual or individuals acting as executor, administrator,

4 (c) Any individual <sup>acting as</sup> personal representative, guardian, testamentary trustee or  
5 trustee of any inter vivos trust, unless prohibited by the terms of the trust  
6 instrument, ~~is and are authorized~~ <sup>strike</sup> respectively <sup>may</sup> to request any bank or trust company

7 bank incorporated under the laws of the state of Wisconsin or any national bank  
8 located in this state to cause <sup>of the</sup> have any stock or other securities <sup>that are</sup> deposited with such  
9 the bank or trust company bank by such the individual or individuals <sup>plan text</sup> as fiduciary

10 or fiduciaries to be registered and held in the name of a nominee or nominees of such  
11 <sup>connect striking</sup> the bank or trust company bank. Such. ~~The bank or trust company bank shall not~~  
12 redeliver such the stock or other securities to such the individual <sup>as</sup> fiduciary or

13 fiduciaries causing any stock or other securities to be so registered in the name of the  
14 nominee of such bank or trust company bank without first causing such <sup>the</sup> having the  
15 stock or other securities to be registered in the name of such individual <sup>plan text</sup> <sup>as</sup> fiduciary

16 or fiduciaries as such. ~~But any of his or her fiduciary capacity.~~ Any sale or transfer  
17 of such the stock or other securities made by such the bank or trust company bank <sup>stays</sup>  
18 at the direction of such the individual <sup>as</sup> fiduciary or fiduciaries shall not be construed

19 to be redelivery, and any such the bank or trust company bank or any and the  
20 nominee or nominees in whose name such the securities shall be <sup>to be</sup> registered shall  
21 be deemed considered to have fully discharged the their responsibilities of that bank,

22 trust company bank, nominee or nominees if any such the securities are sold or  
23 transferred in accordance with the direction of <sup>the</sup> individual <sup>plan text</sup> <sup>as</sup> fiduciary or fiduciaries  
24 making such deposit, and the proceeds of such the sale or transfer are accounted for

25 and delivered to such <sup>the</sup> individual <sup>plan text</sup> <sup>as</sup> fiduciary or fiduciaries. Such. ~~The bank or trust~~

1 ~~company bank~~ may make any disposition of such the stock or other securities  
2 authorized or directed in an order or decree of any court having jurisdiction.

3 (d) Any ~~such bank or trust company~~ bank shall be absolutely liable for any loss  
4 occasioned by the acts of any nominee of ~~such bank or trust company~~ the bank with  
5 respect to ~~such~~ the stock or other securities ~~so registered and held~~ in the name of the  
6 nominee. The bank's records of ~~such bank or trust company~~ bank shall at all times  
7 show the ownership of any ~~such~~ stock or other securities. ~~Such registered and held~~  
8 in the name of a nominee under this section, and the stock or ~~other~~ securities shall  
9 at all times be kept separate ~~and apart~~ from the assets of ~~such bank or trust company~~  
10 the bank.

NOTE: This treatment attempts to reduce wordiness. "Bank" is removed from the list of fiduciaries in par. (c) because that paragraph relates only to individual fiduciaries while par. (b) relates to bank fiduciaries. The plural forms of "nominee", "individual" and "fiduciary" are deleted because under s. 990.001 (1) the singular of a word includes the plural.

11 SECTION 68. 223.12 (1) (intro.) of the statutes is amended to read:

12 223.12 (1) EXCEPTION FROM QUALIFICATION TO DO BUSINESS. (intro.) ~~(Any A~~ foreign  
13 corporation may act in this state as trustee, ~~executor, administrator~~ personal  
14 representative, guardian, or in any other like fiduciary capacity, whether the  
15 appointment is by will, deed, court order or otherwise, without complying with any  
16 laws of this state relating to the qualification of corporations organized under the  
17 laws of this state to conduct a trust business or laws relating to the qualification of  
18 foreign corporations other than this section, only if the foreign corporation meets all  
19 of the following requirements:

20 SECTION 69. 234.26 of the statutes is renumbered 234.26 (1) (intro.) and  
21 amended to read:

no change

plain space

1           234.26 (1) (intro.) ~~The state, the investment board, all public officers,~~  
2 ~~municipal corporations, political subdivisions and public bodies, all banks and~~  
3 ~~bankers, savings and loan associations, credit unions, trust companies, savings~~  
4 ~~banks, investment companies, insurance companies, insurance associations and~~  
5 ~~other persons carrying on a banking or insurance business, and all executors,~~  
6 ~~administrators, guardians, trustees and other fiduciaries, Any of the following~~  
7 ~~persons or entities may legally invest any sinking funds, moneys or other funds~~  
8 ~~belonging to them or within their control in any notes or bonds issued by the~~  
9 ~~authority. ~~Such:~~~~

10           **(2)** The notes and bonds described in sub. (1) shall be authorized security for  
11 all public deposits and shall be fully negotiable in this state.

NOTE: Subdivides provision, reorders text and inserts specific references for greater conformity with current style and improved readability consistent with the treatment of ss. 219.06 (1) and 219.07 by this bill. See also the next section of this bill.

12           **SECTION 70.** 234.26 (1) (a) to (c) of the statutes are created to read:

13           234.26 (1) (a) The state, the investment board, all public officers, municipal  
14 corporations, political subdivisions and public bodies.

15           (b) All banks, bankers, savings and loan associations, credit unions, trust  
16 companies, savings banks, investment companies, insurance companies, insurance  
17 associations and other persons carrying on a banking or insurance business.

18           (c) All personal representatives, guardians, trustees and other fiduciaries.

NOTE: See the previous section of this bill.

19           **SECTION 71.** 340.01 (11) (a) of the statutes is amended to read:

20           340.01 (11) (a) A receiver, trustee, ~~administrator, executor~~ personal  
21 representative, guardian or other person appointed by or acting under the judgment  
22 or order of any court; or

1        ~~SECTION 72.~~ 342.17 (4) (a) 1. of the statutes is amended to read:

2            342.17 (4) (a) 1. Evidence satisfactory to the department of the issuance of the  
3        ~~letters of administration, letters testamentary or other letters authorizing the~~  
4        ~~administration of an estate, letters of guardianship,~~ letters of trust <sup>of</sup> or <sup>of the</sup> appointment  
5        of the trustee in bankruptcy;

6        ~~SECTION 73.~~ 342.17 (4) (a) 2. of the statutes is amended to read:

7            342.17 (4) (a) 2. The title executed by ~~such administrator, executor~~ the personal  
8        representative, guardian or trustee; and

9        ~~SECTION 74.~~ 344.52 (2) of the statutes is renumbered 344.52 (2) (a) and amended  
10       to read:

11            344.52 (2) (a) If a motor vehicle rented for compensation outside this state is  
12        operated in this state, the lessor of ~~such~~ the vehicle is ~~deemed~~ considered to have  
13        irrevocably appointed the secretary as the agent or attorney upon whom legal  
14        process may be served in any action or proceeding against ~~such~~ the lessor or the  
15        lessor's ~~executor, administrator,~~ personal representative, successors or assigns,  
16        growing out of the operation of ~~such~~ the rented motor vehicle in this state. ~~Such,~~  
17        which appointment is binding upon the lessor's ~~executor, administrator,~~ personal  
18        representative, successors or assigns. The operation of ~~such~~ the rented motor vehicle  
19        in this state is a signification of the lessor's agreement that ~~such~~ legal process or  
20        notice may be served upon the lessor or the lessor's ~~executor, administrator,~~ personal  
21        representative, successors or assigns and that process or notice ~~so~~ served has the  
22        same legal force as if personally served upon them in this state. <sup>stat.</sup> <sup>or trustee</sup> ~~so~~ <sup>plain period</sup>

23            (b) Service of ~~such~~ process or notice under par. (a) shall be made as provided  
24        in s. 345.09. This section does not affect the right to serve process or notice on the  
25        nonresident operator of the rented motor vehicle as provided in s. 345.09.

1        ~~SECTION 75.~~ 345.09 (1) of the statutes is amended to read:

2            345.09 (1) The use and operation of a motor vehicle over the highways of this  
3        state by a nonresident is ~~deemed~~ considered an irrevocable appointment by ~~such~~ the  
4        nonresident of the secretary to be the true and lawful attorney upon whom may be  
5        served all ~~legal processes~~ legal process in any action or proceeding against the  
6        nonresident or the nonresident's ~~executor, administrator or~~ personal representative,  
7        growing out of the use or operation of the motor vehicle in this state and resulting  
8        in damage or loss to person or property, whether the damage or loss occurs on a  
9        highway or on abutting public or private property. ~~Such~~ The appointment of the  
10       secretary as attorney for service of process is binding upon the nonresident's  
11       ~~executor, administrator or~~ personal representative. ~~Such~~ The use or operation of a  
12       motor vehicle over the highways of this state by ~~such~~ the nonresident is a  
13       signification of the nonresident's agreement that any ~~such~~ legal process or notice  
14       against ~~such~~ the nonresident or the nonresident's ~~executor, administrator or~~  
15       personal representative ~~which~~ that is so served shall be of the same legal force and  
16       validity as if served on them personally.

17        **SECTION 76.** 401.201 (12) of the statutes is amended to read:

18            401.201 (12) "Creditor" includes a general creditor, a secured creditor, a lien  
19        creditor and any representative of creditors, including an assignee for the benefit of  
20        creditors, a trustee in bankruptcy, a receiver in equity and ~~an executor or~~  
21        ~~administrator~~ a personal representative of an insolvent debtor's or assignor's estate.

22        **SECTION 77.** 401.201 (35) of the statutes is amended to read:

23            401.201 (35) "Representative" includes an agent, an officer of a corporation or  
24        association, and a trustee, ~~executor or administrator~~ or personal representative of  
25        an estate, or any other person empowered to act for another.

1           **SECTION 78.** 406.103 (1) (d) of the statutes is amended to read:

2           406.103 (1) (d) Sales by ~~executors, administrators,~~ receivers, personal  
3 representatives, trustees in bankruptcy, or any public officer under judicial process;

4           **SECTION 79.** 452.01 (3) (a) of the statutes is amended to read:

5           452.01 (3) (a) . Receivers, trustees, ~~administrators, executors~~ personal  
6 representatives, guardians or other persons appointed by or acting under the  
7 judgment or order of any court.

8           **SECTION 80.** 551.02 (3) (d) of the statutes is amended to read:

9           551.02 (3) (d) <sup>plain space</sup> ~~An executor, administrator~~ A personal representative, guardian,  
10 conservator or pledgee;

11           **SECTION 81.** 551.65 (1) of the statutes is amended to read:

12           551.65 (1) Every applicant for license or registration under this chapter, every  
13 person filing a notice filing under this chapter and every issuer ~~which~~ that proposes  
14 to offer a security in this state through any person acting as agent shall file with the  
15 division or, if applying for a license, with the organization designated by the division  
16 under s. 551.32 (1) (a), an irrevocable consent appointing the division to be his or her  
17 attorney to receive service of any lawful process in any noncriminal suit, action or  
18 proceeding against him or her or a successor, ~~executor or administrator~~ which  
19 personal representative that arises under this chapter or any rule or order under this  
20 chapter after the consent has been filed, with the same validity as if served  
21 personally on the person filing the consent. The consent shall be in the form the  
22 division by rule prescribes. The consent need not be filed by a person who has filed  
23 a consent in connection with a previous registration or notice filing or license ~~which~~  
24 that is then in effect. Service may be made by leaving a copy of the process at the  
25 office of the division, but it is not effective unless the plaintiff, who may be the

1 division in a suit, action or proceeding instituted by the division, promptly sends  
2 notice of the service and a copy of the process by registered or certified mail to the  
3 defendant or respondent at the person's last address on file with the division, and the  
4 plaintiff's affidavit of compliance with this subsection is filed in the case on or before  
5 the return day of the process, or within such time as the court allows.

6 **SECTION 82.** 551.65 (2) of the statutes is amended to read:

7 551.65 (2) When any person, including any nonresident of this state, engages  
8 in conduct prohibited or made actionable by this chapter or any rule or order under  
9 this chapter, and the person has not filed a consent to service of process under sub.  
10 (1) and personal jurisdiction over the person cannot otherwise be obtained in this  
11 state, that conduct shall be considered equivalent to the person's appointment of the  
12 division to be his or her attorney to receive service of any lawful process in any  
13 noncriminal suit, action or proceeding against the person or the person's successor,  
14 ~~executor or administrator which~~ personal representative that arises out of that  
15 conduct and ~~which that~~ is brought under this chapter or any rule or order under this  
16 chapter, with the same validity as if served on him or her personally. Service may  
17 be made by leaving a copy of the process at the office of the division, but it is not  
18 effective unless the plaintiff, who may be the division in a suit, action or proceeding  
19 instituted by the division, promptly sends notice of the service and a copy of the  
20 process by registered or certified mail to the defendant or respondent at the person's  
21 last-known address or takes other steps ~~which that~~ are reasonably calculated to give  
22 actual notice; and the plaintiff's affidavit of compliance with this subsection is filed  
23 in the case on or before the return day of the process, or within such time as the court  
24 allows.

25 **SECTION 83.** 553.27 (10) of the statutes is amended to read:

1           553.27 (10) Every franchisor who files a notification shall file with the division,  
2 in the form that the division by rule prescribes, an irrevocable consent appointing the  
3 division to be the applicant's attorney to receive service of any lawful process in any  
4 civil action against the applicant or the applicant's successor, ~~executer~~ or  
5 ~~administrator~~ personal representative that arises under this chapter or any rule or  
6 order under this chapter after the consent has been filed, with the same force and  
7 validity as if served personally on the person filing the consent. A person who has  
8 filed a consent in connection with a previous registration or exemption under this  
9 chapter need not file another. Service may be made by leaving a copy of the process  
10 in the office of the division, but it is not effective unless the plaintiff, who may be the  
11 division in an action instituted by the division, sends notice of the service and a copy  
12 of the process by registered or certified mail to the defendant or respondent at his or  
13 her last address on file with the division, and the plaintiff's affidavit of compliance  
14 with this subsection is filed in the case on or before the return day of the process, if  
15 any, or within the time that the court allows.

16           **SECTION 84.** 553.73 of the statutes is amended to read:

17           **553.73 Service of process.** When any person, including any nonresident of  
18 this state, engages in conduct prohibited or made actionable by this chapter or any  
19 rule or order under this chapter, whether or not the person has filed a consent to  
20 service of process under s. 553.27 (10), and personal jurisdiction over the person  
21 cannot otherwise be obtained in this state, that conduct shall be considered  
22 equivalent to the person's appointment of the division to be the person's attorney to  
23 receive service of any lawful process in any noncriminal suit, action or proceeding  
24 against the person or the person's successor, ~~executer~~ or ~~administrator~~ which  
25 personal representative that grows out of that conduct and ~~which that~~ is brought

1 under this law or any rule or order under this chapter, with the same force and  
 2 validity as if served on the person personally. Service may be made by leaving a copy  
 3 of the process at the office of the division, but it is not effective unless the plaintiff,  
 4 who may be the division in a suit, action or proceeding instituted by the division,  
 5 ~~forthwith~~<sup>immediately</sup> sends notice of the service and a copy of the process by registered or  
 6 certified mail to the defendant or respondent at his or her last-known address or  
 7 takes other steps ~~which~~ that are reasonably calculated to give actual notice, and the  
 8 plaintiff's affidavit of compliance with this section is filed in the case on or before the  
 9 return day of the process, if any, or within such further time as the court allows.

10 **SECTION 85.** 601.72 (3) of the statutes is amended to read:

11 601.72 (3) OTHERS AFFECTED. The commissioner and department of financial  
 12 institutions shall also be attorneys for the ~~executors, administrators or~~ personal  
 13 representatives, receivers, trustees or other successors in interest of the persons  
 14 specified in sub. (1).

15 **SECTION 86.** Chapter 777 (title) of the statutes is renumbered Chapter 877  
 16 (title) and amended to read:

## 17 **CHAPTER 877**

### 18 **ACTIONS BY AND AGAINST**

#### 19 **EXECUTORS, ADMINISTRATORS**

#### 20 **PERSONAL REPRESENTATIVES, HEIRS**

#### 21 **AND LEGATEES**

22 **SECTION 87.** 777.01 of the statutes is renumbered 877.01 and amended to read:

23 **877.01 Tort actions on surviving causes.** If the a cause of action survives  
 24 under ch. 895, the ~~executors or administrators~~ a personal representative may  
 25 maintain an action thereon against the wrongdoer, in every case where their in

1 which the decedent could if living, maintain the action and, after the wrongdoer's  
2 death, against the wrongdoer's ~~executors or administrators.~~ But personal  
3 representative, except that this section shall not extend to actions for slander or libel.

4 SECTION 88. 777.03 of the statutes is renumbered 877.03 and amended to read:

5 **877.03 Executors, etc., Multiple personal representatives to be**

6 **considered one.** In actions or proceedings against ~~executors or administrators~~ <sup>they</sup>  
7 ~~multiple personal representatives,~~ <sup>more than one</sup> ~~they~~ <sup>of an estate, all of the personal representatives</sup> shall all be considered as representing their  
8 testator or intestate, and service the decedent. Service of the summons on one shall  
9 constitute service on all; however, the plaintiff may actually serve each of them.  
10 Judgment shall be rendered as if all had been served and execution may be issued  
11 against the property of the testator or intestate decedent as if all had appeared. But  
12 the plaintiff may actually serve each of them.

NOTE: Text is reordered for more logical placement.

13 SECTION 89. 777.05 of the statutes is renumbered 877.05 and amended to read:

14 **877.05 Judgment not to bind realty.** <sup>A decedent's</sup> The real estate which ~~that~~ <sup>stet</sup> belonged

15 ~~to any deceased person~~ <sup>decedent</sup> shall not be bound or in any way affected ~~by~~ any  
16 ~~judgment against the deceased person's executors or administrators~~ <sup>decedent's</sup>  
17 ~~personal representative,~~ nor shall it ~~the decedent's real estate~~ be liable to be sold by  
18 virtue of any execution issued upon, <sup>any</sup> such judgment <sup>against the decedent's personal representative,</sup> except as provided in s. 811.25.

19 SECTION 90. 777.06 of the statutes is renumbered 877.06 and amended to read:

20 **877.06 Executor may prosecute** <sup>Prosecution and defense of actions by</sup>

21 personal representatives; set off; judgment <sup>; set off - B</sup> of claims against decedent;  
22 judgments, how appealed and paid. (1) <sup>plain spee</sup> ~~An executor or administrator~~ A  
23 personal representative may commence and prosecute an action and may prosecute  
24 any action commenced by his or her predecessor or decedent for the recovery of any

1 cause of action ~~which~~ that survived and may have execution on any judgment. In the  
2 action the defendant may set off any claim pleadable as a counterclaim ~~which~~ that  
3 he or she may have against the decedent, instead of presenting it to the court. If  
4 judgment is rendered in favor of the defendant the claim shall be certified to the  
5 circuit court, and paid as other claims allowed against the estate.

6 (2) ~~An administrator of effects which were left unadministered by a previous~~  
7 ~~administration of the same estate~~ A successor personal representative may bring a  
8 writ of error or appeal upon any judgment against the his or her predecessor or the  
9 decedent and shall defend any writ of error or appeal brought upon any ~~such~~  
10 ~~judgment, and have the same remedies in the prosecution or defense of any action~~  
~~by or against the predecessor or decedent and to collect and enforce any judgment~~  
11 ~~as the predecessor or decedent had.~~  
12 ~~as the predecessor or decedent had.~~

*Against his or her predecessor or the decedent. The successor personal representative shall*  
*his or her the in the collection and enforcement of*

13 SECTION 91. 777.07 of the statutes is renumbered 877.07 and amended to read:

14 **877.07 Executor's executor not to sue Authority of deceased personal**  
15 **representative's personal representative.** *plain space* An executor of the will The personal  
16 representative of a deceased ~~executor~~ personal representative shall not meddle with  
17 the estate ~~which that~~ the latter deceased personal representative was entrusted with  
18 or take any charge or control ~~thereof~~ of the estate

19 SECTION 92. 777.08 of the statutes is renumbered 877.08 and amended to read:

20 **877.08 Liability as executor of his or her own wrong.** No person shall be  
21 liable to an action as executor of his or her own wrong but the wrongdoer shall be  
22 responsible to the ~~executors or administrators~~ personal representative for the value  
23 of any property or effects wrongfully received or taken and for all damages caused  
24 by his or her acts to the estate of the decedent.

25 SECTION 93. 777.14 of the statutes is renumbered 877.14 and amended to read:

1           **877.14 Rebuttal of inventory.** (1) In any action or proceeding against  
2 ~~executors or administrators~~ a personal representative, the inventory of property of  
3 the decedent filed by ~~them~~ the personal representative shall be prima facie evidence  
4 of the property ~~which that~~ has come to ~~their~~ the personal representative's possession  
5 or knowledge and of the value thereof.

6           (2) In ~~such an action or proceeding against a personal representative~~, the  
7 ~~defendants~~ defendant shall not be charged with chases in action specified in ~~their~~ the  
8 defendant's inventory unless it ~~appear~~ appears that the ~~same~~ choses in action have  
9 been collected or might have been collected with due diligence.

10           **SECTION 94.** 777.16 of the statutes is renumbered 877.16 and amended to read:

11           **877.16 Foreign executors, personal representatives empowered to act.**

12 When no ~~executor or administrator~~ personal representative has been appointed in  
13 this state, ~~on~~ for the estate of any decedent not a resident of this state at the time of  
14 his or her death, a foreign ~~executor or administrator~~ personal representative thereof,  
15 upon filing the original appointment or a certified copy thereof in any circuit court  
16 in this state, may exercise any power over the estate, including sales and  
17 assignments, and prosecute and defend any action and proceeding relating thereto  
18 and have all the remedies and defenses in regard to the property and to collect any  
19 demands of the estate ~~which an executor or administrator~~ that a personal  
20 representative appointed in this state can have or exercise in relation thereto.

21           **SECTION 95.** 777.17 of the statutes is renumbered 877.17 and amended to read:

22           **877.17 Actions against executors personal representatives; when**  
23 **allowed; when not.** No attachment or execution may be issued against the estate  
24 of the decedent or the ~~executor or administrator~~ personal representative, until the

1 expiration of the time limited for the payment of debts, except as provided in ss.  
2 811.25 and 815.14.

3 SECTION 96. 777.18 of the statutes is renumbered 877.18 and amended to read:

4 **877.18 Action to recover from heirs, legatees; parties defendant.**

5 Actions against the heirs or legatees and devisees of any deceased person to recover  
6 the value of any assets that may have been paid or delivered to them by any ~~executor~~  
7 ~~or administrator~~ personal representative may be brought against all of the heirs or  
8 all of the legatees and devisees jointly or against one or more of them. If the action  
9 is not against all who are liable, the rest shall be made parties on request of the  
10 defendant.

11 SECTION 97. 777.19 of the statutes is renumbered 877.19 and amended to read:

12 **877.19 Action against heirs and legatees; what may be recovered;**

13 **costs.** If an action ~~mentioned~~ described in s. ~~777.18~~ 877.18 is brought, the plaintiff  
14 must show that he or she has been or will be unable, with due diligence, to collect his  
15 or her debt or some part ~~thereof~~ <sup>of the debt</sup> by proceedings in the circuit court or from the  
16 personal ~~representatives~~ representative of the decedent. In that event, except as  
17 limited by s. 859.23, the plaintiff may recover the value of all the assets received by  
18 all the defendants if necessary to satisfy his or her demand, and the amount of the  
19 recovery shall be apportioned among the defendants in proportion to the value of the  
20 property received by each of them; ~~and the costs.~~ Costs of the action shall be  
21 apportioned in like manner. No allowance or deduction may be made from the  
22 amount on account of other heirs or legatees or devisees to whom assets have also  
23 been delivered or paid. The judgment shall express the amount recovered against  
24 each defendant for damages and costs.

25 SECTION 98. 777.20 of the statutes is renumbered 877.20 and amended to read:

*PA*

1           **877.20 Contribution among heirs.** Any of the heirs against whom recovery  
 2 shall be had pursuant to ~~ss. 777.18 and 777.19~~ under ss. 877.18 and 877.19 may  
 3 maintain an action against the other heirs to whom any ~~such~~ assets may have been  
 4 paid or delivered by the personal representative, jointly or against any of them  
 5 separately, for a just and equal contribution, and shall be entitled to recover of each  
 6 defendant an amount ~~which shall be~~ that is in the same proportion to the sum  
 7 collected of the plaintiff as the value of the assets delivered to such defendant bore  
 8 to the value of all the assets delivered to all the heirs.

9           **SECTION 99.** 777.21 of the statutes is renumbered 877.21 and amended to read:

10           **877.21 Recovery against legatee; contribution.** (1) If the an action is  
 11 brought against all the legatees and devisees the plaintiff shall not recover unless  
 12 the plaintiff shows, in addition to the facts required to be shown in an action against  
 13 the heirs, any of the following ~~that~~ *add stricken colon & move stricken text to precede*

14           (a) That ~~no~~ *plain* assets were delivered by the ~~executor or administrator~~ personal  
 15 representative to the heirs; or that the value of such assets has been recovered by  
 16 some other creditor; ~~or that such.~~ *add scored colon*

17           (b) That the assets delivered by the personal representative to the heirs are not  
 18 sufficient to satisfy the demands of the plaintiff; and ~~in the last case~~ the plaintiff is  
 19 entitled to recover the deficiency.

20           (2) If the an action ~~be is~~ brought against a preferred legatee or devisee or a  
 21 preferred class, the plaintiff must also show the same matters as to the legatee or  
 22 devisee or class to whom the defendants are preferred as is ~~above~~ required to be  
 23 shown under sub. (1) as to the heirs. *And any plain space*

1           **(2m)** Any legatee or devisee against whom recovery shall be had may maintain  
2 an action for contribution against others of the same class as heirs may among  
3 themselves.

4           **(3)** Specific legacies and devises are preferred to residuary ~~ones~~ legacies and  
5 devises.

6           **SECTION 100.** 777.22 of the statutes is renumbered 877.22 and amended to read:

7           **877.22 Payment a discharge.** In case of any judgment against several heirs  
8 or legatees or devisees, the payment or satisfaction of the amount recovered against  
9 any one of the defendants shall discharge ~~such~~ that defendant from the judgment  
10 and from execution ~~thereon~~ on the judgment

11           **SECTION 101.** 777.26 of the statutes is renumbered 877.26 and amended to read:

12           **877.26 Accounts as evidence.** The account of the ~~executor or administrator~~  
13 personal representative, settled by the proper circuit court, may be used in any action  
14 brought under the provisions of this chapter as presumptive evidence of any matter  
15 of fact stated therein.

16           **SECTION 102.** 777.28 of the statutes is renumbered 877.28 and amended to read:

17           **877.28 Limit of liability.** When part of the plaintiff's debt has been collected,  
18 the plaintiff can recover only the residue remaining unpaid, and when the action is  
19 against the devisees and legatees, the plaintiff shall recover only ~~such~~ that part  
20 thereof as shall of the debt that is not be recoverable from the heirs.

21           **SECTION 103.** 777.29 of the statutes is renumbered 877.29 and amended to  
22 read:

23           **877.29 Debts charged upon realty not affected.** Nothing in this chapter  
24 shall affect the liability of heirs or beneficiaries for any debt of their decedent, ~~which~~  
25 that was by the decedent's will expressly charged upon property or made payable

1 exclusively out of particular property or of any beneficiary made exclusively liable

2 for any such debt.

*Action phrase: RN § 777.32 877.32*

3 **877.32 Judgment, how collected.** If any real estate ~~which~~ that descended

4 or was devised to any defendant is not aliened by the defendant before the filing of

5 a notice of the pendency of ~~the~~ an action, the court shall adjudge that the debt of the

6 plaintiff, or the portion ~~thereof~~ which of the debt that the plaintiff is entitled to

7 recover against ~~such~~ the defendant, shall be levied out of ~~such~~ the real estate so

8 descended or devised, and not otherwise.

9 **SECTION 104.** 777.36 of the statutes is renumbered 877.36, and 877.36 (intro.),

10 as renumbered, is amended to read:

11 **877.36 Debts, order of payment.** (intro.) When the next of kin, legatees,

12 heirs or devisees are liable for demands against the decedent as prescribed in this

13 chapter ~~they~~ those persons shall be given preference in the payment of the ~~same~~

14 demands against the decedent and shall be liable therefor in the following order:

15 **SECTION 105.** 777.38 of the statutes is renumbered 877.38 and amended to read:

16 **877.38 Defenses.** ~~The~~ If the decedent's next of kin, legatees, heirs and

17 devisees ~~may~~ show that there are unsatisfied debts of the decedent that are of a class

18 prior class unsatisfied or that there are unpaid debts of the same class with that to

19 the class of the debt on which the action is brought; and ~~if it appear~~ that the value

20 of the personal property delivered to them or of the real estate descended or devised

21 to them does not exceed the debts of a prior class prior to that of the debt on which

22 the action is brought, judgment shall be rendered in their favor.

23 **SECTION 106.** 777.39 of the statutes is renumbered 877.39 and amended to read:

24 **877.39 Extent of liability.** If the personal property delivered to ~~such~~ the

25 decedent's next of kin or <sup>legatees</sup> legatee, or if the real estate descended or devised to ~~such~~ the

1 decedent's heirs or devisees, exceed<sup>exceeds</sup> the amount of debts which<sup>that</sup> are entitled to a  
 2 preference over the debt for which the action is brought, judgment shall be rendered  
 3 against ~~them~~<sup>the next of kin, legatees, heirs or devisees</sup> only for such a sum as ~~shall be~~<sup>in that is</sup> a just proportion to the other debts of  
 4 the same class with that on which the action is brought.

5 **SECTION 107.** 777.40 of the statutes is renumbered 877.40 and amended to  
 6 read:

7 **877.40 Preferred debts deducted.** If any debt of the decedent that is of the  
 8 same or a prior class to that on which the an action is brought, ~~or of the same class,~~  
 9 ~~shall have~~ has been paid by any next of kin, ~~legatees, heirs or devisees~~ legatee,  
 10 heir or devisee, that person may give evidence of such the payment, and the amount  
 11 of debts so paid shall be estimated in ascertaining the amount to be recovered in the  
 12 same manner as if ~~such~~ those paid debts were outstanding and unpaid as prescribed  
 13 in ss. ~~777.38~~ 877.38 and ~~777.39~~ 877.39.

14 **SECTION 108.** 777.41 of the statutes is renumbered 877.41 (intro.) and amended  
 15 to read:

16 **877.41 Rights and liabilities of posthumous child and witness to will.**  
 17 (intro.) A child born after the making of a will who is entitled to succeed to a portion  
 18 of any of the real or personal testator's property or both of the testator, or a witness  
 19 to a will who is entitled to recover any portion of ~~such~~ the testator's property from  
 20 the legatees or devisees, shall have:

21 **(1)** Have the same rights and remedies to compel a distribution of the personal  
 22 property and partition of the real estate or to recover of the legatees or devisees ~~such~~  
 23 the portion of the property as that belongs to him or her, or to as any other person  
 24 entitled to any part of the estate;

1           (2) Have the same rights and remedies to compel a contribution from other  
2 persons interested in the estate, or to gain possession of the property, as any other  
3 ~~persons who are~~ person entitled to any part of ~~such~~ the estate; and ~~shall be~~

4           (3) Be equally liable to the creditors of the decedent under this chapter as any  
5 other person entitled to any part of the estate.

6           **SECTION 109.** 777.42 of the statutes is renumbered 877.42 and amended to read:

7           **877.42 Estate of deceased heir liable.** The estate of any heir, devisee,  
8 legatee or next of kin of a decedent who dies before paying his or her just share of the  
9 decedent's debts is liable ~~therefor~~, <sup>for the share</sup> ~~as for~~ a personal debt, to the extent to which he  
10 or she would have been liable if living.

11           **SECTION 110.** 803.01 (2) of the statutes is amended to read:

12           803.01 (2) REPRESENTATIVES. A personal representative, ~~executor,~~  
13 ~~administrator,~~ guardian, bailee, or trustee of an express trust, a party with whom or  
14 in whose name a contract has been made for the benefit of another, or a party  
15 authorized by statute may sue in the party's name without joining the person for  
16 whose benefit the action is brought. A partner asserting a partnership claim may  
17 sue in the partner's name without joining the other members of the partnership, but  
18 the partner shall indicate in the pleading that the claim asserted belongs to the  
19 partnership.

20           **SECTION 111.** 806.04 (4) (intro.) of the statutes is amended to read:

21           806.04 (4) REPRESENTATIVES, ETC. (intro.) Any person interested as or through  
22 a personal representative, ~~executor, administrator,~~ trustee, guardian or other  
23 fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust, in the  
24 administration of a trust, or of the estate of a decedent, ~~an~~ infant, mental

1 incompetent or insolvent, may have a declaration of rights or legal relations in  
2 respect ~~thereof~~ <sup>to</sup> for any of the following purposes:

3 **SECTION 112.** 813.026 of the statutes is amended to read:

4 **813.026 Remedy against heirs and legatees; temporary injunction;**  
5 **receivership; judgment.** In an action, in a court of record, for damages founded  
6 upon contract or upon a judgment, when it appears that the defendant is interested,  
7 as heir, legatee or devisee, in the estate of a decedent and that the defendant's  
8 property liable to execution is probably insufficient to satisfy the plaintiff's claim for  
9 damages, the defendant may be enjoined by the court, pending the action, from  
10 assigning or otherwise disposing of the defendant's interest in ~~such~~ the estate, and  
11 a receiver therefor may be appointed. The judgment may compel the defendant to  
12 transfer sufficient of the defendant's interest to satisfy the judgment or may adjudge  
13 such transfer. The remedy given by this section is in addition to that given by  
14 proceedings supplementary to execution under ch. 816. If a receiver is appointed, he  
15 or she shall give prompt notice ~~thereof~~ of the appointment to the ~~administrator or~~  
16 ~~executor~~ personal representative.

17 **SECTION 113.** 814.14 of the statutes is amended to read:

18 **814.14 Fiduciary; liability for costs limited; bond premium.** In any  
19 action or proceeding prosecuted or defended in any court in Wisconsin by ~~an executor,~~  
20 ~~administrator~~ a personal representative, guardian ad litem, trustee of an express  
21 trust, general guardian or a person expressly authorized by statute, unless otherwise  
22 specially provided, costs shall be recovered as in an action by and against a person  
23 prosecuting or defending in the person's own right; but such costs shall be chargeable  
24 only upon or collected of the estate, fund or party represented, unless the court shall  
25 direct the same to be paid by the plaintiff or defendant personally, for

1 mismanagement or bad faith in such action, proceeding or defense. In all actions or  
2 proceedings in which any receiver, assignee, guardian, guardian ad litem, ~~executor,~~  
3 ~~administrator,~~ personal representative or other fiduciary may be entitled to recover  
4 costs, the fiduciary may recover, in addition to other costs, such sum paid a company  
5 authorized by the laws of this state, so to do for becoming the fiduciary's surety upon  
6 any bond or other obligation given by the fiduciary in the fiduciary's representative  
7 capacity, in such action or proceeding, pursuant to law or the order of any court or  
8 judge, as may be allowed by the court or judge, in which or before whom the fiduciary  
9 accounts, not exceeding 2% per year on the amount secured by such obligation, or any  
10 less amount ~~which~~ that the fiduciary may have paid any such company for such  
11 purpose.

12 **SECTION 114.** 814.28 (1) of the statutes is amended to read:

13 814.28 (1) DEFENDANT MAY REQUIRE. Except as otherwise provided by s. 814.29,  
14 the defendant may require the plaintiffs to file security for costs if the plaintiffs are  
15 all nonresidents; or are foreign corporations, nonresident ~~executors, administrators~~  
16 personal representatives, guardians, trustees or receivers; or are trustees or  
17 assignees of any debtor; or are imprisoned for crime for terms less than life; or shall  
18 take issue upon the answer of the garnishee.

19 **SECTION 115.** 815.15 of the statutes is amended to read:

20 **815.15 Execution after judgment creditor's death.** If the judgment  
21 creditor dies before satisfaction of the judgment, an execution may be issued by the  
22 judgment creditor's attorney of record in the name of such ~~the~~ decedent or in the  
23 name of the judgment creditor's ~~executor or administrator~~ personal representative.  
24 Before an execution shall issue in the name of ~~an executor or administrator~~ the  
25 ~~executor or administrator~~ a personal representative, the personal representative

1 shall file with the clerk a copy of ~~his or her~~ the letters testamentary or of authorizing  
2 his or her administration, and of the judgment creditor's estate, which the clerk shall  
3 file ~~such papers~~ with the other papers in the action or proceeding ~~and~~. The clerk shall  
4 also enter at the foot of the judgment, in the judgment record, the fact of the death  
5 of ~~such~~ the judgment creditor, and the name and date of appointment of ~~such~~  
6 ~~executor or administrator~~ the personal representative. The moneys collected  
7 ~~thereon on the judgment~~ shall be paid to the ~~executors or administrators of such~~  
8 ~~creditor; judgment creditor's personal representative~~, but if there be none then is no  
9 personal representative, the moneys so collected on the judgment shall be paid to the  
10 clerk of the court.

11 **SECTION 116.** 815.53 (3) of the statutes is amended to read:

12 815.53 (3) ~~A~~ If the creditor is a personal representative of a decedent's estate,  
13 a certified copy of the creditor's letters of authorizing the personal representative's  
14 administration or letters testamentary, in case of an administrator or executor of the  
15 estate.

16 **SECTION 117.** 815.56 of the statutes is amended to read:

17 **815.56 Sheriff's deed; grantee if purchaser dead.** In case the person who  
18 would be entitled to a deed of real estate sold on execution dies before the delivery  
19 of that deed the sheriff shall execute a deed to the ~~person's executors or~~  
20 ~~administrators~~ decedent's personal representative. The real estate so conveyed shall  
21 be held in trust for the use of the heirs or devisees of the ~~deceased person~~ decedent,  
22 subject to the surviving spouse's right to elect under s. 861.02 (1), but may be sold  
23 for the payment of debts in the same manner as lands of which the ~~person~~ decedent  
24 died seized.

25 **SECTION 118.** 847.05 of the statutes is amended to read:

1           **847.05 Actions between cotenants.** One joint tenant or tenant in common  
2 ~~and, or his or her executors or administrators~~ personal representative, may maintain  
3 an action for money had and received against ~~the tenant's~~ a cotenant for receiving  
4 more than the cotenant's just proportion of the rents or profits of the estate owned  
5 by them as joint tenants or tenants in common.

NOTE: As a personal representative can only act for a person after the person's  
death, "and" is replaced with "or".

6           **SECTION 119.** 847.07 of the statutes is renumbered 847.07 (1) (intro.) and  
7 amended to read:

8           **847.07 (1) (intro.)** The circuit court of any county in which a conveyance of real  
9 estate has been recorded may make an order correcting the description in the  
10 ~~conveyances~~ conveyance on proof being made to the satisfaction of the court that the  
11 any of the following applies:

12           (a) The conveyance contains an erroneous description, not intended by the  
13 parties thereto; ~~or if the,~~

14           (b) The description is ambiguous and does not clearly or fully describe the  
15 premises intended to be conveyed; ~~if the,~~

16           (c) The grantor ~~therein~~ of the conveyance is dead, a nonresident of the state,  
17 a corporation ~~which~~ that has ceased to exist or ~~an administrator, executor~~ a personal  
18 representative, guardian, trustee or other person authorized to convey ~~and~~ who has  
19 been discharged from his or her trust and the ~~person to whom it was made~~ grantee,  
20 his or her heirs, legal representatives or assigns have been in the quiet, undisturbed  
21 and peaceable possession of the premises intended to be conveyed from the date of  
22 the conveyance.

1           **(2)** This section does not prevent an action for the reformation of any  
2 conveyance, and if in any doubt, the court shall direct the action to be brought.

3           **SECTION 120.** 856.03 of the statutes is amended to read:

4           **856.03 Wills in court for safekeeping.** If a will has been filed with a court  
5 for safekeeping during the testator's lifetime, the court on learning of the death of  
6 the testator shall open the will and give notice of the court's possession to the  
7 ~~executor~~ person named in the will to act as personal representative, otherwise to  
8 some person interested in the provisions ~~thereof of the will~~. If probate jurisdiction  
9 belongs to any other court, the will shall be delivered to that court.

10          **SECTION 121.** 856.05 (1) of the statutes is amended to read:

11          **856.05 (1) DUTY AND LIABILITY OF PERSON WITH CUSTODY.** Every person, other  
12 than ~~the executor~~ a person named in the will to act as personal representative,  
13 having the custody of any will shall, within 30 days after he or she has knowledge  
14 of the death of the testator, file the will in the proper court or deliver it to the person  
15 named as ~~executor~~ in the will to act as personal representative. Every person named  
16 ~~as executor in a will to act as personal representative~~ shall, within 30 days after he  
17 or she has knowledge that he or she is named ~~executor~~ to act as personal  
18 representative, and has knowledge of the death of the testator, file the will in the  
19 proper court, unless the will has been otherwise deposited with the court. Every  
20 person who neglects to perform any of the duties required in this subsection, without  
21 reasonable cause, is liable in a proceeding in court to every person interested in the  
22 will for all damages caused by the neglect.

23          **SECTION 122.** 856.05 (3) of the statutes is amended to read:

24          **856.05 (3) PENALTY.** Any person who with intent to injure or defraud any person  
25 interested ~~therein in a will~~ suppresses or secretes any will of a person then deceased

1 or any information as to the existence or location of any will or having custody of any  
2 will fails to file it in the court or to deliver it to the executor person named therein  
3 ~~shall be punished by the court by imprisonment in the will to act as personal~~  
4 representative shall be fined not more than \$500 or imprisoned in the county jail for  
5 not more than one year ~~or by fine not to exceed \$500 or both.~~

NOTE: Conforms penalty provision to current style.

6 **SECTION 123.** 856.07 (1) of the statutes is amended to read:

7 856.07 (1) **GENERALLY.** Petition for administration of the estate of a decedent  
8 may be made by any executor person named in the will to act as personal  
9 representative or by any person interested.

10 **SECTION 124.** 856.09 (4) of the statutes is amended to read:

11 856.09 (4) The name and post-office address of the executor person named in  
12 the will to act as personal representative;

13 **SECTION 125.** 856.21 (1) of the statutes is amended to read:

14 856.21 (1) The executor person named in the will to act as personal  
15 representative.

16 **SECTION 126.** 856.23 (1) (intro.) and (e) of the statutes are amended to read:

17 856.23 (1) (intro.) A person including the executor person named in the will to  
18 act as personal representative is not entitled to receive letters if the person is any of  
19 the following:

20 (e) A person whom the court ~~deems~~ considers unsuitable for good cause shown.

21 **SECTION 127.** 868.03 (1) (a) of the statutes is amended to read:

22 868.03 (1) (a) "Representative" means ~~an executor, administrator~~ a personal  
23 representative, testamentary trustee, guardian or other fiduciary of the estate of a  
24 decedent or a ward duly appointed by a court and qualified. It includes any

1 corporation so appointed, regardless of whether the corporation is eligible to act  
2 under the law of this state. This section does not change the powers or duties of a  
3 testamentary trustee under the nonstatutory law or under the terms of a trust.

4 **SECTION 128.** 880.295 (1) of the statutes is amended to read:

5 880.295 (1) When a patient in any state or county hospital or mental hospital  
6 or in any state institution for the mentally deficient, or a resident of the county home  
7 or infirmary, appears in need of a guardian, and does not have a guardian, the  
8 department of health and family services by its collection and deportation counsel,  
9 or the county corporation counsel, may apply to the circuit court of the county in  
10 which the patient resided at the time of commitment or the circuit court of the county  
11 in which the facility in which the patient resides is located for the appointment of a  
12 guardian of the person and estate, or either, or for the appointment of a conservator  
13 of the estate, and the court, upon the application, may appoint the guardian or  
14 conservator in the manner provided for the appointment of guardians under ss.  
15 880.08 (1) and 880.33 or for the appointment of conservators under s. 880.31. If  
16 application is made by a corporation counsel, a copy of the petition made to the court  
17 shall be filed with the department of health and family services. If application is  
18 made by a corporation counsel for appointment of a guardian of the estate of the  
19 patient or resident, or by the patient or resident for appointment of a conservator of  
20 the patient's or resident's estate, the court may designate the county as guardian or  
21 conservator if the court finds that no relative or friend is available to serve as  
22 guardian or conservator and the county is not required to make or file any oath or  
23 give any bond or security, except in the discretion of the court making the  
24 appointment, as similarly provided under s. 223.03 ~~(8)~~ (6) (a) in the case of the  
25 appointment of a trust company bank corporation. The court may place any

1 limitations upon the guardianship or conservatorship as it deems to be in the best  
2 interest of the patient. Before any county employe administers the funds of a  
3 person's estate of which the county has been appointed guardian or conservator, the  
4 employe must be designated as securities agent in the classified service of the county,  
5 and the employe's designation as securities agent shall appear on all court papers  
6 ~~which~~ <sup>that</sup> the security agent signs in the name of the county as guardian or conservator.

7 The securities agent, before entering upon the duties, shall also furnish an official  
8 bond in such amount and with such sureties as the county board determines, subject  
9 to the prior approval of the amount by the court assigned to exercise jurisdiction. The  
10 bond shall be filed in the office of the register in probate, and a duplicate original  
11 ~~thereof~~ <sup>of the bond</sup> filed in the office of the county clerk. A conservatorship under this section  
12 shall be terminated by the court upon discharge of the patient unless application for  
13 continued conservatorship is made. The superintendent or director of the facility  
14 shall notify the court of the discharge of a patient for whom a guardian or conservator  
15 has been appointed under this subsection.

16 SECTION 129. 891.32 of the statutes is amended to read:

17 **891.32 Allegation as to executor, guardian, etc representative**  
18 **capacity.** Whenever a plaintiff shall ~~sue~~ sues as an ~~executor, administrator a~~  
19 ~~personal representative,~~ guardian or trustee and ~~shall allege~~ alleges in the  
20 complaint appointment as ~~such,~~ to that position and, if appointed the appointment  
21 was made in another state or a foreign country, the filing or recording of the  
22 authenticated copy of the appointment, as required by the laws of this state, such  
23 those allegations shall be taken as true unless specifically denied ~~by the defendant~~  
24 by in the defendant's answer.

25 SECTION 130. 893.46 of the statutes is amended to read:

1           **893.46 Acknowledgment, who not bound by.** If there are 2 or more joint  
2 contractors or joint ~~administrators~~ personal representatives of any contractor, no  
3 such joint contractor, ~~executor~~ or ~~administrator~~ personal representative shall lose  
4 the benefit of this chapter so as to be chargeable by reason only of any  
5 acknowledgment or promise made by any other of them.

6           **SECTION 131.** 893.47 of the statutes is amended to read:

7           **893.47 Actions against parties jointly liable.** In actions commenced  
8 against 2 or more joint contractors or joint ~~executors or administrators~~ personal  
9 representatives of any contractors, if it shall appear, on the trial or otherwise, that  
10 the plaintiff is barred by this chapter as to one or more of the defendants, but is  
11 entitled to recover against any other or others of them, by virtue of a new  
12 acknowledgment or promise, or otherwise, judgment shall be given for the plaintiff  
13 as to any of the defendants against whom the plaintiff is entitled to recover and for  
14 the other defendant or defendants against the plaintiff.

15           **SECTION 132.** 893.49 of the statutes is amended to read:

16           **893.49 Payment by one not to affect others.** If there are 2 or more joint  
17 contractors or joint ~~executors or administrators~~ personal representatives of any  
18 contractor no one of them shall lose the benefit of this chapter, so as to be chargeable,  
19 by reason only of any payment made by any other of them.

20           **SECTION 133.** 895.02 of the statutes is amended to read:

21           **895.02 Measure of damages against executor personal representative.**

22           When any action ~~mentioned~~ described in s. 895.01 (1) shall be prosecuted to  
23 judgment against the ~~executor or administrator~~ personal representative, the  
24 plaintiff shall be entitled to recover only for the value of the goods taken, including  
25 any unjust enrichment of the defendant, or for the damages actually sustained,

1 without any vindictive or exemplary damages or damages for alleged outrage to the  
2 feelings of the injured party.

3 SECTION 134. 895.031 of the statutes is amended to read:

4 895.031 Recovery from estate of wrongdoer. Whenever If the death of a  
5 person ~~shall be~~ is caused by a wrongful act, <sup>↓</sup>neglect or default ~~and the act, neglect or~~  
6 ~~default is such as would~~ <sup>or omission</sup> committed in this state that, if death had not ensued, would  
7 have entitled the ~~party~~ injured party to maintain an action and recover damages ~~in~~ <sup>strike</sup>  
8 ~~respect thereof, then in every such case, and~~ the wrongdoer who would have been  
9 liable if death had not ensued, although such wrongdoer shall die dies prior to the  
10 time of the death of such the injured person, the wrongdoer shall be liable to an action  
11 for damages notwithstanding the wrongdoer's prior either death and  
12 notwithstanding the death of the person injured; provided that such action shall be  
13 brought for a death caused in this state. Any right of action ~~which may accrue by such~~  
14 ~~injury to the person of another although the death of the wrongdoer occurred prior~~  
15 ~~thereto~~ against a deceased wrongdoer under this section shall be enforced by  
16 bringing an action against the ~~executor or administrator or~~ deceased wrongdoer's  
17 personal representative of ~~such deceased wrongdoer~~.

NOTE: This treatment attempts to reduce wordiness.

18 SECTION 135. 895.38 (5) of the statutes is amended to read:

19 895.38 (5) The procedure for hearing, settling and allowing ~~such the~~ the principal's  
20 account shall be according to the practice prescribed by ch. 862 ~~in the matter of~~  
21 ~~account of executors and administrators for personal representatives~~. Upon the  
22 trust fund or estate being found or made good and paid over or properly secured, ~~such~~  
23 the surety shall be discharged from all liability. Upon demand by the principal, the

1 discharged surety shall return the unearned part of the premium paid for the  
2 canceled bond.

3 **SECTION 136.** 895.41 (3) (d) of the statutes is amended to read:

4 895.41 (3) (d) If no relatives designated under par. (a) survive, the employer  
5 may apply the cash bond, or so much ~~thereof~~ of the cash bond as may be necessary,  
6 to paying creditors of the decedent in the order of preference prescribed in s. 859.25  
7 for satisfaction of debts by ~~executors and administrators~~ personal representatives.  
8 The making of payment under this paragraph shall be a discharge and release of the  
9 employer to the amount of the payment.

10 **SECTION 137.** 895.42 (1) of the statutes is amended to read:

11 895.42 (1) <sup>If</sup> ~~In case~~ <sup>is a plain</sup> ~~in~~ any proceeding in any court of record it is determined that  
12 moneys or other personal property in the custody of or under the control of any  
13 ~~administrator, executor~~ personal representative, trustee, receiver, or other officer of  
14 the court, belongs to a natural person, <sup>and</sup> if the person is alive, or to an artificial person,  
15 if it is in existence and entitled to receive, <sup>and</sup> otherwise to some other person, and the  
16 court or judge making <sup>the</sup> such determination finds that there is not sufficient evidence  
17 <sup>to show</sup> ~~showing~~ that the natural person first entitled to take is alive, or that the artificial  
18 person is in existence and entitled to receive, or in case <sup>the</sup> such money or other personal  
19 property, including any legacy or share of intestate property, cannot be delivered to  
20 <sup>to the property</sup> ~~the legatee or heir or person entitled thereto~~ because of the fact that ~~such~~ person is  
21 a member of the military or naval forces of the United States or any of its allies ~~or~~  
22 <sup>let</sup> ~~is engaged in any of the armed forces abroad~~ or with the American Red Cross society  
23 <sup>leave</sup> or other body or other similar business, ~~then in either or any of such cases,~~ the court  
24 or judge may direct ~~that~~ the officer having custody or control of ~~such~~ money or other  
25 <sup>the</sup> ~~personal~~ property, <sup>to</sup> deposit ~~the same~~ <sup>property</sup> in any trust company, or <sup>in</sup> any state or national

1 bank within the state of Wisconsin authorized to exercise trust powers, taking its  
 2 receipt ~~therefor~~, and ~~the said~~ receipt shall, to the extent of the deposit ~~so made~~,  
 3 constitute a complete discharge of the ~~said~~ officer in any accounting by the officer  
 4 made in ~~said~~ proceeding.

5 **SECTION 138.** 898.27 of the statutes is amended to read:

6 **898.27 Assignment of bond.** If any such bond shall be given under s. 898.17  
 7 is forfeited, the party at whose suit the person executing the same shall have been  
 8 confined or, in case of his or her death, the ~~executor or administrator~~ personal  
 9 representative of such party shall be entitled to an assignment ~~thereof~~ of the bond, which shall  
 10 be made by the sheriff taking the same, or, in case of a vacancy in the sheriff's office,  
 11 by the sheriff's undersheriff.

12 **SECTION 139.** 990.01 (7) of the statutes is repealed.

NOTE: The term "executor" is removed from the statutes by this bill.

13 **SECTION 140.** 990.01 (27m) of the statutes is created to read:

14 990.01 (27m) PERSONAL REPRESENTATIVE. Except as provided in ss. 72.01 (16),  
 15 851.23, 880.61 (11) and 880.81 (12), "personal representative" means a person,  
 16 however denominated, who is authorized to administer a decedent's estate.

17 (END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3059/P2dn  
PK/RM/GM/RC/RN:cmh:km

February 7, 2000

Bruce Hoesly:

I have reviewed this draft and circulated it among the other attorneys. I asked them to review the affected statutes in their drafting areas and to either comment in a D-note on any changes that might be problematic or correct any changes that appear to be more than technical and mention those changes in a D-note. Generally, I have a few comments:

1. You probably should not include the four cross-references in s. 990.01 (27m). The introduction to s. 990.01 includes exclusionary language. Other terms defined in s. 990.01 have other definitions in other places in the statutes without including cross-references to those other sections. It is my understanding that the definitions in s. 990.01 apply anywhere in the statutes in which another definition does not apply. OK

2. Your changes to s. 877.38 (renumbered from s. 777.38) eliminate any reference to debts of the "same class". Is that intentional? Pam  
*It was intentional. Considering that the test for dismissal only relates to the amount of debts in the prior class.*

3. All of the following sections still include the word "executor":

36.29 (2)	292.01 (16)
59.35 (2)	551.23 (6)
180.0622 (4)	854.14 (2) (a) 3.
180.0724 (2) (b)	879.35
221.0521 (2) (b)	879.37
223.12 (4) (a) and (5)	879.59 (2)

*Am I missing something?*

4. The following sections treat the phrases "letters testamentary" and "letters of administration" inconsistently:

30.541 (3) (d) 1. a.	815.53 (3)
45.37 (10) (d) <i>add</i>	893.22 <i>-add</i>
342.17 (4) (a) 1.	895.41 (3) (a) (intro.) <i>-add</i>
815.15	

*I think the 3rd and 4th lines may need help-- Commas maybe?*

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

*Insert 4*

*Insert 5*

Bruce:

I have made a number of changes to your proposed revisions in ch. 66. Because ch. 66 is being completely rewritten and reorganized under the auspices of the Joint Legislative Council Special Committee on the Recodification of Ch. 66, I have taken out most of your rewrites in ch. 66, other than the changes to "personal representative", to remain consistent with the committee's work. See ss. 66.073 (15), 66.0735 (13) and 66.412. I left most of your changes in s. 66.94 (17) intact, but the ch. 66 rewrite repeals s. 66.94. I've also made a number of small changes to your revision of ss. 71.17 (3) and 71.80 (12) (a). In s. 71.80 (12) (c), I took out the language you added (and notice that an affidavit of compliance with this section is filed with the department of financial institutions) and restored what you had stricken (~~and that an affidavit of compliance herewith is filed with the department of financial institutions~~) because I believe that your change is substantive; it changes the meaning of the statute by subjecting the affidavit of compliance to a 10-day mailing requirement, which is not the case under current law. Please let me know if you disagree with any of my changes.

Marc E. Shovers  
Senior Legislative Attorney  
Phone: (608) 266-0129  
E-mail: Marc.Shovers@legis.state.wi.us

Bruce Hoesly:

I have reviewed the treatment of ch. 223 and have made a few changes to ensure that the treatment of this chapter does not change current law. Please review the changes and let me know if you disagree or if a different treatment is necessary. Primarily, I made the following changes to the draft you submitted:

1. In proposed s. 223.03 (6) (intro.), stats., I clarified that, notwithstanding the language stricken from s. 223.03 (7), stats., a trust company bank may still serve as the guardian of any person subject to guardianship.
2. I also created proposed s. 223.03 (6) (c), stats., to preserve the language stricken from s. 223.03 (7), stats., regarding a trust company bank's consent to a fiduciary appointment.
3. I think s. 223.03 (8) and (9), stats., are intended to apply any time a court appoints a trust company bank to a fiduciary position. Thus, I have changed proposed s. 223.03 (6) (a) and (b) accordingly.
4. I have made several changes to the treatment of s. 223.05 (2), stats. These changes increase the use of consistent terms and clarify the meaning of that statute.

Also, I would recommend including a sentence in the analysis regarding the updating of portions of the statutes with regard to trust company banks.

Thanks.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: Robert.Marchant@legis.state.wi.us

Bruce:

I direct your attention to the treatment of s. 109.03 (3) and, in particular, to the deletion of the references to unused vacation allowances of state, county and municipal employes. I believe that a strong case can be made on the grounds of obsolescence for the elimination of those references altogether and for not recreating them in a definition-like provision at the beginning of the subsection.

Specifically, 1949 ch. 141 added the sentence about the amount of wages due a state employe including the unused vacation allowance of the employe. That sentence was included in a bill introduced at the behest of the State Employes Association whose main intent was to bring state employes within the coverage of the wage payment upon death law. Similarly, 1961 ch. 252 added the sentence authorizing a county or municipality to include in its wage payments unused vacation allowances of an employe who dies after January 1, 1961. The request sheet for that draft indicates that the problem to be solved by the draft was that a county wished to pay the unused vacation allowances of a traffic policeman, but felt that it did not have the authority to do so. Therefore, the intent of the draft was to permit counties and municipalities to pay those allowances upon the death of an employe.

The necessity for those provisions was eliminated, however, by 1975 ch. 380, which created ch. 109 relating to wage payments, in part, by renumbering s. 103.39 as s. 109.03 (3) and by renumbering s. 101.21 (2), which contained a definition of "wages" *that included vacation pay*, as s. 109.01 (3). Because vacation pay is included in the definition of "wages" as used in s. 109.03 (3), a state, county or municipality is liable for the payment of vacation pay in the same way as it is liable for the payment of any other wages. Therefore, specific references to including unused vacation allowances of state, county or municipal employes as wages is no longer necessary.

In the alternative, if you decide that it is necessary to retain the references to unused vacation allowances, I would recommend that you leave those references where they are rather than create pseudo-definitions of them at the beginning of the subsection. Because those references in your draft are not true definitions in that no word or phrase appears within quotation marks, their placement in a definition-like format does not conform to modern drafting conventions.

If you would like to discuss this drafter's note, please do not hesitate to contact me directly.

Gordon M. Malaise  
Senior Legislative Attorney  
Phone: (608) 266-9738  
E-mail: Gordon.Malaise@legis.state.wi.us

Bruce:

I made one minor change in s. 24.33 (2) for the purpose of clarity and consistency. Also, in s. 18.62 (intro.), I took out the phrase "persons or entities" because it is not necessary. I left in the word "legally" because it is a current law word used in that section; please note that its deletion from that sentence, however, would have no legal effect. Call if you have questions.

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: Rick.Champagne@legis.state.wi.us

Bruce:

I made some changes in s. 895.031. I struck "neglect or default" and replaced that phrase with "or omission", which is consistent with terminology used in other statutes. I also struck "in respect thereof" because it does not seem to add anything and is confusing. In s. 898.27 the word "thereof" was not changed, but perhaps should be changed to "of the bond"?

Robert P. Nelson  
Senior Legislative Attorney  
Phone: (608) 267-7511

RV

Buce

MES

I have made a number of changes to your proposed revisions in ch. 66. Because ch. 66 is being completely rewritten and reorganized under the auspices of the Joint Legislative Council Special Committee on the Recodification of Ch. 66, I have taken out most of your rewrites in ch. 66, other than the changes to "personal representative", to remain consistent with the committee's work. See ss. 66.073 (15), 66.0735 (13) and 66.412. I left most of your changes in s. 66.94 (17) intact, but the ch. 66 rewrite repeals s. 66.94. I've also made a number of small changes to your revision of ss. 71.17 (3) and 71.80 (12) (a). In s. 71.80 (12) (c), I took out the language you added (and notice that an affidavit of compliance with this section is filed with the department of financial institutions) and restored what you had stricken (~~and that an affidavit of compliance herewith is filed with the department of financial institutions~~) because I believe that your change is substantive; it changes the meaning of the statute by subjecting the affidavit of compliance to a 10-day mailing requirement, which is not the case under current law. Please let me know if you disagree with any of my changes.

plain  
right  
paren

Marc E. Shovers  
 Senior Legislative Attorney  
 Phone: (608) 266-0129  
 E-mail: Marc.Shovers@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3059/Pldn  
BEM:cmh:mrc

PSK

Bruce Hoesly:

I have reviewed this draft and circulated it among the other attorneys. I asked them to review the affected statutes in their drafting areas and to either comment in a D-note on any changes that might be problematic or correct any changes that appear to be more than technical and mention those changes in a D-note. Generally, I have a few comments:

1. You probably should not include the four cross-references in s. 990.01 (27)<sup>m</sup>. The introduction to s. 990.01 includes exclusionary language. Other terms defined in s. 990.01 have other definitions in other places in the statutes without including cross-references to those other sections. It is my understanding that the definitions in s. 990.01 apply anywhere in the statutes in which another definition does not apply.

2. Your changes to s. 877.38 (renumbered from s. 777.38) eliminate any reference to debts of the "same class". Is that intentional?

3. All of the following sections still include the word "executor":

36.29 (2)	292.01 (16)
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180.0622 (4)	854.14 (2) (a) 3.
180.0724 (2) (b)	879.35
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223.12 (4) (a) and (5)	879.59 (2)

4. The following sections treat the phrases "letters testamentary" and "letters of administration" inconsistently:

30.541 (3) (d) 1. a.	815.53 (3)
45.37 (10) (d)	893.22
342.17 (4) (a) 1.	895.41 (3) (a) (intro.)
815.15	

Pamela J. Kahler  
Senior Legislative Attorney  
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E-mail: Pam.Kahler@legis.state.wi.us

RPN/cm vt

D-Note

Bruce:

I made some changes in  
s. 895.031. I struck "neglect or  
default" and replaced that  
phrase with "or omission",  
which is consistent with terminology  
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thereof" because it does not  
seem to add anything & is confusing.

In s. 898.27 the word "thereof"  
was not changed, but perhaps  
should be changed to "of the  
bond"?

RPN

D-Note

RAC/commit

Bruce:

I made some MINOR changes in s. 24.33(2) for the purpose of clarity and consistency. Also, in s. 18.62 (INTRO), I took out the phrase "persons or entities" because it is not necessary. I left in the word "legally" because it is a current law word used in that section; please note that its deletion from that sentence, however, would have no legal effect. Call if you have questions.

RAC

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3059/P1ins  
BEM:cmh:mrc

INSERT 10-11

1 SECTION 1. 70.19 (2) of the statutes is amended to read:

2 70.19 (2) The person ~~so~~ assessed under sub. (1) and s. 70.18 (1) is personally  
3 liable for the tax on the property. The person assessed under sub. (1) and s. 70.18 (1)  
4 has a personal right of action against the owner ~~or person beneficially entitled to~~ of  
5 the property for the amount of the taxes ~~and~~; has a lien for that amount upon the  
6 property with the rights and remedies for the preservation and enforcement of that  
7 lien as provided in ss. 779.45 and 779.48; and is entitled to retain possession of the  
8 property until the owner ~~or person beneficially entitled to~~ of the property pays the  
9 tax on the property or reimburses the person assessed for the tax ~~if paid by that~~  
10 ~~person~~. The lien and right of possession relate back and exist from the time when  
11 that the assessment is made, but may be released and discharged by giving to the  
12 person assessed such undertaking or other indemnity as the person accepts or by  
13 giving the person assessed a bond in the amount and with the sureties as is directed  
14 and approved by the circuit judge court of the county in which the property is  
15 assessed, upon 8 days' notice to the person assessed. The bond shall be conditioned  
16 to hold ~~and keep~~ the person ~~against whom the assessment is made~~ assessed free and  
17 harmless from ~~any and~~ all costs, expense, liability or damage ~~by reason of~~ related to  
18 the assessment.

19 History: 1975 c. 94 s. 91 (13); 1975 c. 199; 1977 c. 449; 1979 c. 32 s. 92 (9).

20  
21 Insert 31-20

22 SECTION 2. 223.03 (6) (c) of the statutes is created to read:

1           223.03 (6) (c) In all cases in which application is made to a court for the  
2 appointment of a person to act in a capacity described in this subsection, it shall be  
3 lawful to appoint a trust company bank, with its consent, to hold the office or offices.

**1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3059/P2  
GMM.....

**(INSERT 21-17)**

NOTE: Subdivides provision, reorders text and inserts specific references for greater conformity with current style and improved readability. In addition, the references to the unused vacation allowances of state, county and municipal employes are removed as obsolete in that the definition of "wage" in s. 109.01 (3), stats., includes vacation pay. As such, no specific mention of unused vacation allowances due a state, county or municipal employe is necessary as those allowances are already included in the term "wage" by definition. Also, by its terms, s. 859.25, stats., relates to the satisfaction of debts by personal representatives.

**(END OF INSERT)**

*Bruce - Most of my questions are really quick (pay close attention to my \* - - these are real questions :))*

Questions/Suggestions

All pencil additions are from attorneys.

- p. 4, L. 22 ✓ Page 4, line 23, see changes—"appointment of a trustee" seemed to follow "satisfactory to the department" not "issuance of"—OK? (Page 38, line 4, same change)—is that better or worse?  
*See what I did then pass it around among those you trust and use whichever the majority choose*
- p. 5, L. 24 → Page 6, line 7, can we strike "now or may hereafter be" (D-Man 2.01 (21) (a) and (24) (d) if you need authority behind my suggestion). *Ask Marc Shovers if it is a problem with his Ch. 66 rewrite, already changed -*
- p. 8, L. 7 ✓ Page 9, line 22, see change—OK? *Yes, ~~add a phrase more. Delete if you don't think it was there~~*
- p. 10, L. 7 \* Page 12, in line 2, the intro. says the property "shall" be assessed as follows, but then on line 8, the sentence reads "may" be assessed. Since par. (b) is supposed to complete the sentence begun by the intro. (D-Man 3.04 (1) (b)), is this a problem? *I don't think so, because I think it could be assessed to the person in possession, s. 70.13. Ask the drafter (who is it?) what he/she thinks.\**
- p. 10, L. 16+ ✓ Page 12, lines 11 and 13, could "thereafter" be stricken (D-Man 24.02 (2) (x))  
*I think so.*
- p. 12, L. 7 ✓ Page 14, line 1, could "such" become "the"? *yes*
- p. 12, L. 10 ✓ Page 14, line 4, could "thereon" become "on the property"? And what could "thereof" become? (of every \$100)? *yes*
- p. 13, L. 1 ✓ Page 14, line 18, could "such" become "the"? *yes*
- p. 13, L. 9 ✓ Page 14, line 18, could "theretofore" become "previously"? (But I guess if you did that, you would want to amend (a) 3., too.) *yes and lets add (a) 3. and do it thereto. Insert 13-57*
- p. 13, L. 12 ✓ Page 15, line 4, could "such" become "the"? - "the" or "those" which is better? *paid*
- p. 13, L. 12 Page 15, line 7, could "therefor" become "for the amounts"? - *how about in the same line*
- p. 17, L. 1 ✓ Page 18, line 18, could "thereafter" be stricken? *Not stricken, but replaced per my markup. In the same sentence, isn't there a sentence agreement problem with what I struck and mark put back? To me, it makes no sense with "that". I think he's right about my 13 change. See what he thinks of this*
- p. 17, L. 21 ✓ Page 19, line 13, could "the state of Wisconsin" become "this state" (per s. 13.93 (1) (i) stats.)? *yes*
- p. " " ✓ And then on page 19, line 14, could "thereof" become "of the state"? *yes*
- p. 21, L. 6 ✓ Page 23, line 3, could "thereof" become "of the trust"? *yes*
- p. 22, L. 8, 9, 14 ✓ Page 24, line 4, could "thereof" become "of the court"? On line 5, could "thereupon" be stricken? And on line 10, could "thereafter" be stricken?  
*See what I did - I question the appropriateness of the use of "begin".*
- p. 25, L. 3 ✓ Page 26, line 24, could "the state of Wisconsin" become "this state"? *yes*
- p. 27, L. 8 ✓ Page 29, line 4, how about that "thereon"? And could "said" become "the"? *yes*  
*I think the "thereon" can be stricken, I however think the "that" after it that you changed from "which" should be "which". Did you get that?*

\* I said before and still think that the draft when we get it relatively final should be given to Dept. of Revenue for their review. Hopefully your drafters could arrange that through their contact people.

I think the drafter should line with reviewer get the draft reviewed by DFL attorneys and banking lobbyist types

p. 28 12 Page 30, line 7, how about that "therewith"? And again on line 16?

p. 30 L 18 Page 32, line 3 do you like the "therefor"? See if the drafter agrees with my changes  
no but I'm not sure of an appropriate replacement - see my changes and how they reviewed, no change

p. 31 L 21 Page 33, line 5, how about "such"? leave it I don't like 203.05 before after revision.

p. 32 L 17 Page 34, line 4, could "thereof" be changed? Line 8, how about "therein"?

p. 42 L 21 Page 43, line 9, maybe "within such further time as the court allows" could become "within any further time that the court allows"? yes.

p. 42 L 13 Page 43, line 25, could we change "thereon"? Can we just drop thereon?

I really didn't Page 44, line 18, could "such" become "the"? see what I did

Page 45, could "any such" become "the"? see what I did

44-8 Page 45, line 18, do you agree with that change? yes

domuch 44-20 Page 46, line 5, could "thereof" become "of the property"? or "of that property" whichever is better

table 45-4 Page 46, line 14, could "thereof" become "of the decedent"? can it be dropped?

ch. 45-5 And on line 15, could "thereof" become "of the original appointment"? yes

steps 45-7, 10 Page 46, lines 17 and 20, does "thereto" refer "to the estate"? it has to doesn't it?

and 46-4 Page 47, line 15, could "thereof" become "of the debt"? yes

now 47-16 Page 48, line 2, could "shall be" become "is"? see mine

now 47-13 Page 49, line 1, could "shall be" become "is"? see mine is made

needs 47-22 Page 49, could "thereon" become "of the judgment"? "on the judgment" since it was "thereon"?

close 48-2 Page 49, line 15, could "therein" become a more specific reference? yes "in the account" (action?)

review 48-14 Page 50, line 2, could "any such" become "the"? yes

48-22 Page 50, line 8, is ", and not otherwise" necessary? no - delete it.

49-4 Page 50, line 14, could "therefor" become "for the demands"? yes

49-17 Page 51, line 3, is the antecedent for "them" clear to you? I hate "them" I can't believe I left as much stuff as I did - I think those proportion things are missing something, but can't really speculate what should go there

49-18 Page 51, line 3, could "for such a sum as shall be" become "for a sum that is"? Yes

50-23 Page 52, could "therefor" become "for the share"? or

"for that share" also delete "for" as marked?

51:15 Page 53, line 2, should "thereto" be more specific or would the list be too long?  
51:24 Page 53, line 11, could "therefor" be changed?  
*is it the "Of tenders interest in the state" without a definite answer it can't change.*  
*Does "trust or estate" work?*

Page 53, line 23, could "such" become "the"?  
*of the estate? and replace such in line 13 with "the"*  
*See insert 3*  
*yes - though what that means I know not.*

Page 53, line 24, could "shall direct" become "directs"?

Page 54, line 1, could "such" become "the"? *yes*

Page 54, line 4, could "such sum" become "a sum" (of course, that statute is riddled with "such"s)?  
*yes that section stinks. See many inserts and have it reviewed*

54:9 Page 55, line 20, could "so conveyed" become "conveyed"?  
*the commas are bizarre in the last sentence. Am I making it worse? See mine - have it reviewed*

55:4 Page 56, line 13, could "thereto" become "to the conveyance"? *yes*

58:25 Page 60, line 11—do you agree with that change? *yes*

59:18 Page 61, line 3, should "joint" precede "personal representative" for consistency? *yes*

Insert 3. Page 63, line 16, could "such" become "the"? (maybe not, since there are other occurrences).  
*What a mess. I think I was tired of the bill by the time I got to that one. This deserves very close scrutiny*

Page 63, line 20, how about that "thereto"?

Page 63, line 25, could "the same" become "the money or other personal property"?

Page 64 line 1, should "state of Wisconsin" be changed?

Page 64, line 2, could "said" be stricken? (Maybe "therefor" could be changed to "for the money or other person property"?)

While we are on page 64, line 2, could we strike "so"?

And then, to be complete could we strike "said" on both line 3 and line 4?

I think the drafter wants to change "thereof" to "of the bond" on page 64, line 9. *See mine I am totally confused by "the party" and "the person" here but don't know what to do.*

Since I found some errors introductory note I'm guessing it wasn't reviewed closely. Could you please double check and also ask Pam to review as to content and suggested improvements.

where "of Wisconsin" is deleted let's add a note after the treatments:

Note: The deletion of "of Wisconsin" is made pursuant to s 13.93(1)(i).

**Hagen, Heather**

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**From:** Hoesly, Bruce  
**Sent:** Monday, October 30, 2000 10:36 AM  
**To:** Hagen, Heather  
**Subject:** RE: 3059

Delete the repealed ones. Unless you can make the same changes to the renumbered sections, just mark them on the draft and I'll deal with them when the draft comes back here.

-----Original Message-----

**From:** Hagen, Heather  
**Sent:** Monday, October 30, 2000 10:34 AM  
**To:** Hoesly, Bruce  
**Subject:** RE: 3059

There is. I can, and I will

Also, what do you want to do about the chapter 66 sections in this draft. They currently have the "old" section numbers. Some have been repealed with the chapter 66 rewrite as well. The sections involved are as follows:

OLD #	NEW #
(in draft 3059)	
66.073 (15)	(66.0825)
66.0735 (13)	(66.0823)
66.412	(66.1309 (intro.))
66.416 (2) (a) 1.	(66.1317)
66.94 (17)	(repealed)
66.94 (17) (a) (intro.)	(repealed)

whadda ya think?

-----Original Message-----

**From:** Hoesly, Bruce  
**Sent:** Friday, October 27, 2000 9:19 AM  
**To:** Hagen, Heather  
**Subject:** 3059

The pages you sent are from the p2. Is there a marked up p1 in the file? If so could you send me the pages with 223.05 (2) (a), 814.14 and 895.42 (1)?

Thanks.

And I'm sure its Cathlene's fault.

*Bruce*

Bruce Hoesly  
Deputy Revisor of Statutes

*WHAT?*