



State of Wisconsin  
1999 - 2000 LEGISLATURE

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LRB-3059/P2

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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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

<sup>Revisor's</sup> 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:

prepared and presented under s. 13.93(2)(i)

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

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:

in which

*substantially*

*or stat.*

"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:

*and 879*

*comma*

"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 ~~nor 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.

*no*

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".

*and 879*

*Under s. 13.93(1)(b)*

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.

*References to letters authorizing administration of an estate are changed to "letters testamentary or other letters authorizing the administration of the decedent's estate."*

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 may legally

① invest any sinking funds, moneys, or other funds belonging to them or within their  
 2 control in any revenue obligations issued under this subchapter, that shall be  
 3 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<sup>x</sup> 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  
 19 land, 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 surrender of the certificate, receipt, or patent given upon the  
 11 resale, the purchaser of the resold land shall be paid out of the state treasury to the  
 12 last purchaser the amount paid by the last purchaser and at resale, together with the  
 13 said interest thereon collected of such from the person so redeeming, on surrender  
 14 of the certificate, receipt or patent given the last purchaser at such resale the land.

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

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

16 30.35 (7) (d) ~~Administrators, executors~~ Personal representatives, guardians,  
 17 trustees and other fiduciaries.

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

19 30.541 (3) (d) 1. a. Evidence satisfactory to the department of the issuance of  
 20 ~~the letters of administration, letters testamentary or other letters authorizing the~~  
 21 administration of a decedent's estate, letters of guardianship or letters of trust,  
 22 ~~of the appointment of a trustee in bankruptcy,~~

*the appointment of a trustee in bankruptcy or of*

*plain*

*plain*

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.

14 SECTION 6. 66.073 (15) of the statutes is amended to read:

15 ~~66.073 (15)~~ BONDS ELIGIBLE FOR INVESTMENT. Bonds issued by a company under  
16 this section are hereby made securities in which all public officers and agencies of  
17 the state and all political subdivisions, all insurance companies, trust companies,  
18 banks, savings banks, savings and loan associations, investment companies,  
19 ~~executors, administrators~~ personal representatives, trustees and other fiduciaries  
20 may properly and legally invest funds, including capital in their control or belonging  
21 to them. Such bonds are hereby made securities ~~which that~~ that may properly and legally  
22 be deposited with and received by any officer or agency of the state or any political  
23 subdivision for any purpose for which the deposit of bonds or obligation of the state  
24 or any political subdivision is now or may hereafter be authorized by law.

25 SECTION 7. 66.075 (13) of the statutes is amended to read:

Continue striking

page 16 of inserts  
INSERT 5-13

Bruce -  
rewriter  
w/Ch. 66  
rewrite  
New 66.025 (15)  
see insert  
6/10

INSERT 5-25 page 1 of inserts

0823

1 66.0705 (13) BONDS ELIGIBLE FOR INVESTMENT. Public officers and agencies of  
 2 the state, political subdivisions, insurance companies, trust companies, banks,  
 3 savings banks, savings and loan associations, investment companies, personal  
 4 representatives, ~~executors, administrators, trustees,~~ and other fiduciaries may  
 5 ~~properly and legally~~ invest funds, including capital in their control or belonging to  
 6 them, in bonds of the authority. The authority's bonds are securities that may  
 7 ~~properly and legally~~ be deposited with and received by any officer or agency of the  
 8 state or any political subdivision for any purpose for which the deposit of bonds or  
 9 obligation of the state or any political subdivision is authorized by law.

page 2  
of inserts  
INSERT 6-10

SECTION 8. 66.412 of the statutes is amended to read:

10 **66.412 Urban redevelopment; transfer of land.** Notwithstanding any  
 11 requirement of law to the contrary or the absence of direct provision therefor in the  
 12 instrument under which a fiduciary is acting, every ~~executor, administrator~~ personal  
 13 representative, trustee, guardian or other person, holding trust funds or acting in a  
 14 fiduciary capacity, unless the instrument under which such fiduciary is acting  
 15 expressly forbids, the state, its subdivisions, cities, all other public bodies, all public  
 16 officers, corporations organized under or subject to the provisions of the banking law,  
 17 the division of banking as conservator, liquidator or rehabilitator of any such person,  
 18 partnership or corporation, persons, partnerships and corporations organized under  
 19 or subject to the provisions of the banking law, the commissioner of insurance as  
 20 conservator, liquidator or rehabilitator of any such person, partnership or  
 21 corporation, any of which owns or holds any real property within a development area,  
 22 may grant, sell, lease or otherwise transfer any such real property to a  
 23 redevelopment corporation, and receive and hold any cash, stocks, income  
 24 debentures, mortgages, or other securities or obligations, secured or unsecured,  
 25

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21

1 ~~exchanged therefor given in exchange for the real property~~ by such redevelopment  
2 corporation, and may execute such instruments and do such acts as may be deemed  
3 considered necessary or desirable by them or it and by the redevelopment  
4 corporation in connection with the development and the development plan.

5 SECTION 9. <sup>1317</sup> ~~66.416~~ (2) (a) 1. of the statutes is amended to read:

6 <sup>1317</sup> ~~66.416~~ (2) (a) 1. Every executor, administrator personal representative,  
7 trustee, guardian, committee, or other person or corporation holding trust funds or  
8 acting in a fiduciary capacity.

9 SECTION 10. 66.94 (17) of the statutes is renumbered 66.94 (17) (a) 1. and  
10 amended to read:

11 66.94 (17) (a) 1. The state and all counties, cities, villages, incorporated towns  
12 and other municipal corporations, political subdivisions and public bodies, and  
13 public officers of any thereof, ~~all banks,~~

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

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

19 4. Personal representatives, guardians, trustees and other fiduciaries may  
20 legally invest any debt service funds, moneys or other funds belonging to them or  
21 within their control in any bonds or certificates issued pursuant to this section, but  
22 nothing.

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

wh. repealed  
ch. 66 rewrite

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.

1 SECTION 11. 66.94 (17) (a) (intro.) of the statutes is created to read:

2 66.94 (17) (a) (intro.) Any of the following persons may invest any debt service  
3 funds, moneys or other funds belonging to them or within their control in any bonds  
4 or certificates issued under this section:

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

5 SECTION 12. 70.19 (1) of the statutes is amended to read:

6 70.19 (1) When personal property shall be is assessed under s. 70.18 (1) to some  
7 a person in charge <sup>stet</sup> or possession thereof ~~of the personal property~~ other than the  
8 owner or person beneficially entitled thereto as heretofore provided, the  
9 assessment thereof of that personal property shall be entered upon the assessment  
10 roll separately from the same person's assessment of the that person's own personal  
11 property, adding to the person's name upon such ~~the tax roll~~ words briefly indicating  
12 that such the assessment is made to the person as the person in charge or possession  
13 thereof as occupant or possessor of the premises on which such property is stored or  
14 piled or as the spouse, agent, lessee, occupant, mortgagee, pledgee, executor,  
15 administrator, trustee, assignee, receiver or other representative of the owner or  
16 person beneficially entitled thereto; but a of the property. The failure to enter such  
17 the assessment separately or to indicate the representative capacity or other  
18 relationship of the person assessed shall not affect the validity of the assessment.

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

19 SECTION 13. 70.19 (2) of the statutes is amended to read:

20 70.19 (2) The person so assessed under sub. (1) and s. 70.18 (1) is personally  
21 liable for the tax on the property. The person assessed under sub. (1) and s. 70.18 (1)



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

*I'm afraid this change etc  
"related to" may be substantive. Related to  
seems broader term.*

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 <sup>as</sup> 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.

16 **SECTION 14.** 70.21<sup>x</sup> (title) of the statutes is amended to read:

17 **70.21 (title) Partnership; estates in hands of executor personal**  
 18 **representative; personal property, how assessed.**

19 **SECTION 15.** 70.21<sup>x</sup> (1) of the statutes is amended to read:

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

6           **(1m)** Undistributed personal property belonging to the estate of a person  
7 deceased decedent shall be assessed ~~to the executor or administrator if one shall have~~  
8 as follows:

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

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

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

19           **SECTION 16.** 70.22<sup>x</sup> (1) of the statutes is amended to read:

20           70.22 (1) In case one or more of 2 or more ~~executors of the will or administrators~~  
21 personal representatives or trustees of the estate of a decedent ~~whose domicile at the~~  
22 time of the decedent's death was who died domiciled in this state are not residents  
23 of the state, the taxable personal property belonging to the estate shall be assessed

1 to the ~~executors, administrators~~ personal representatives or trustees residing in this  
2 state. In case there are 2 or more ~~executors, administrators~~ personal representatives  
3 or trustees of the same estate residing in this state, but in different taxation districts,  
4 the assessment of the taxable personal property belonging to the estate shall be in  
5 the name of all of the ~~executors, administrators~~ personal representatives or trustees  
6 of the estate residing in this state. In case ~~the executor, administrator~~ no personal  
7 representative or trustee, ~~or all of them if more than one, do not reside~~ resides in this  
8 state, the taxable personal property belonging to the estate may be assessed in the  
9 name of the ~~executors or administrators~~ personal representative or trustee or in the  
10 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.

11 **SECTION 17.** 70.22<sup>X</sup> (2) (b) of the statutes is amended to read:

12 70.22 (2) (b) Before allowing the final account of a nonresident ~~executor,~~  
13 ~~administrator~~ personal representative or trustee, the court shall ascertain whether  
14 there are or will be any taxes remaining unpaid or to be paid on account of personal  
15 property belonging to the estate, and shall make any order or direction that is  
16 necessary to provide for the payment of the taxes.

17 **SECTION 18.** 70.22<sup>X</sup> (3) of the statutes is amended to read:

18 70.22 (3) The provisions of this section shall not impair or affect any remedy  
19 given by other provisions of law for the collection or enforcement of taxes upon  
20 personal property assessed to ~~executors, administrators~~ personal representatives or  
21 trustees.

22 **SECTION 19.** 70.36<sup>X</sup> (1) of the statutes is amended to read:

1           70.36 (1) Any person, ~~firm or corporation~~ in this state owning or holding any  
 2           personal property ~~of any nature or description~~ that is subject to assessment,  
 3           individually or as agent, trustee, guardian, ~~administrator, executor~~ personal  
 4           representative, assignee or receiver or in some other representative capacity, which  
 5           ~~property is subject to assessment,~~ who shall intentionally make makes a false  
 6           statement to the assessor of that person's, ~~firm's or corporation's~~ assessment district  
 7           or to the board of review ~~thereof~~ of the assessment district with respect to ~~such~~ the  
 8           property, or who ~~shall omit~~ omits any property from any return required to be made  
 9           under s. 70.35, with the intent of avoiding the payment of the just and proportionate  
 10          taxes ~~thereon~~, <sup>on the property</sup> shall forfeit the sum of \$10 for every \$100 or major fraction ~~thereof~~ <sup>of \$100</sup> so  
 11          withheld from the knowledge of such the assessor or board of review.

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

12           **SECTION 20.** 71.03<sup>x</sup> (2) (b) of the statutes is amended to read:

13           71.03 (2) (b) *Deceased person.* The ~~executor, administrator~~ personal  
 14           representative or other person charged with the property of a decedent shall file a  
 15           the return of ~~such individual~~ the decedent required under this section.

16           **SECTION 21.** 71.13 (2) (a) (intro.), 1, <sup>x</sup> and 2, <sup>and 3.</sup> and (b) of the statutes are amended  
 17           to read:

18           71.13 (2) (a) (intro.) ~~An executor, administrator,~~ A personal representative or  
 19           trustee applying to a court having jurisdiction for a discharge of his or her trust and  
 20           a final settlement of his or her accounts, before ~~his or her~~ the application is granted,  
 21           shall file all of the following with the department:

22           1. Returns of income received by the ~~deceased~~ decedent, any previous guardian,  
 23           ~~executor, administrator,~~ personal representative, or trustee, during each of the years

① open to assessment under s. 71.77, if ~~such~~<sup>the</sup> returns had not ~~theretofore~~<sup>previously</sup> been filed;  
2 including a return of income for the year of death to the date of death.

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

⑥ INSERT 13-5 page 2 of inserts (b) Upon receipt of such the returns described in par. (a), the department shall

⑦ immediately determine the amount of taxes including interest, penalties, and costs  
8 to be payable, as well as any delinquent income, withholding, sales, use and gift

⑨ taxes, penalties, interest, and costs due, and shall certify ~~such~~<sup>those</sup> amounts to the court.

10 The court shall thereupon enter an order directing the ~~executor, administrator,~~

11 personal representative or trustee to pay the amounts found to be due by the

12 department and take ~~its~~<sup>the department's</sup> receipt ~~therefor~~<sup>for the amount</sup>. The receipt shall be evidence of the

13 payment and shall be filed with the court before a final distribution of the estate or

14 trust is ordered and the ~~executor, administrator,~~ personal representative or trustee

15 is discharged. The filing of such the receipt shall in no manner affect the obligation

⑬ of the ~~executor, administrator,~~ personal representative or trustee to file income, sales,<sup>1</sup>

17 and withholding returns covering transactions reportable during the final taxable

⑮ year of the estate or trust and to pay income, sales, use, and withholding taxes,

⑰ penalties, interest, and costs due as the result of such transactions.

20 SECTION 22. 71.15<sup>M</sup> (2) of the statutes is amended to read:

21 71.15 (2) A personal exemption for the decedent under s. 71.07<sup>V</sup> (8) shall not be

22 allowed the ~~executor or administrator,~~ personal representative except against the

23 tax on income of the decedent in the year of death. If the decedent would have been

24 entitled to an exemption for the decedent's spouse or a dependent under s. 71.07 (8),

25 had the decedent lived, ~~such~~ the exemption shall be allowed to the ~~executor or~~

1 ~~administrator~~ personal representative so long as over one-half of the support of the  
2 spouse or dependent is supplied by the decedent or by the ~~executor or administrator~~  
3 personal representative from the decedent's estate and the gross income of the  
4 spouse or dependent for the calendar year in which the taxable year of the ~~executor~~  
5 ~~or administrator~~ personal representative begins is less than \$500.

6 **SECTION 23.** 71.17<sup>X</sup> (3) of the statutes is renumbered 71.17 (3) (intro.) and  
7 amended to read:

8 71.17 (3) LIABILITY FOR PAYMENT OF TAXES DUE FROM DECEDENT. (intro.) Any  
9 income, withholding, sales, use or gift taxes, penalties, interest, and costs found to be  
10 due from a decedent, an estate, or a trust for any of the years open to assessment  
11 under s. 71.77 and any delinquent income, withholding, sales, use or gift taxes,  
12 penalties, interest, and costs found to be due shall be assessed against and paid by  
13 ~~the executor, administrator,~~ one of the following:

14 (a) The personal representative or trustee; ~~any of such items found to be due~~  
15 ~~after the executor, administrator, personal representative or trustee is discharged~~  
16 ~~shall be assessed against and paid by the.~~

17 (b) The beneficiaries, in the same ratio that their interest in the estate or trust  
18 bears to the total estate or trust, if found to be due after the personal representative  
19 or trustee is discharged.

20 **SECTION 24.** 71.80<sup>X</sup> (12) (title) of the statutes is amended to read:

21 71.80 (12) (title) DEPARTMENT ~~DEEMED~~ CONSIDERED LAWFUL ATTORNEY FOR  
22 NONRESIDENT.

23 **SECTION 25.** 71.80<sup>X</sup> (12) (a) of the statutes is renumbered 71.80 (12) (a) (intro.)  
24 and amended to read:

1           71.80 (12) (a) (intro.) The transaction of business or the performance of  
2 personal services in this state or the derivation of income from property the income  
3 from which has a taxable situs in this state by any nonresident person, except where  
4 the nonresident is a foreign corporation that has been licensed pursuant to under ch.  
5 180, shall be deemed all of the following:

6           1. Considered an irrevocable appointment by ~~such person~~ the nonresident,  
7 binding upon ~~that person, that person's executor, administrator or~~ the nonresident  
8 or the nonresident's personal representative, of the department of financial  
9 institutions to be ~~that person's~~ the nonresident's lawful attorney upon whom may be  
10 served any notice, order, pleading or process (including ~~without limitation by~~  
11 ~~enumeration~~ any notice of assessment, denial of application for abatement, or denial  
12 of claim for refund), by any administrative agency or in any proceeding by or before  
13 any administrative agency, or in any proceeding or action in any court, to enforce or  
14 effect full compliance with or involving the provisions of this chapter. The  
15 ~~transaction of business, the performance of personal services or derivation of income~~  
16 ~~from such property in this state shall be~~

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

22           SECTION 26. 71.80 (12) (b) of the statutes is renumbered 71.80 (12) (b) (intro.)  
23 and amended to read:

1           71.80 (12) (b) (intro.) The transaction of business in this state or the derivation  
 2 of income ~~which~~ that has a situs in this state under the provisions of this chapter by  
 3 any person while a resident of this state shall be ~~deemed~~ all of the following:

4           1. Considered an irrevocable appointment by ~~such~~ that person, binding upon  
 5 that person, ~~or that person's executor, administrator or personal representative,~~  
 6 effective upon ~~such~~ that person becoming a nonresident of this state, of the  
 7 department of financial institutions to be that person's true and lawful attorney upon  
 8 whom may be served any notice, order, pleading<sup>2</sup> ~~or~~ <sup>1</sup> process ~~(~~ including without  
 9 ~~limitation by enumeration~~ any notice of assessment, denial of application for  
 10 abatement, ~~or denial of claim for refund~~, by any administrative agency or in any  
 11 proceeding by or before an administrative agency, or in any proceeding or action in  
 12 any court, to enforce or effect full compliance with or involving the provisions of this  
 13 chapter. ~~And the transaction of such business or the derivation of such income shall~~  
 14 be a

15           2. A signification of that person's agreement that any such notice, order,  
 16 pleading <sup>3</sup> or process ~~which~~ described in subd. 1. that is so served shall be of the same  
 17 legal force and validity as if served on that person personally, or upon that person's  
 18 ~~executor, administrator or personal representative.~~

19           **SECTION 27.** 71.80 (12) (c) of the statutes is <sup>renumbered</sup> amended to read:

20           71.80 (12) (c) <sup>71.80</sup> ~~Service~~ <sup>71.80 (12) (c) 1. and</sup> under par. (a) 1. or (b) 1. shall be made by serving a copy  
 21 of the notice, order, pleading or process upon the department of financial institutions  
 22 or by filing ~~such a copy of the notice, order, pleading or process~~ <sup>with the department</sup>  
 23 of financial institutions, ~~and such service shall be sufficient service.~~ <sup>Service</sup> upon  
 24 ~~such~~ <sup>a</sup> the person, or that person's executor, administrator or personal representative, ~~under~~  
 25 ~~shall be sufficient if~~ notice of such ~~the~~ service and a copy of the notice, order, pleading,

all of the following conditions are met: # a, within 10 days of completion of service,



1 or process are <sup>e</sup>sent within 10 days thereafter <sup>plain</sup>sent by mail by the state department,  
 2 officer or agency making such the service to such the person, or that person's  
 3 executor, <sup>3</sup>administrator or personal representative, at that person's last-known  
 4 address, <sup>Pp. 1, 2</sup>and that an affidavit of compliance herewith <sup>with</sup>~~under~~ <sup>paragraph</sup>this section is filed with  
 5 the department of financial institutions. <sup>P 3</sup>The department of financial institutions  
 6 shall keep a record of all such notices, orders, pleadings, processes and affidavits and  
 7 shall ~~note~~ served upon or filed with it under this section, noting in such the record  
 8 the day and hour of service ~~upon the department or filing.~~

\* NOTE: In SECTIONS 25, 26, and (27), the text is reordered to accommodate the subdivision of this provision and to improve sentence structure.

9 SECTION 28. 71.91 (6) (g) 2. of the statutes is amended to read:

10 71.91 (6) (g) 2. The owners of any real property sold under par. (f), their heirs,  
 11 ~~executors or administrators~~ or personal representatives or any person having an  
 12 interest in or a lien on that property or any person <sup>or</sup>in behalf of a person specified in  
 13 this subdivision may redeem the property sold or any part of that property within 120  
 14 days after the sale by payment to the purchaser or, if the purchaser cannot be found  
 15 in the county in which the property to be redeemed is situated, then to the  
 16 department, for the use of the purchaser or the purchaser's heirs or assigns, the  
 17 amount paid by the purchaser and interest at the rate of 18% per year.

18 SECTION 29. 77.51 (10) of the statutes is amended to read:

19 77.51 (10) "Person" includes any natural person, firm, partnership, limited  
 20 liability company, joint venture, joint stock company, association, public or private  
 21 corporation, the United States, the state ~~of Wisconsin~~, including any unit or division ~~of~~  
 22 ~~thereof~~ <sup>not the state</sup>, any county, city, village, town, municipal utility, municipal power district or  
 23 other governmental unit, cooperative, estate, trust, receiver, executor, administrator

1 personal representative, any other fiduciary, and any representative appointed by  
2 order of any court or otherwise acting on behalf of others. "Person" also includes the  
3 owner of a single-owner entity that is disregarded as a separate entity under ch. 71.

4 **SECTION 30.** 100.18<sup>X</sup> (3m) of the statutes is amended to read:

5 100.18 (3m) It is deceptive advertising to represent the retailing of  
6 merchandise to be a selling-out or closing-out sale if the merchandise is not of a  
7 bankrupt, insolvent, assignee, liquidator, adjuster, ~~administrator~~, trustee, ~~executor~~  
8 personal representative, receiver, wholesaler, jobber, manufacturer, or of any  
9 business that is in liquidation, that is closing out, closing<sup>2</sup> or disposing<sup>2</sup> of its stock,  
10 that has lost its lease or has been or is being forced out of business<sup>2</sup> or that is disposing<sup>2</sup>  
11 of stock on hand because of damage by fire, water<sup>2</sup> or smoke. This subsection does not  
12 apply to any "closing-out sale" of seasonable merchandise or any merchandise  
13 having a designated model year if the person conducting the sale is continuing in  
14 business.

15 **SECTION 31.** 100.20<sup>X</sup> (1m) of the statutes is amended to read:

16 100.20 (1m) It is an unfair trade method of competition in business to represent  
17 the retailing of merchandise to be a selling-out or closing-out sale if the merchandise  
18 is not of a bankrupt, insolvent, assignee, liquidator, adjuster, ~~administrator~~, trustee,  
19 ~~executor~~ personal representative, receiver, wholesaler, jobber, manufacturer, or of  
20 any business that is in liquidation, that is closing out, closing<sup>2</sup> or disposing<sup>2</sup> of its stock,  
21 that has lost its lease or has been or is being forced out of business<sup>2</sup> or that is disposing<sup>2</sup>  
22 of stock on hand because of damage by fire, water<sup>2</sup> or smoke. This subsection does not  
23 apply to any "closing-out sale" of seasonable merchandise or any merchandise  
24 having a designated model year if the person conducting the sale is continuing in  
25 business.

1 SECTION 32. 109.03 (3) of the statutes is renumbered 109.03 (3) (a) and amended  
2 to read:

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

9 (b) An employer may, not less than 5 days after the death of an employe<sup>e</sup> and  
10 before the filing of a petition or application for letters testamentary or of  
11 administration ~~in the matter~~ of the decedent's estate, make payments of the wage  
12 due the deceased employe<sup>e</sup> to the spouse, children, parent, <sup>plain</sup> brother or sister or sibling  
13 of the decedent, giving preference in <sup>plain</sup> the foregoing ~~that~~ <sup>listed</sup> order; or, if no such

14 (c) If none of the relatives survive listed in par. (b) survives, the employer may  
15 apply such the payment of the wage or so much thereof of the wage as may be  
16 necessary to paying creditors of the decedent in the order of preference prescribed  
17 in s. 859.25 for satisfaction of debts by ~~executors and administrators~~ personal  
18 representatives.

19 (d) The making of payment in such the manner described in this subsection  
20 shall ~~be a~~ discharge and release <sup>plain</sup> of the employer to the amount of such the payment.

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.~~

21 SECTION 33. 112.01 (1) (b) of the statutes is amended to read:

I don't  
like it that  
at all.  
Is this  
clear?

1           112.01 (1) (b) “Fiduciary” includes a trustee under any trust, expressed,  
2 implied, resulting or constructive, ~~executor, administrator~~ personal representative,  
3 guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the  
4 benefit of creditors, prime contractor, or subcontractor who is a trustee under ch. 779,  
5 partner, agent, officer of a corporation, public or private, public officer, or any other  
6 person acting in a fiduciary capacity for any person, trust, or estate.

7           **SECTION 34.** 112.01<sup>x</sup>(11) of the statutes is amended to read:

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

21           **SECTION 35.** 112.02<sup>x</sup>(1) of the statutes is renumbered 112.02 (2m) and amended  
22 to read:

23           112.02 (2m) Whenever an ~~executor, administrator, guardian or testamentary~~  
24 ~~trustee~~ a fiduciary is engaged in war service as defined in this section, ~~such, the~~  
25 ~~fiduciary, or any other person interested in the estate or fund~~ for which the fiduciary

1 is acting, may present a petition to the court having jurisdiction praying for a decree  
2 suspending the powers of ~~such~~ the fiduciary while the fiduciary is engaged in war  
3 service and until the further order of the court, ~~and if~~. If the suspension of ~~such~~ the  
4 fiduciary will leave no person acting as ~~executor, administrator, guardian or~~  
5 ~~testamentary trustee~~ fiduciary, or will leave the sole beneficiary of a trust as the only  
6 acting trustee ~~thereof~~, <sup>of the trust</sup> the petition must pray for the appointment of a successor  
7 unless a successor has been named in the will and ~~such~~ the named successor is not  
8 engaged in war service or is not for other reasons unable or unwilling to act as a  
9 fiduciary.

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

10 **SECTION 36.** 112.02 <sup>X</sup>(1m) of the statutes is created to read:

11 112.02 (1m) In this section, “fiduciary” means a personal representative,  
12 guardian, or testamentary trustee.

13 **SECTION 37.** 112.02 <sup>X</sup>(2) (intro.) of the statutes is amended to read:

14 112.02 (2) (intro.) ~~For the purposes of~~ In this section a fiduciary shall be deemed  
15 considered to be engaged in war service in any of the following cases:

16 **SECTION 38.** 112.02 <sup>X</sup>(4) of the statutes is amended to read:

17 112.02 (4) Upon the filing of the petition and the proof of service of the notice  
18 prescribed, the court may, notwithstanding any other provision of law, suspend the  
19 a fiduciary engaged in war service from the exercise of all of the fiduciary’s powers  
20 and duties while ~~such~~ the fiduciary remains engaged in war service and until the  
21 further order of the court. The decree may further provide that the remaining  
22 ~~executor, administrator, guardian or testamentary trustee~~ fiduciary or, if there be is

1 none, the successor named in the will or appointed by the court is possessed of and  
2 may exercise all of the powers and duties incidental to the person's office as fiduciary.

3 SECTION 39. 112.02 (5) of the statutes is renumbered 112.02 (5) (a) and amended  
4 to read:

5 112.02 (5) (a) When the suspended fiduciary ceases to be engaged in war service  
6 the suspended fiduciary may be reinstated as ~~executor, administrator, guardian or~~  
7 ~~testamentary trustee~~ if any of the duties of such the office remain unexecuted, upon

8 application to the court and upon such notice as the presiding judge thereof <sup>of the court</sup> may  
9 direct. <sup>Upon reinstatement of the</sup> If ~~the~~ suspended fiduciary is reinstated the court shall ~~thereupon~~ remove the  
10 suspended fiduciary's successor and revoke the successor fiduciary's letters and  
11 make ~~such~~ <sup>any</sup> other order or decree as <sup>that</sup> justice requires, but such ~~order~~ <sup>removal</sup>

12 (b) ~~The~~ <sup>Removal</sup> and revocation of letters under par. (a) shall not bar the  
13 successor from ~~subsequently~~ <sup>again</sup> qualifying as a fiduciary in accordance with the  
14 provisions of the will or if for any reason it thereafter becomes ~~necessary that~~ <sup>the appointment of</sup> ~~as~~ <sup>successor</sup>  
15 fiduciary ~~be appointed~~ <sup>is required subsequently</sup> ~~or~~ <sup>plain</sup>

16 SECTION 40. 113.06 of the statutes is amended to read:

17 113.06 **Death of obligor, estate liable.** On the death of a joint obligor in  
18 contract, the joint obligor's ~~executor or administrator~~ (personal representative or  
19 estate) shall be ~~bound as such~~ jointly and severally bound with the surviving obligor  
20 or obligors.

21 SECTION 41. 137.01 (7) of the statutes is amended to read:

22 137.01 (7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold  
23 office, the notary public, or in case of the notary public's death, the notary public's  
24 ~~executor or administrator~~ personal representative, shall deposit the notary public's  
25 official records and papers in the office of the clerk of the circuit court of the county

1 of the notary public's residence. If any such notary or any ~~executor or administrator~~  
 2 personal representative, after such records and papers come to his or her hands,  
 3 neglects for 3 months to deposit them, he or she shall forfeit not less than \$50 nor  
 4 more than \$500. If any person knowingly destroys, defaces, or conceals any records  
 5 or papers of any notary public, the person shall forfeit not less than \$50 nor more  
 6 than \$500, and shall be liable to the party injured for all damages thereby sustained.  
 7 The clerks of the circuit courts shall receive and safely keep all such papers and  
 8 records in their office.

9 SECTION 42. 179.65 of the statutes is amended to read:

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

19 SECTION 43. 214.01 (1) (jg) of the statutes is amended to read:

20 214.01 (1) (jg) "Fiduciary" means a trustee, ~~executor, administrator~~ personal  
 21 representative, guardian, agent, receiver, trustee in bankruptcy, assignee for  
 22 creditors, or any holder of a similar position of trust.

23 SECTION 44. 215.14 (6) of the statutes is amended to read:

24 215.14 (6) SAVINGS ACCOUNTS ELIGIBLE INVESTMENT FOR TRUST FUNDS. An  
 25 ~~administrator, executor,~~ A personal representative, guardian, trustee, or other

Page 7  
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23-19

1 fiduciary authorized to invest trust funds, may acquire, own, or hold savings accounts  
 2 in an association, within the limits of standards contained in s. 881.01, and shall  
 3 have the same rights and be subject to the same obligations and limitations as other  
 4 savings account owners, except the right to be an officer or director. Savings accounts  
 5 owned or held by ~~an administrator, executor, a~~ personal representative, guardian,  
 6 trustee, or other fiduciary shall specifically name the trust represented.

7 **SECTION 45.** 215.14<sup>4</sup>(9) of the statutes is amended to read:

8 215.14 (9) SAVINGS ACCOUNTS OF DECEASED OR INCOMPETENT PERSONS. The  
 9 savings account of a ~~deceased individual~~ decedent may be held and controlled by the  
 10 ~~administrator, executor,~~ personal representative or trustee of the estate, or after 60  
 11 days after death, the legal representative may be paid the withdrawal value of such  
 12 the savings accounts account. If the savings account is pledged to the association for  
 13 a loan, such the loan shall first be fully repaid.

14 **SECTION 46.** 218.01<sup>or (23)(b)</sup>(1)(~~intro~~) of the statutes is amended to read:

15 218.01<sup>or (23)(b)</sup>(~~1~~)<sup>(1)</sup> 1. Receivers, trustees, ~~administrators, executors~~ personal  
 16 representatives, guardians, or other persons appointed by or acting under the  
 17 judgment or order of any court ~~or~~ <sup>or</sup> ~~in~~ <sup>plaintiff's</sup> ~~period~~

18 **SECTION 47.** 218.10<sup>(19)</sup>(~~1~~)<sup>(1)</sup>(a) of the statutes is amended to read:

19 218.10<sup>(19)</sup>(~~1~~)<sup>(1)</sup>(a) A receiver, trustee, ~~administrator, executor~~ personal  
 20 representative, guardian, or other person appointed by or acting under the judgment  
 21 or order of any court.

22 **SECTION 48.** 219.01<sup>X</sup>(intro.) of the statutes is amended to read:

23 **219.01 Loans, advances of credit, investment in securities, insured or**  
 24 **guaranteed by specified agencies.** (intro.) Credit unions, savings and loan  
 25 associations, investment associations, state banks, savings banks, trust company



1 banks, land mortgage associations, ~~executors~~ personal representatives, guardians,  
2 trustees, ~~administrators~~ <sup>probators</sup> and other fiduciaries, except where it is contrary to the will  
3 or other instrument of trust, the state of ~~Wisconsin~~ and its agencies and its  
4 municipalities, districts, and other subdivisions, and all institutions and agencies  
5 thereof, and all other persons, associations, and corporations, subject to the laws of  
6 this state, are authorized:

7 **SECTION 49.** 219.04 (1) (a) 2. of the statutes is amended to read:

8 219.04 (1) (a) 2. All ~~executors, administrators~~ personal representatives,  
9 guardians, trustees, and other fiduciaries.

10 **SECTION 50.** 219.06 (1) of the statutes is renumbered 219.06 (1) (a) (intro.) and  
11 amended to read:

12 219.06 (1) (a) (intro.) ~~The state and all public officers, municipal corporations,~~  
13 ~~political subdivisions, and public bodies, all banks, bankers, savings and loan~~  
14 ~~associations, credit unions, trust companies, savings banks and institutions,~~  
15 ~~investment companies and other persons carrying on a banking business, and all~~  
16 ~~executors, administrators, guardians, trustees and other fiduciaries, Any of the~~

17 following may legally invest any sinking funds, moneys, or other funds belonging to  
18 them or within their control in any bonds or other obligations issued by a

19 metropolitan sewerage district under ss. ~~66.88 to 66.91~~ <sup>200.21 to 200.65</sup> or by a housing authority  
20 created by or pursuant to the housing authorities law of this state or issued by any  
21 public housing authority or agency in the United States, when such if the bonds or  
22 other obligations are secured by a pledge of annual contributions to be paid by the  
23 United States U.S. government or any agency thereof of the U.S. government, by the

24 city, village, town, or county in which operates the housing authority issuing such the

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1 bonds or other obligations operates or by the district under s. ~~604~~ or are guaranteed  
2 by the state. ~~Such:~~

3 (b) The bonds and other obligations described in par. (a) shall be authorized  
4 security for 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. See also the next section of this bill.

5 SECTION 51. 219.06 (1) (a) 1. to 3. of the statutes are created to read:

6 219.06 (1) (a) 1. The state and all public officers, municipal corporations,  
7 political subdivisions and public bodies.

8 2. All banks, bankers, savings and loan associations, credit unions, trust  
9 companies, savings banks and institutions, investment companies, and other persons  
10 carrying on a banking business.

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

NOTE: See the previous section of this bill.

12 SECTION 52. 219.07 of the statutes is renumbered 219.07 (1) (intro.) and  
13 amended to read:

14 219.07 (1) (intro.) ~~All banks, trust companies, bankers, savings banks and~~  
15 ~~institutions, building and loan associations, savings and loan associations, credit~~  
16 ~~unions, investment companies, and other persons carrying on a banking business,~~  
17 ~~all executors, administrators, guardians, trustees and other fiduciaries, and the~~  
18 ~~state and all public officers, municipal corporations, political subdivisions, and~~  
19 ~~public bodies, except those under ch. 604, Any of the following may legally invest any~~  
20 ~~sinking funds, moneys, or other funds belonging to them or within their control in~~  
21 ~~any bonds or other obligations issued by a redevelopment authority created by s.~~  
22 ~~66.431, or~~ <sup>66.1333</sup> ~~issued by any redevelopment authority or urban renewal agency in the~~

1 United States, ~~when such~~ if the bonds or other obligations are secured by an  
 2 agreement between the issuer and the federal government in which the issuer agrees  
 3 to borrow from the federal government and the federal government agrees to lend to  
 4 the issuer, prior to the maturity of ~~such the~~ bonds or other obligations, moneys in an  
 5 amount ~~which~~ that, together with any other moneys irrevocably committed to the  
 6 payment of principal and interest on ~~such the~~ bonds or other obligations), will suffice  
 7 to pay the principal of ~~such the~~ bonds or other obligations with interest to maturity  
 8 ~~thereon, which~~ <sup>plain</sup> that moneys under the terms of said agreement are required to be  
 9 used for the purpose of paying the principal of and the interest on ~~such the~~ bonds or  
 10 other obligations at their maturity. ~~Such:~~

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

13 (3) It is the purpose of this section to authorize any persons, political  
 14 subdivisions, and officers, public or private, to use any funds owned or controlled by  
 15 them for the purchase of any ~~such~~ bonds or other obligations described in sub. (1).  
 16 Nothing contained in this section with regard to legal investments shall be construed  
 17 as relieving any person of any duty of exercising reasonable care in selecting  
 18 securities. This section shall apply notwithstanding any restrictions on investments  
 19 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.

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 [Handwritten scribbles]

20 **SECTION 53.** 219.07 (1) (a) to (c) of the statutes are created to read:

21 219.07 (1) (a) The state and all public officers, municipal corporations, political  
 22 subdivisions, and public bodies, except those under ch. 604.

1 (b) ~~All banks, bankers, building and loan associations, savings and loan~~  
 2 ~~associations, credit unions, trust companies, savings banks and institutions,~~  
 3 ~~investment companies, and other persons carrying on a banking business.~~

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

NOTE: See the previous section of this bill.

5 SECTION 54. 220.17 (2) of the statutes is renumbered 220.17 (2) (intro.) and  
 6 amended to read:

7 220.17 (2) (intro.) ~~And such~~ All of the following apply to a consolidated bank  
 8 or trust company described in sub. (1), if the consolidated bank or trust company is  
 9 authorized to perform fiduciary services, <sup>at</sup> as of the time of the taking effect of such  
 10 the consolidation shall: *Stat (plain)*

11 (a) The consolidated bank or trust company shall succeed to all rights,  
 12 obligations, relations, and trusts, and the duties and liabilities connected therewith,  
 13 held by any bank or trust company party to such the consolidation, and without  
 14 further appointment shall act as trustee, executor, administrator or personal  
 15 representative or in any other fiduciary capacity in which any such consolidating  
 16 bank or trust company party to the consolidation was acting at the time of such the  
 17 consolidation, and ~~nothing to the contrary~~.

18 (b) The consolidated bank or trust company shall *plain* execute and perform each and  
 19 every such trust or relation described in par. (a) in the same manner as if the  
 20 consolidated bank or trust company itself had assumed the trust or relation,  
 21 including the obligations and liabilities connected therewith. And such *with the performance of fiduciary services.*

22 (c) The consolidated bank or trust company shall be entitled to be appointed  
 23 or to act as trustee or executor personal representative or other fiduciary to the same  
 24 extent and with the same effect as would any bank or trust company party to such

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1 ~~the~~ consolidation if prior ~~therete~~ to the consolidation any bank or trust company  
2 party to such the consolidation has been designated as trustee or any other fiduciary  
3 in any trust deed or other writing, or has been ~~nominated~~ named to act as ~~executer~~  
4 personal representative in any will.

5 SECTION 55. 221.0316 (1) of the statutes is amended to read:

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

16 SECTION 56. 221.0324 (4) of the statutes is amended to read:

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

(8) (6) (a).

22 SECTION 57. 223.03 (intro.) of the statutes is amended to read:

23 223.03 Corporate powers. (intro.) ~~Any such corporation~~ A trust company  
24 bank shall have the following powers:

8 page of insert

15  
21

1           **SECTION 58.** 223.03 (6) of the statutes <sup>is</sup> is renumbered 223.03 (6) (intro.) and  
2 amended to read:

3           223.03 (6) (intro.) To act as trustee, ~~executor, administrator~~ personal  
4 representative, registrar of stocks and bonds, custodian, agent, guardian of estates,  
5 guardian of any person subject to guardianship, assignee, receiver, and in any other  
6 fiduciary capacity authorized by the division, subject to all of the following  
7 conditions:

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

8           **SECTION 59.** 223.03 (6) (c) of the statutes is created to read:

9           223.03 (6) (c) In all cases in which application is made to a court for the  
10 appointment of a person to act in a capacity described in this subsection, it shall be  
11 lawful to appoint a trust company bank, with its consent, to hold the office or offices.

12           **SECTION 60.** 223.03 (7) of the statutes is amended to read:

13           223.03 (7) ~~And any such corporation may~~ To act generally as agent or attorney  
14 for the transaction of business, the management of estates, the collection of rents,  
15 interests, dividends, mortgages, bonds, bills, notes, and other securities, or moneys,  
16 and also as agent for the purpose of issuing, negotiating, registering, transferring,  
17 or countersigning certificates of stock, bonds, or other obligations of any corporation,  
18 association, or municipality, and <sup>manage</sup> any sinking fund or debt service fund therefor, on  
19 such terms as may be agreed upon; and ~~may also accept and execute the offices of~~  
20 ~~executor, administrator, trustee, receiver, assignee, or guardian of any minor or~~  
21 ~~insane or incompetent person or any person subject to guardianship; and in all cases~~  
22 ~~in which application shall be made to any court for the appointment of any person~~

1 ~~in any such capacity, it shall be lawful to appoint such corporation, with its consent,~~  
2 ~~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, <sup>except for the authority</sup>  
~~to serve as guardian of a person which is moved to sub. (6) by this bill.~~

3 **SECTION 61.** 223.03<sup>x</sup> (8) of the statutes is renumbered 223.03 (6) (a) and amended  
4 to read:

5 223.03 (6) (a) ~~In case of such appointment, or in case such corporation shall be~~  
6 ~~named as an executor in any will or as assignee in any assignment for the benefit of~~  
7 ~~creditors, it~~ A trust company bank appointed by a court to act in a capacity described  
8 in this subsection shall not be required to make and file any oath or give any bond  
9 or security, except in the discretion of the court making such the appointment, or  
10 having jurisdiction of ~~such will or assignment~~ over the matter.

11 **SECTION 62.** 223.03<sup>x</sup> (9) of the statutes is renumbered 223.03 (6) (b) and amended  
12 to read:

13 223.03 (6) (b) The accounts of ~~said corporation as such trustee, receiver,~~  
14 ~~assignee, executor, administrator, or guardian~~ a trust company bank appointed by  
15 a court to act in a capacity described in this subsection shall be regularly settled and  
16 adjusted by the proper officers or tribunals, and all ~~proper, legal, usual, and~~  
17 customary charges, costs, and expenses shall be allowed to ~~such corporation~~ the trust  
18 company bank for the care and management of the estate so committed to it.

19 **SECTION 63.** 223.03<sup>x</sup> (13) of the statutes is amended to read:

20 223.03 (13) ~~It shall be lawful for any such corporation to~~ To lease, purchase,  
21 hold, and convey such land as may be necessary to carry on its business, and execute  
22 any trust committed to it, as well as such real or personal estate as ~~it may deem~~ the

1 trust company bank may consider necessary to acquire in the enforcement or  
2 settlement of any claims or demands arising out of its business transactions, and to.

3 (13m) To execute and issue in the transaction of its business all necessary  
4 receipts, certificates and contracts, ~~which that~~ shall be signed by ~~such the~~ person or  
5 persons ~~as may be~~ designated by its bylaws.

6 SECTION 64. 223.05 (1) of the statutes is renumbered 223.05 (1) (a) and  
7 amended to read:

8 223.05 (1) (a) ~~Every such corporation~~ trust company bank shall keep its trust  
9 accounts in books separate from its own general books of account. All funds and  
10 property held by ~~it a~~ trust company bank in a trust capacity shall, at all times, be kept  
11 separate from the funds and property of the ~~corporation~~ trust company bank, and all  
12 deposits by it of ~~such funds~~ held in a trust capacity in any banking institution shall  
13 be deposited as trust funds to its credit as trustee ~~and not otherwise~~. Trust funds may  
14 be deposited with funds belonging to other trusts in one account in any banking  
15 institution to the credit of ~~such corporation~~ the trust company bank as trustee.

lps: move to line 19, after stricken text

16 Plain space (b) ~~Every security in which trust funds or property are invested shall at once,~~  
17 immediately upon the receipt thereof, ~~be transferred to it, as trustee, executor, administrator~~  
18 ~~personal representative, guardian, receiver, assignee or other trustee as the case~~  
19 ~~may be for each particular trust) or fund by name and immediately~~ entered in the  
20 proper books records ~~as~~ belonging to the particular trust whose funds have been invested  
21 in the security therein. Any change in such be the investment of trust funds or property shall be fully  
22 specified in ~~and under~~ the account of the particular trust to which it belongs, so that  
23 all trust funds and property shall be readily identified at any time by any person.

24 SECTION 65. 223.05 (2) of the statutes is renumbered 223.05 (2) (a) and amended  
25 to read:



1 223.05 (2) (a) Any ~~In this subsection,~~ "bank" means a trust company bank, or  
2 any a state bank or national banking association authorized to exercise trust powers  
3 in this state.

4 ~~(b) Any bank acting alone as executor, administrator, personal~~  
5 ~~representative, guardian, testamentary trustee or trustee of any inter vivos trust,~~  
6 ~~unless prohibited by the terms of the trust instrument, whether alone or may have~~  
7 ~~any of the stock or other securities that are held in the fiduciary capacity, registered~~  
8 ~~and held in the name of a nominee of the bank, except that any~~

9 ~~2. Any bank acting jointly with an individual or individuals as personal~~  
10 ~~representative, guardian, testamentary trustee or trustee of any inter vivos trust,~~  
11 ~~unless prohibited by the terms of the trust instrument, may, with the consent of the~~  
12 ~~individual fiduciary or fiduciaries, if any, who are is hereby authorized to give such~~  
13 ~~consent) cause, have any of the stock or other securities that are held in any such the~~  
14 ~~fiduciary capacity to be registered and held in the name of a nominee or nominees~~  
15 ~~of such trust company bank or the bank exercising trust powers; and provided~~  
16 ~~further, that any bank, individual or individuals acting as executor, administrator,~~

17 ~~any individual acting as personal representative, guardian, testamentary~~  
18 ~~trustee or trustee of any inter vivos trust, unless prohibited by the terms of the trust~~  
19 ~~instrument, is and are authorized respectively to may request any bank or trust~~  
20 ~~company bank incorporated under the laws of the state of Wisconsin or any national~~  
21 ~~bank located in this state to cause have any of the stock or other securities that are~~  
22 ~~deposited with such the bank or trust company bank by such the individual or~~  
23 ~~individuals as fiduciary or fiduciaries to be registered and held in the name of a~~  
24 ~~nominee or nominees of such the bank or trust company bank. Such. The bank or~~  
25 ~~trust company bank shall not redeliver such the stock or other securities to such the~~

(c) Any individual or individuals acting as executor, administrator,

replace with insert # 2

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1 individual as fiduciary or fiduciaries causing any stock or other securities to be so  
 2 registered in the name of the nominee of such bank or trust company bank without  
 3 first causing such having the stock or other securities to be registered in the name  
 4 of such the individual as fiduciary or fiduciaries as such. But any. Any sale or  
 5 transfer of such ~~the~~ stock or other securities made by such ~~the~~ bank or trust company  
 6 bank at the direction of such ~~the~~ individual <sup>an</sup> fiduciary or fiduciaries shall not be  
 7 construed to be redelivery, and any such the bank or trust company bank or any and  
 8 the nominee or nominees in whose name such the securities shall be ~~are to be~~  
 9 registered shall be deemed considered to have fully discharged the ~~their~~ <sup>responsibilities</sup>  
 10 ~~responsibilities~~ of that bank, trust company bank, nominee or nominees if any such  
 11 the securities are sold or transferred in accordance with the direction of the  
 12 individual ~~as~~ fiduciary or fiduciaries making such deposit, and the proceeds of such  
 13 the sale or transfer are accounted for and delivered to such the individual ~~as~~  
 14 fiduciary or fiduciaries. Such. The bank or trust company bank may make any  
 15 disposition of such ~~the~~ stock or other securities authorized or directed in an order or  
 16 decree of any court having jurisdiction.

17 (d) Any such ~~bank or trust company~~ bank shall be absolutely liable for any loss  
 18 occasioned by the acts of any <sup>the bank's</sup> nominee of such bank or trust company ~~the~~ bank with  
 19 respect to such ~~the~~ stock or other securities so registered in the name of the nominee <sup>under this subsection</sup>  
 20 The bank's records of such bank or trust company bank shall at all times show the  
 21 ownership of any such stock or other securities. Such registered and held in the name  
 22 of a nominee under this <sup>sub</sup> section, and <sup>those</sup> the stock or other securities shall at all times  
 23 be kept separate and apart from the <sup>bank's</sup> assets of such bank or trust company ~~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.

1           **SECTION 66.** 223.12<sup>x</sup> (1) (intro.) of the statutes is amended to read:

2           223.12 (1) EXCEPTION FROM QUALIFICATION TO DO BUSINESS. (intro.) ~~Any~~ A foreign  
3 corporation may act in this state as trustee, ~~executor, administrator~~ personal  
4 representative, guardian, or in any other like fiduciary capacity, whether the  
5 appointment is by will, deed, court order<sub>3</sub> or otherwise, without complying with any  
6 laws of this state relating to the qualification of corporations organized under the  
7 laws of this state to conduct a trust business or laws relating to the qualification of  
8 foreign corporations other than this section, only if the foreign corporation meets all  
9 of the following requirements:

10           **SECTION 67.** 234.26<sup>x</sup> of the statutes is renumbered 234.26 (1) (intro.) and  
11 amended to read:

12           234.26 (1) (intro.) ~~The state, the investment board, all public officers,~~  
13 ~~municipal corporations, political subdivisions and public bodies, all banks and~~  
14 ~~bankers, savings and loan associations, credit unions, trust companies, savings~~  
15 ~~banks, investment companies, insurance companies, insurance associations and~~  
16 ~~other persons carrying on a banking or insurance business, and all executors,~~  
17 ~~administrators, guardians, trustees and other fiduciaries, Any of the following~~  
18 persons or entities may legally invest any sinking funds, moneys<sub>3</sub> or other funds  
19 belonging to them or within their control in any notes or bonds issued by the  
20 authority. ~~Such:~~

21           (2) The notes and bonds described in sub. (1) shall be authorized security for  
22 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.

INSECT  
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inserts

1 SECTION 68. 234.26 (1) (a) to (c) of the statutes are created to read:

2 234.26 (1) (a) The state, the investment board, all public officers, municipal  
3 corporations, political subdivisions, and public bodies.

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

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

NOTE: See the previous section of this bill.

8 SECTION 69. 340.01 (11) (a) of the statutes is amended to read:

9 340.01 (11) (a) A receiver, trustee, ~~administrator, executor~~ personal  
10 representative, guardian, or other person appointed by or acting under the judgment  
11 or order of any court; or

12 SECTION 70. 342.17 (4) (a) 1. of the statutes is amended to read:

13 342.17 (4) (a) 1. Evidence satisfactory to the department of the issuance of the  
14 ~~letters of administration, letters testamentary or other letters authorizing the~~  
15 administration of an estate, letters of guardianship, or letters of trust, or of the  
16 appointment of the trustee in bankruptcy; *plain*

17 SECTION 71. 342.17 (4) (a) 2. of the statutes is amended to read:

18 342.17 (4) (a) 2. The title executed by ~~such administrator, executor~~ the personal  
19 representative, guardian, or trustee; and

20 SECTION 72. 344.52 (2) of the statutes is renumbered 344.52 (2) (a) and amended  
21 to read:

22 344.52 (2) (a) If a motor vehicle rented for compensation outside this state is  
23 operated in this state, the lessor of such the vehicle is deemed considered to have  
24 irrevocably appointed the secretary as the agent or attorney upon whom legal

INSERT  
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of inserts

1 process may be served in any action or proceeding against such the lessor or the  
 2 lessor's ~~executor, administrator,~~ personal representative, successors, or assigns,  
 3 growing out of the operation of such the rented motor vehicle in this state. ~~Such,~~  
 4 which appointment is binding upon the lessor's ~~executor, administrator,~~ personal  
 5 representative, successors or assigns. The operation of such the rented motor vehicle  
 6 in this state is a signification of the lessor's agreement that such legal process or  
 7 notice may be served upon the lessor or the lessor's ~~executor, administrator,~~ personal  
 8 representative, successors or assigns and that process or notice so served has the  
 9 same legal force as if personally served upon them in this state.

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

13 SECTION 73. 345.09 (1) of the statutes is amended to read:

14 345.09 (1) The use and operation of a motor vehicle over the highways of this  
 15 state by a nonresident is ~~deemed~~ considered an irrevocable appointment by such the  
 16 nonresident of the secretary to be the true and lawful attorney upon whom may be  
 17 served all legal ~~processes~~ legal process in any action or proceeding against the  
 18 nonresident or the nonresident's ~~executor, administrator or~~ personal representative,  
 19 growing out of the use or operation of the motor vehicle in this state and resulting  
 20 in damage or loss to person or property, whether the damage or loss occurs on a  
 21 highway or on abutting public or private property. ~~Such~~ The appointment of the  
 22 secretary as attorney for service of process is binding upon the nonresident's  
 23 ~~executor, administrator or~~ personal representative. ~~Such~~ The use or operation of a  
 24 motor vehicle over the highways of this state by such the nonresident is a  
 25 signification of the nonresident's agreement that any such legal process or notice

Can this  
be  
deleted?

1 against such the nonresident or the nonresident's ~~executor, administrator or~~  
2 personal representative ~~which~~ that is so served shall be of the same legal force and  
3 validity as if served on them personally.

4 SECTION 74. 401.201<sup>x</sup> (12) of the statutes is amended to read:

5 401.201 (12) "Creditor" includes a general creditor, a secured creditor, a lien  
6 creditor, and any representative of creditors, including an assignee for the benefit of  
7 creditors, a trustee in bankruptcy, a receiver in equity, and ~~an executor or~~  
8 administrator a personal representative of an insolvent debtor's or assignor's estate.

9 SECTION 75. 401.201<sup>x</sup> (35) of the statutes is amended to read:

10 401.201 (35) "Representative" includes an agent, an officer of a corporation or  
11 association, and a trustee, ~~executor or administrator~~ or personal representative of  
12 an estate, or any other person empowered to act for another.

13 SECTION 76. 406.103<sup>x</sup> (1) (d) of the statutes is amended to read:

14 406.103 (1) (d) Sales by ~~executors, administrators,~~ receivers, personal  
15 representatives, trustees in bankruptcy, or any public officer under judicial process;

16 SECTION 77. 452.01<sup>x</sup> (3) (a) of the statutes is amended to read:

17 452.01 (3) (a) Receivers, trustees, ~~administrators, executors~~ personal  
18 representatives, guardians, or other persons appointed by or acting under the  
19 judgment or order of any court.

20 SECTION 78. 551.02<sup>x</sup> (3) (d) of the statutes is amended to read:

21 551.02 (3) (d) ~~An executor, administrator~~ A personal representative, guardian,  
22 conservator, or pledgee;

23 SECTION 79. 551.65<sup>x</sup> (1) of the statutes is amended to read:

24 551.65 (1) Every applicant for license or registration under this chapter, every  
25 person filing a notice filing under this chapter and every issuer ~~that~~ proposes

plain

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1 to offer a security in this state through any person acting as agent shall file with the  
2 division or, if applying for a license, with the organization designated by the division  
3 under s. 551.32 (1) (a), an irrevocable consent appointing the division to be his or her  
4 attorney to receive service of any lawful process in any noncriminal suit, action, or  
5 proceeding against him or her or a successor, ~~executor or administrator~~ <sup>plaintiff</sup>  
6 personal representative <sup>plaintiff</sup> that arises under this chapter or any rule or order under this  
7 chapter after the consent has been filed, with the same validity as if served  
8 personally on the person filing the consent. The consent shall be in the form the  
9 division by rule prescribes. The consent need not be filed by a person who has filed  
10 a consent in connection with a previous registration or notice filing or license ~~which~~  
11 <sup>plaintiff</sup> that is then in effect. Service may be made by leaving a copy of the process at the  
12 office of the division, but it is not effective unless the plaintiff, who may be the  
13 division in a suit, action, or proceeding instituted by the division, promptly sends  
14 notice of the service and a copy of the process by registered or certified mail to the  
15 defendant or respondent at the person's last address on file with the division, and the  
16 plaintiff's affidavit of compliance with this subsection is filed in the case on or before  
17 the return day of the process, or within such time as the court allows.

18 **SECTION 80.** 551.65 (2) of the statutes is amended to read:

19 551.65 (2) When any person, including any nonresident of this state, engages  
20 in conduct prohibited or made actionable by this chapter or any rule or order under  
21 this chapter, and the person has not filed a consent to service of process under sub.  
22 (1) and personal jurisdiction over the person cannot otherwise be obtained in this  
23 state, that conduct shall be considered equivalent to the person's appointment of the  
24 division to be his or her attorney to receive service of any lawful process in any  
25 noncriminal suit, action, or proceeding against the person or the person's successor,

1 ~~executor or administrator which~~ personal representative that arises out of that  
2 conduct and ~~which that~~ is brought under this chapter or any rule or order under this  
3 chapter, with the same validity as if served on him or her personally. Service may  
4 be made by leaving a copy of the process at the office of the division, but it is not  
5 effective unless the plaintiff, who may be the division in a suit, action, or proceeding  
6 instituted by the division, promptly sends notice of the service and a copy of the  
7 process by registered or certified mail to the defendant or respondent at the person's  
8 last known address or takes other steps ~~which that~~ are reasonably calculated to give  
9 actual notice, and the plaintiff's affidavit of compliance with this subsection is filed  
10 in the case on or before the return day of the process, or within such time as the court  
11 allows.

12 <sup>x</sup>  
**SECTION 81.** 553.27 (10) of the statutes is amended to read:

13 553.27 (10) Every franchisor who files a notification shall file with the division,  
14 in the form that the division by rule prescribes, an irrevocable consent appointing the  
15 division to be the applicant's attorney to receive service of any lawful process in any  
16 civil action against the applicant or the applicant's successor, ~~executor or~~  
17 ~~administrator~~ personal representative that arises under this chapter or any rule or  
18 order under this chapter after the consent has been filed, with the same force and  
19 validity as if served personally on the person filing the consent. A person who has  
20 filed a consent in connection with a previous registration or exemption under this  
21 chapter need not file another. Service may be made by leaving a copy of the process  
22 in the office of the division, but it is not effective unless the plaintiff, who may be the  
23 division in an action instituted by the division, sends notice of the service and a copy  
24 of the process by registered or certified mail to the defendant or respondent at his or  
25 her last address on file with the division, and the plaintiff's affidavit of compliance



1 with this subsection is filed in the case on or before the return day of the process, if  
2 any, or within the time that the court allows.

3 SECTION 82. 553.73<sup>4</sup> of the statutes is amended to read:

4 553.73 Service of process. When any person, including any nonresident of  
5 this state, engages in conduct prohibited or made actionable by this chapter or any  
6 rule or order under this chapter, whether or not the person has filed a consent to  
7 service of process under s. 553.27 (10), and personal jurisdiction over the person  
8 cannot otherwise be obtained in this state, that conduct shall be considered  
9 equivalent to the person's appointment of the division to be the person's attorney to  
10 receive service of any lawful process in any noncriminal suit, action, or proceeding  
11 against the person or the person's successor, ~~executor or administrator~~ which  
12 personal representative that grows out of that conduct and which that is brought  
13 under this law or any rule or order under this chapter, with the same force and  
14 validity as if served on the person personally. Service may be made by leaving a copy  
15 of the process at the office of the division, but it is not effective unless the plaintiff,  
16 who may be the division in a suit, action, or proceeding instituted by the division,  
17 forthwith immediately sends notice of the service and a copy of the process by  
18 registered or certified mail to the defendant or respondent at his or her last-known  
19 address or takes other steps which that are reasonably calculated to give actual  
20 notice, and the plaintiff's affidavit of compliance with this section is filed in the case  
21 on or before the return day of the process, if any, or within ~~such~~<sup>any</sup> further time ~~as~~<sup>that</sup>  
22 court allows.

23 SECTION 83. 601.72<sup>4</sup> (3) of the statutes is amended to read:

24 601.72 (3) OTHERS AFFECTED. The commissioner and department of financial  
25 institutions shall also be attorneys for the ~~executors, administrators or~~ personal

1 representatives, receivers, trustees, or other successors in interest of the persons  
2 specified in sub. (1).

3 SECTION 84. Chapter 777 (title) of the statutes is renumbered Chapter 877  
4 (title) and amended to read:

5 CHAPTER 877  
6 ACTIONS BY AND AGAINST  
7 EXECUTORS, ADMINISTRATORS  
8 PERSONAL REPRESENTATIVES, HEIRS  
9 AND LEGATEES

10 SECTION 85. 777.01 of the statutes is renumbered 877.01 and amended to read:

11 877.01 Tort actions on surviving causes. If the a cause of action survives  
12 under ch. 895, the ~~executors or administrators~~ a personal representative may  
13 maintain an action ~~thereon~~ <sup>on the cause of action</sup> against the wrongdoer, in every case where their in  
14 which the decedent could, if living, <sup>plain</sup> maintain the action and, after the wrongdoer's  
15 death, against the wrongdoer's ~~executors or administrators~~. But personal  
16 representative, except that this section shall not extend to actions for slander or libel.

17 SECTION 86. 777.03 of the statutes is renumbered 877.03 and amended to read:

18 877.03 Executors, etc., Multiple personal representatives to be  
19 considered one. In actions or proceedings against executors or administrators  
20 <sup>more than one</sup> ~~multiple~~ personal representative, <sup>of an estate or all of the personal representatives</sup> they shall all be considered as representing their  
21 testator or intestate, and service <sup>to be</sup> the decedent. Service of the summons on one <sup>personal representative</sup> shall  
22 constitute service on all <sup>although</sup> ~~of them~~ the plaintiff may ~~actually~~ <sup>keep comme</sup> serve each of them.  
23 Judgment shall be rendered as if all had been served and execution may be issued  
24 against the property of the testator or intestate decedent as if all had appeared. But  
25 the plaintiff may ~~actually~~ serve each of them.

NOTE: Text is reordered for more logical placement.

1 SECTION 87. 777.05 of the statutes is renumbered 877.05 and amended to read:

2 877.05 Judgment not to bind realty. The <sup>A decedent's</sup> real estate <sup>g</sup> which ~~that~~ belonged

3 ~~to any deceased person~~ <sup>decendent</sup> shall not be bound or in any way <sup>be</sup> affected by any

4 judgment against the deceased person's executors or administrators ~~decedent's~~

5 ~~personal representative, nor shall it~~ <sup>the decedent's real estate</sup> be liable to be sold by ~~any~~ <sup>any</sup> ~~against the decedent's personal representative.~~

6 virtue of any execution issued upon <sup>such</sup> judgment <sup>except as provided in s. 811.25.</sup>

7 SECTION 88. 777.06 of the statutes is renumbered 877.06 and amended to read:

8 877.06 ~~Executor may prosecute; set-off; judgment~~ Prosecution and

9 defense of actions by personal representatives; setoff of claims against

10 decedent; judgments, how appealed and paid. (1) ~~An executor or~~

11 administrator A personal representative may commence and prosecute an action

12 and may prosecute any action commenced by his or her predecessor or decedent for

13 the recovery of any claim or cause of action ~~which that~~ survived and may have

14 execution on any judgment. In the action the defendant may set off any claim

15 pleadable as a counterclaim ~~which that~~ he or she may have against the decedent,

16 instead of presenting it to the court. If judgment is rendered in favor of the defendant

17 the claim shall be certified to the circuit court, and paid as other claims allowed

18 against the estate.

19 (2) ~~An administrator of effects which were left unadministered by a previous~~

20 ~~administration of the same estate~~ A successor personal representative may bring a

21 writ of error or appeal upon any judgment against the his or her predecessor or the

22 decedent and shall defend any writ of error or appeal brought upon any such

23 judgment, and have the same remedies in the prosecution or defense of any action

1 by or against the predecessor or decedent and to collect and enforce any judgment  
2 as the predecessor or decedent had.

3 SECTION 89. 777.07 of the statutes is renumbered 877.07 and amended to read:

4 **877.07 ~~Executor's executor not to sue~~ Authority of deceased personal**  
5 **representative's personal representative.** ~~An executor of the will~~ The personal  
6 representative of a deceased executor personal representative shall not meddle with  
7 the estate ~~which that the latter~~ deceased personal representative was entrusted with  
8 or take any charge or control thereof of the estate.

9 SECTION 90. 777.08 of the statutes is renumbered 877.08 and amended to read:

10 **877.08 Liability as executor of his or her own wrong.** No person shall be  
11 liable to an action as executor of his or her own wrong, but the wrongdoer shall be  
12 responsible to the ~~executors or administrators~~ personal representative for the value  
13 of any property or effects wrongfully received or taken and for all damages caused  
14 by his or her acts to the estate of the decedent.

Note: "Executor" is retained here as part of the phrase "executor of his or her own wrong" which has a specific legal meaning of be according to Black's.

15 SECTION 91. 777.14 of the statutes is renumbered 877.14 and amended to read:

16 **877.14 Rebuttal of inventory.** (1) In any action or proceeding against  
17 ~~executors or administrators~~ a personal representative, the inventory of <sup>the decedent's</sup> property of  
18 ~~the decedent~~ filed by ~~them~~ the personal representative shall be prima facie evidence  
19 of the property ~~which that~~ that has come to their the personal representative's possession  
20 or knowledge and of the value thereof. <sup>of the property</sup>

21 (2) In such an action or proceeding against a personal representative, the  
22 defendants ~~defendant~~ shall not be charged with chuses in action specified in their the  
23 defendant's inventory unless it appear ~~appears~~ that the same chuses in action have  
24 been collected or might have been collected with due diligence.

25 SECTION 92. 777.16 of the statutes is renumbered 877.16 and amended to read:

\* Law dictionary is "a stranger who takes upon him (or her) to act as an executor without any just authority," and is also known as an "executor de son tort". See also Merrill v. Comstock, 154 Wis. 434 (1913).

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

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

**SECTION 93.** 777.17 of the statutes is renumbered 877.17 and amended to read:

**877.17 Actions against executors personal representatives; when allowed; when not.** No attachment or execution may be issued against the estate of the decedent or the ~~executor or administrator~~ personal representative, until the expiration of the time limited for the payment of debts, except as provided in ss. 811.25 and 815.14.

**SECTION 94.** 777.18 of the statutes is renumbered 877.18 and amended to read:

**877.18 Action to recover from heirs, legatees; parties defendant.** Actions against the heirs or legatees and devisees of any ~~deceased person~~ <sup>decedent</sup> to recover the value of any assets that may have been paid or delivered to them by ~~any executor or administrator~~ <sup>a</sup> personal representative may be brought against all of the heirs or all of the legatees and devisees jointly or against one or more of them. If the action is not against all who are liable, the rest shall be made parties on request of the defendant.

**SECTION 95.** 777.19 of the statutes is renumbered 877.19 and amended to read:

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

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

**SECTION 96.** 777.20 of the statutes is renumbered 877.20 and amended to read:

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

**SECTION 97.** 777.21 of the statutes is renumbered 877.21 and amended to read:

**877.21 Recovery against legatee; contribution.** (1) If ~~the~~ an action is brought against all the legatees and devisees, the plaintiff shall not recover unless

1 the plaintiff shows, in addition to the facts required to be shown in an action against  
2 the heirs: ~~that, any of the following:~~

3 (a) That no assets were delivered by the ~~executor or administrator~~ personal  
4 representative to the heirs; ~~or that the value of such assets has been recovered by~~ <sup>That</sup> ~~some other creditor; or that such~~ <sup>she delivered to the heirs</sup> ~~assets~~ <sup>has been recovered by</sup>  
5

6 (b) That the assets delivered by the personal representative to the heirs are not  
7 sufficient to satisfy the demands of the plaintiff; and ~~in the last case~~ <sup>that</sup> the plaintiff is  
8 entitled to recover the deficiency.

9 (2) If the an action be is brought against a preferred legatee or devisee or a  
10 preferred class, the plaintiff must also show the same matters as to the legatee or  
11 devisee or class to whom the defendants are preferred as is ~~above~~ required to be  
12 shown under sub. (1) as to the heirs. And any

13 (2m) Any legatee or devisee against whom recovery ~~shall be had~~ <sup>is made</sup> may maintain  
14 an action for contribution against others of the same class as heirs may among  
15 themselves.

16 (3) Specific legacies and devises are preferred to residuary ~~ones~~ legacies and  
17 devises.

18 SECTION 98. 777.22 of the statutes is renumbered 877.22 and amended to read:  
19 877.22 **Payment a discharge.** In case of any judgment against several heirs  
20 or legatees or devisees, the payment or satisfaction of the amount recovered against  
21 any one of the defendants shall discharge such that defendant from the judgment  
22 and from execution ~~thereon~~ <sup>on the judgment</sup>.

23 SECTION 99. 777.26 of the statutes is renumbered 877.26 and amended to read:  
24 877.26 **Accounts as evidence.** The account of the ~~executor or administrator~~  
25 personal representative, settled by the proper circuit court, may be used in any action

1 brought under the provisions of this chapter as presumptive evidence of any matter  
 2 of fact stated therein <sup>in the action</sup>

3 SECTION 100. 777.28 of the statutes is renumbered 877.28 and amended to read:

4 **877.28 Limit of liability.** When part of the plaintiff's debt has been collected,  
 5 the plaintiff ~~can~~ <sup>shall</sup> recover only the residue remaining unpaid, and when the action is  
 6 against the devisees and legatees, the plaintiff shall recover only ~~such~~ that part  
 7 thereof as shall of the debt that is not be recoverable from the heirs.

8 SECTION 101. 777.29 of the statutes is renumbered 877.29 and amended to  
 9 read:

10 **877.29 Debts charged upon realty not affected.** Nothing in this chapter  
 11 shall affect the liability of heirs or beneficiaries for any debt of their decedent, ~~which~~  
 12 that was by the decedent's will expressly charged upon property or made payable  
 13 exclusively out of particular property or of any beneficiary made exclusively liable  
 14 for ~~any such~~ <sup>the</sup> debt.

15 SECTION 102. 777.32 of the statutes is renumbered 877.32 and amended to  
 16 read:

17 **877.32 Judgment, how collected.** If any real estate ~~which~~ that descended  
 18 or was devised to any defendant is not aliened by the defendant before the filing of  
 19 a notice of the pendency of the an action, the court shall adjudge that the debt <sup>owing to</sup> of the  
 20 plaintiff, or the portion thereof ~~which~~ of the debt that the plaintiff is entitled to  
 21 recover against ~~such~~ the defendant, shall be <sup>only</sup> levied out of such the real estate so  
 22 descended or devised, ~~and not otherwise.~~

23 SECTION 103. 777.36 of the statutes is renumbered 877.36, and 877.36 (intro.),  
 24 as renumbered, is amended to read:



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1 **877.36 Debts, order of payment.** (intro.) When the next of kin, legatees,  
2 heirs or devisees are liable for demands against the decedent as prescribed in this  
3 chapter they ~~those persons~~ <sup>the demands</sup> shall be given preference in the payment of the same  
4 demands against the decedent and shall be liable ~~therefor~~ <sup>for the demands</sup> in the following order:

5 **SECTION 104.** 777.38 of the statutes is renumbered 877.38 and amended to read:

6 **877.38 Defenses.** The If the decedent's next of kin, legatees, heirs and  
7 devisees may show that there are unsatisfied debts of the decedent that are of a class  
8 prior class unsatisfied ~~or that there are unpaid debts of the same class with that to~~  
9 the class of the debt on which the action is brought; and if it appear that the value  
10 of the personal property delivered to them or of the real estate descended or devised  
11 to them does not exceed the debts of a prior class prior to that of the debt on which  
12 the action is brought, judgment shall be rendered in their favor.

13 **SECTION 105.** 777.39 of the statutes is renumbered 877.39 and amended to read:

14 **877.39 Extent of liability.** If the personal property delivered to such the  
15 decedent's next of kin or legatee, or if the real estate descended or devised to such the  
16 decedent's heirs or devisees, ~~exceed~~ exceeds the amount of debts ~~which that~~ <sup>on</sup> are  
17 entitled to a preference over the debt for which the action is brought, judgment shall  
18 be rendered against them ~~only for such~~ <sup>the next of kin, legatees, heirs or devisees</sup> a sum as shall be a just proportion to the other  
19 debts of the same class with that on ~~which~~ <sup>that is</sup> the action is brought.

20 **SECTION 106.** 777.40 of the statutes is renumbered 877.40 and amended to  
21 read:

22 **877.40 Preferred debts deducted.** If any debt of the decedent that is of the  
23 same or a prior class to that on which the an action is brought, or of the same class,  
24 shall have has been paid by any next of kin, legatees, heirs or devisees they legatee,  
25 heir or devisee, that person may give evidence of such the payment, and the amount

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1 of debts so paid shall be estimated in ascertaining the amount to be recovered in the  
2 same manner as if ~~such~~ those paid debts were outstanding and unpaid as prescribed  
3 in ss. ~~777.38~~ 877.38 and ~~777.39~~ 877.39.

4 **SECTION 107.** ~~777.41~~ <sup>X</sup> of the statutes is renumbered 877.41 (intro.) and amended  
5 to read:

6 **877.41 Rights and liabilities of posthumous child and witness to will.**

7 (intro.) A child born after the making of a will who is entitled to succeed to a portion  
8 of any of the real or personal testator's property ~~or both of the testator~~, or a witness  
9 to a will who is entitled to recover any portion of ~~such~~ the testator's property from  
10 the legatees or devisees, shall have:

11 (1) Have the same rights and remedies to compel a distribution of the personal  
12 property and partition of the real estate or to recover of the legatees or devisees such  
13 the portion of the property as that belongs to him or her, or to as any other person  
14 entitled to any part of the estate;

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

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

20 **SECTION 108.** ~~777.42~~ <sup>X</sup> of the statutes is renumbered 877.42 and amended to read:

21 **877.42 Estate of deceased heir liable.** The estate of any heir, devisee,  
22 legatee, or next of kin of a decedent who dies before paying his or her just share of the  
23 decedent's debts is liable ~~therefor~~ <sup>for his or her share of the decedent's debts</sup>, as for a personal debt, to the ~~extent to which~~ <sup>same</sup> he  
24 or she would have been liable if living. <sup>that</sup>

25 **SECTION 109.** ~~803.01~~ <sup>X</sup> (2) of the statutes is amended to read:

1           803.01 (2) REPRESENTATIVES. A personal representative, executor,  
2 ~~administrator~~, guardian, bailee, <sup>or plain</sup> trustee of an express trust, a party with whom or  
3 in whose name a contract has been made for the benefit of another, or a party  
4 authorized by statute may sue in the party's name without joining the person for  
5 whose benefit the action is brought. A partner asserting a partnership claim may  
6 sue in the partner's name without joining the other members of the partnership, but  
7 the partner shall indicate in the pleading that the claim asserted belongs to the  
8 partnership.

9           SECTION 110. 806.04 (4) (intro.) of the statutes is amended to read:

10           806.04 (4) REPRESENTATIVES, ETC. (intro.) Any person interested as or through  
11 a personal representative, ~~executor, administrator~~, trustee, guardian or other  
12 fiduciary, creditor, devisee, legatee, heir, next of kin, <sup>or</sup> cestui que trust, in the  
13 administration of a trust, or of the estate of a decedent, ~~an~~ infant, mental  
14 incompetent, <sup>or</sup> insolvent, may have a declaration of rights or legal relations in  
15 respect thereto for any of the following purposes:

16           SECTION 111. 813.026 of the statutes is amended to read:

17           **813.026 Remedy against heirs and legatees; temporary injunction;**  
18 **receivership; judgment.** In an action, in a court of record, for damages founded  
19 upon contract or upon a judgment, when it appears that the defendant is interested,  
20 as heir, legatee or devisee, in the estate of a decedent and that the defendant's  
21 property liable to execution is probably insufficient to satisfy the plaintiff's claim for  
22 damages, the defendant may be enjoined by the court, pending the action, from  
23 assigning or otherwise disposing of the defendant's interest in such the estate, and  
24 a receiver ~~therefor~~ <sup>of the estate</sup> may be appointed. The judgment may compel the defendant to  
25 transfer sufficient of the defendant's interest to satisfy the judgment or may adjudge

1 ~~such~~<sup>the</sup> transfer. The remedy given by this section is in addition to that given by  
2 proceedings supplementary to execution under ch. 816. If a receiver is appointed, he  
3 or she shall give prompt notice ~~thereof~~ of the appointment to the ~~administrator or~~  
4 ~~executor~~ personal representative.

Insert 2

<sup>renumbered 814.14(1) and</sup>  
SECTION 112. 814.14 of the statutes is amended to read:

6 **814.14 Fiduciary; liability for costs limited; bond premium.** (1) In any  
7 action or proceeding prosecuted or defended in any court in Wisconsin by ~~an executor,~~  
8 ~~administrator~~ a personal representative, guardian ad litem, trustee of an express  
9 trust, general guardian or ~~a person~~ expressly authorized by statute, unless otherwise  
10 specially provided, costs shall be recovered as in an action by ~~and~~ <sup>or</sup> against a person  
11 prosecuting or defending ~~in the person's own right,~~ <sup>except that the</sup> but such costs shall be chargeable  
12 only upon or collected <sup>from</sup> of the estate, fund or party represented, unless the court shall  
13 ~~direct the same to~~ <sup>directs that the costs shall</sup> be paid by the plaintiff or defendant personally, for  
14 mismanagement or bad faith in ~~such~~ <sup>the</sup> action, proceeding or defense. <sup>(2)</sup> In all actions or  
15 proceedings in which any receiver, assignee, guardian, guardian ad litem, ~~executor,~~  
16 ~~administrator,~~ personal representative or other fiduciary may be entitled to recover  
17 costs, the fiduciary may recover, in addition to other costs, <sup>any</sup> such sum paid <sup>to</sup> a company,  
18 authorized by the laws of this state, ~~so to do for~~ <sup>to act as</sup> becoming the fiduciary's surety, upon  
19 any bond or other obligation given by the fiduciary in the fiduciary's representative  
20 capacity, in ~~such~~ <sup>the</sup> action or proceeding, pursuant to law or the order of any court or  
21 judge, as may be allowed by the court or judge, ~~in which or before~~ <sup>with</sup> whom the fiduciary  
22 <sup>files</sup> accounts, not exceeding 2% per year on the amount secured by ~~such~~ <sup>the</sup> obligation, or any  
23 less amount ~~which~~ that the fiduciary may have paid any ~~such~~ company for such  
24 purpose.

SECTION 113. 814.28 (1) of the statutes is amended to read:

25  
Insert 52-25  
page 3 of inserts

1           814.28 (1) DEFENDANT MAY REQUIRE. Except as otherwise provided by s. 814.29,  
2 the defendant may require the plaintiffs to file security for costs if the plaintiffs are  
3 all nonresidents; or are foreign corporations, nonresident ~~executors, administrators~~  
4 personal representatives, guardians, trustees, <sup>2</sup>or receivers; or are trustees or  
5 assignees of any debtor; or are imprisoned for crime for terms less than life; or shall  
6 take issue upon the answer of the garnishee.

7           <sup>X</sup>  
SECTION 114. 815.15 of the statutes is amended to read:

8           **815.15 Execution after judgment creditor's death.** If the judgment  
9 creditor dies before satisfaction of the judgment, an execution may be issued by the  
10 judgment creditor's attorney of record in the name of such the decedent or in the  
11 name of the judgment creditor's ~~executor or administrator~~ personal representative.

12 Before an execution shall issue in the name of ~~an executor or administrator~~ <sup>Keep "of" stricken</sup> ~~the~~  
13 ~~executor or administrator~~ a personal representative, <sup>plan</sup> the personal representative

14 shall file with the clerk a copy of his or her <sup>the</sup> ~~the~~ letters testamentary <sup>of</sup> ~~of~~ authorizing <sup>other</sup> ~~of~~ letters

15 ~~the~~ <sup>the</sup> administration, and of the <sup>decedent's</sup> ~~judgment creditor's~~ estate, which the clerk shall

16 file ~~such papers~~ <sup>plan space</sup> with the other papers in the action or proceeding and. The clerk shall

17 also enter at the foot of the judgment, in the judgment record, the fact of the death  
18 of such the judgment creditor, and the name and date of appointment of such

19 ~~executor or administrator~~ the personal representative. The moneys collected

20 ~~thereon on the judgment~~ shall be paid to the ~~executors or administrators~~ of such

21 ~~creditor; judgment creditor's personal representative~~, but if there be none then is no

22 personal representative, the moneys so collected on the judgment shall be paid to the

23 clerk of the court.

24           <sup>X</sup>  
SECTION 115. 815.53 (3) of the statutes is amended to read:

1

815.53 (3) ~~A. If the creditor is a personal representative of a decedent's estate,~~

2

~~certified copy of the creditor's letters of <sup>+ testamentary of other letters</sup> authorizing the personal representative's~~

3

~~administration or letters testamentary, in case of an administrator or executor of the estate.~~

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**SECTION 116.** 815.56 of the statutes is amended to read:

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6

**815.56 Sheriff's deed; grantee if purchaser dead.** In case the person who

7

would be entitled to a deed of real estate sold on execution dies before the delivery

8

of that deed the sheriff shall execute a deed to the person's executors or

9

administrators ~~decedent's personal representative.~~ <sup>who shall hold the</sup> ~~The real estate so conveyed shall~~

10

~~be held~~ in trust for the use of the heirs or devisees of the deceased person decedent,

11

subject to the surviving spouse's right to elect under s. 861.02 (1), ~~but may be sold~~

12

<sup>or sell the real estate</sup> for the payment of debts in the same manner as lands of which <sup>+ hat</sup> the person decedent

13

died seized <sup>of</sup>

14

**SECTION 117.** 847.05 of the statutes is amended to read:

15

**847.05 Actions between cotenants.** One joint tenant or tenant in common

16

~~and, or~~ his or her executors or administrators personal representative, may maintain

17

an action for money had and received against ~~the tenant's~~ a cotenant for receiving

18

more than the cotenant's just proportion of the rents or profits of the estate owned

19

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"

20

**SECTION 118.** 847.07 of the statutes is renumbered 847.07 (1) (intro.) and

21

amended to read:

22

**847.07 (1) (intro.)** The circuit court of any county in which a conveyance of real

23

estate has been recorded may make an order correcting the description in the

1 conveyances conveyance on proof being made to the satisfaction of the court that the  
2 any of the following applies:

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

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

7 (c) The grantor ~~therein~~ of the conveyance is dead, a nonresident of the state,  
8 a corporation ~~which~~ that has ceased to exist or ~~an administrator, executor~~ a personal

9 representative, guardian, trustee or other person authorized to convey and who has  
10 been discharged from his or her trust and the ~~person to whom it was made~~ grantee,

11 his or her heirs, legal representatives, or assigns have been in the quiet, undisturbed,  
12 and peaceable possession of the premises intended to be conveyed from the date of

13 the conveyance.

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

16 SECTION 119. 856.03 of the statutes is amended to read:

17 **856.03 Wills in court for safekeeping.** If a will has been filed with a court  
18 for safekeeping during the testator's lifetime, the court on learning of the death of  
19 the testator shall open the will and give notice of the court's possession to the  
20 ~~executor~~ person named in the will to act as personal representative, otherwise to  
21 some person interested in the provisions thereof of the will. If probate jurisdiction  
22 belongs to any other court, the will shall be delivered to that court.

23 SECTION 120. 856.05 (1) of the statutes is amended to read:

24 856.05 (1) DUTY AND LIABILITY OF PERSON WITH CUSTODY. Every person, other  
25 than ~~the executor~~ a person named in the will to act as personal representative,

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55-16  
page 9  
of insert

1 having the custody of any will shall, within 30 days after he or she has knowledge  
2 of the death of the testator, file the will in the proper court or deliver it to the person  
3 named as ~~executor~~ in the will to act as personal representative. Every person named  
4 as ~~executor in a will to act as personal representative~~ shall, within 30 days after he  
5 or she has knowledge that he or she is named ~~executor~~ to act as personal  
6 representative, and has knowledge of the death of the testator, file the will in the  
7 proper court, unless the will has been otherwise deposited with the court. Every  
8 person who neglects to perform any of the duties required in this subsection, without  
9 reasonable cause, is liable in a proceeding in court to every person interested in the  
10 will for all damages caused by the neglect.

11 **SECTION 121.** 856.05<sup>+</sup> (3) of the statutes is amended to read:

12 856.05 (3) PENALTY. Any person who with intent to injure or defraud any person  
13 interested ~~therein~~ in a will suppresses or secretes any will of a person then deceased  
14 or any information as to the existence or location of any will or having custody of any  
15 will fails to file it in the court or to deliver it to the ~~executor~~ person named therein  
16 ~~shall be punished by the court by imprisonment in the will to act as personal~~  
17 ~~representative shall be fined not more than \$500 or imprisoned in the county jail for~~  
18 not more than one year ~~or by fine not to exceed \$500 or both.~~

NOTE: Conforms penalty provision to current style.

19 **SECTION 122.** 856.07<sup>+</sup> (1) of the statutes is amended to read:

20 856.07 (1) GENERALLY. Petition for administration of the estate of a decedent  
21 may be made by any ~~executor~~ person named in the will to act as personal  
22 representative or by any person interested.

23 **SECTION 123.** 856.09<sup>+</sup> (4) of the statutes is amended to read:



1 856.09 (4) The name and post-office address of the ~~executor~~ <sup>plain</sup> person named in  
2 the will to act as personal representative;

3 SECTION 124. 856.21 (1) of the statutes is amended to read:

4 856.21 (1) The ~~executor~~ <sup>as executor</sup> person named in the will to act as personal  
5 representative.

6 SECTION 125. 856.23 (1) (intro.) and (e) of the statutes are amended to read:

7 856.23 (1) (intro.) A person including the ~~executor~~ person named in the will to  
8 act as personal representative is not entitled to receive letters if the person is any of  
9 the following:

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

11 SECTION 126. 868.03 (1) (a) of the statutes is amended to read:

12 868.03 (1) (a) "Representative" means ~~an executor, administrator~~ a personal  
13 representative, testamentary trustee, guardian, or other fiduciary of the estate of a  
14 decedent or a ward duly appointed by a court and qualified. It includes any  
15 corporation so appointed, regardless of whether the corporation is eligible to act  
16 under the law of this state. This section does not change the powers or duties of a  
17 testamentary trustee under the nonstatutory law or under the terms of a trust.

18 SECTION 127. 880.295 (1) of the statutes is amended to read:

19 880.295 (1) <sup>renumbered 880.295(1)(a) and</sup> ~~(a)~~ <sup>(a)</sup> not underscored When a patient in any state or county hospital or mental hospital  
20 or in any state institution for the mentally deficient, or a resident of the county home  
21 or infirmary, appears in need of a guardian, and does not have a guardian, the  
22 department of health and family services by its collection and deportation counsel,  
23 or the county corporation counsel, may apply to the circuit court of the county in  
24 which the patient resided at the time of commitment or <sup>to</sup> the circuit court of the county  
25 in which the facility in which the patient resides is located for the appointment of a

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1 guardian of the person and estate, or either, or for the appointment of a conservator  
2 of the estate, and the court, upon the application, may appoint the guardian or  
3 conservator in the manner provided for the appointment of guardians under ss.  
4 880.08 (1) and 880.33 or for the appointment of conservators under s. 880.31. <sup>#(b)</sup> If  
5 application is made by a corporation counsel, a copy of the petition made to the court  
6 shall be filed with the department of health and family services. <sup>#(c)</sup> If application is  
7 made by a corporation counsel for appointment of a guardian of the estate of the  
8 patient or resident, or by the patient or resident for appointment of a conservator of  
9 the patient's or resident's estate, the court may designate the county as guardian or  
10 conservator if the court finds that no relative or friend is available to serve as  
11 guardian or conservator and the county is not required to make or file any oath or  
12 give any bond or security, except in the discretion of the court making the  
13 appointment, as similarly provided under s. 223.03 <sup>(8)</sup> <sup>(6)</sup> <sup>(a)</sup> in the case of the  
14 appointment of a trust company bank corporation. <sup>#(d)</sup> The court may place any  
15 limitations upon the guardianship or conservatorship as it <sup>considers</sup> deems to be in the best  
16 interest of the patient. <sup>#(e)</sup> Before any county employee <sup>e</sup> administers the funds of a  
17 person's estate <sup>for</sup> of which the county has been appointed guardian or conservator, the  
18 employee <sup>e</sup> must be designated as securities agent in the classified service of the county,  
19 and the employee's designation as securities agent shall appear on all court papers  
20 which that the security agent signs in the name of the county as guardian or  
21 conservator. The securities agent, before entering upon the duties, shall also furnish  
22 an official bond in <sup>on the</sup> such amount and with <sup>the</sup> such sureties <sup>that</sup> as the county board  
23 determines, subject to the prior approval of the amount by the court assigned to  
24 exercise jurisdiction. The bond shall be filed in the office of the register in probate,  
25 and a duplicate original thereof of the bond filed in the office of the county clerk. <sup>#(f)</sup> A

1 conservatorship under this section shall be terminated by the court upon discharge  
2 of the patient unless application for continued conservatorship is made. The  
3 superintendent or director of the facility shall notify the court of the discharge of a  
4 patient for whom a guardian or conservator has been appointed under this  
5 subsection.

6 **SECTION 128.** 891.32<sup>x</sup> of the statutes is amended to read:

7 **891.32 Allegation as to executor, guardian, etc representative**  
8 **capacity.** Whenever a plaintiff shall ~~sue~~ sues as an ~~executor, administrator a~~  
9 ~~personal representative,~~ guardian or trustee and shall ~~allege~~ alleges in the  
10 complaint appointment as ~~such,~~ to that position and, if ~~appointed~~ the appointment  
11 was made in another state or a foreign country, the filing or recording of the  
12 authenticated copy of the appointment, as required by the laws of this state, ~~such~~  
13 ~~those~~ allegations shall be taken as true unless specifically denied ~~by the defendant~~  
14 by in the defendant's answer.

15 **SECTION 129.** 893.46<sup>x</sup> of the statutes is amended to read:

16 **893.46 Acknowledgment, who not bound by.** If there are 2 or more joint  
17 contractors or joint ~~administrators~~ personal representatives of any contractor, no  
18 such joint contractor, ~~executor or administrator~~ personal representative shall lose  
19 the benefit of this chapter so as to be chargeable by reason only of any  
20 acknowledgment or promise made by any other of them.

21 **SECTION 130.** 893.47<sup>x</sup> of the statutes is amended to read:

22 **893.47 Actions against parties jointly liable.** In actions commenced  
23 against 2 or more joint contractors or joint ~~executors or administrators~~ personal  
24 representatives of any contractors, if it shall appear, on the trial or otherwise, that  
25 the plaintiff is barred by this chapter as to one or more of the defendants, but is

Insert  
59-15  
Page 11  
of inserts

1 entitled to recover against any other or others of them, by virtue of a new  
2 acknowledgment or promise, or otherwise, judgment shall be given for the plaintiff  
3 as to any of the defendants against whom the plaintiff is entitled to recover and for  
4 the other defendant or defendants against the plaintiff.

5 **SECTION 131.** <sup>X</sup> 893.49 of the statutes is amended to read:

6 **893.49 Payment by one not to affect others.** If there are 2 or more joint  
7 contractors or joint ~~executors or administrators~~ personal representatives of any  
8 contractor no one of them shall lose the benefit of this chapter, so as to be chargeable,  
9 by reason only of any payment made by any other of them.

10 **SECTION 132.** <sup>X</sup> 895.02 of the statutes is amended to read:

11 **895.02 Measure of damages against executor personal representative.**

12 When any action ~~mentioned~~ described in s. 895.01 (1) shall be prosecuted to  
13 judgment against the ~~executor or administrator~~ personal representative, the  
14 plaintiff shall be entitled to recover only for the value of the goods taken, including  
15 any unjust enrichment of the defendant, or for the damages actually sustained,  
16 without any vindictive or exemplary damages or damages for alleged outrage to the  
17 feelings of the injured party.

18 **SECTION 133.** <sup>X</sup> 895.031 of the statutes is amended to read:

19 **895.031 Recovery from estate of wrongdoer.** ~~Whenever~~ If the death of a  
20 person shall be is caused by a wrongful act, neglect or default and the act, neglect or  
21 ~~default is such as would~~ or omission committed in this state that, if death had not  
22 ensued, would have entitled the ~~party~~ injured party to maintain an action and  
23 recover damages in respect thereof, ~~then in every such case, and~~ the wrongdoer who  
24 would have been liable if death had not ensued, although such wrongdoer shall die  
25 dies prior to the time of the death of such the injured person, the wrongdoer shall be

1 liable to an action for damages notwithstanding the wrongdoer's prior either death  
 2 ~~and notwithstanding the death of the person injured; provided that such action shall~~  
 3 ~~be brought for a death caused in this state. Any right of action which may accrue by~~  
 4 ~~such injury to the person of another although the death of the wrongdoer occurred~~  
 5 ~~prior thereto~~ against a deceased wrongdoer under this section shall be enforced by  
 6 bringing an action against the ~~executor or administrator or~~ deceased wrongdoer's  
 7 personal representative of such ~~deceased wrongdoer~~.

NOTE: This treatment attempts to reduce wordiness.

8 SECTION 134. 895.38 (5) of the statutes is amended to read:

9 895.38 (5) The procedure for hearing, settling and allowing such the principal's  
 10 account shall be according to the practice prescribed by ch. 862 ~~in the matter of~~  
 11 ~~account of executors and administrators~~ for personal representatives. Upon the  
 12 trust fund or estate being found or made good and paid over or properly secured, such  
 13 the surety shall be discharged from all liability. Upon demand by the principal, the  
 14 discharged surety shall return the unearned part of the premium paid for the  
 15 canceled bond.

16 SECTION 135. 895.41 (3) (d) of the statutes is amended to read:

17 895.41 (3) (d) If no relatives designated under par. (a) survive, the employer  
 18 may apply the cash bond, or so much thereof of the cash bond as may be necessary,  
 19 to paying creditors of the decedent in the order of preference prescribed in s. 859.25  
 20 for satisfaction of debts by ~~executors and administrators~~ personal representatives.  
 21 The making of payment under this paragraph shall be a discharge and release of the  
 22 employer to the amount of the payment.

23 ~~SECTION 136. 895.42 (1) of the statutes is amended to read:~~

Insert 3

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col-16  
page  
12 of  
inserts

1 895.42 (1) In case in any proceeding in any court of record it is determined that  
 2 moneys or other personal property in the custody of or under the control of any  
 3 ~~administrator, executor~~ personal representative, trustee, receiver or other officer of  
 4 the court, belongs to a natural person if the person is alive, or to an artificial person  
 5 if it is in existence and entitled to receive, otherwise to some other person, and the  
 6 court or judge making such determination finds that there is not sufficient evidence  
 7 showing that the natural person first entitled to take is alive, or that the artificial  
 8 person is in existence and entitled to receive, or in case such money or other personal  
 9 property, including any legacy or share of intestate property, cannot be delivered to  
 10 the legatee or heir or person entitled thereto because of the fact that such person is  
 11 a member of the military or naval forces of the United States or any of its allies or  
 12 is engaged in any of the armed forces abroad or with the American Red Cross society  
 13 or other body or other similar business, then in either or any of such cases, the court  
 14 or judge may direct that the officer having custody or control of such money or other  
 15 personal property, deposit the same in any trust company, or any state or national  
 16 bank within the state of Wisconsin authorized to exercise trust powers, taking its  
 17 receipt therefor, and the said receipt shall, to the extent of the deposit so made,  
 18 constitute a complete discharge of the said officer in any accounting by the officer  
 19 made in said proceeding.

20 **SECTION 137. 898.27** of the statutes is amended to read:

21 **898.27 Assignment of bond.** If any such bond shall be given under s. 898.17  
 22 is forfeited, the party at whose suit the person executing the <sup>bond</sup> same shall have been  
 23 confined or, in case of his or her death, ~~the executor or administrator~~ <sup>that party's</sup> personal  
 24 representative of such party shall be entitled to an assignment thereof of the bond.

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1 which shall be made by the sheriff taking the same, or, in case of a vacancy in the  
2 sheriff's office, by the sheriff's undersheriff.

3 **SECTION 138.** 990.01<sup>X</sup> (7) of the statutes is repealed.

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

4 **SECTION 139.** 990.01 (27m) of the statutes is created to read:

5 990.01 (27m) PERSONAL REPRESENTATIVE. ~~Except as provided in ss. 72.01 (16),~~

6 ~~851.23, 880.61 (11) and 880.81 (24)~~ "personal representative" means a person,

7 however denominated, who is authorized to administer a decedent's estate.

8 (END)

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB  
.....

LPS-  
inserts  
out of order  
(same)

✓ ~~INSERT 3-25~~ ✓

SECTION 1. 66.1309 (intro.) of the statutes is amended to read:

**66.1309 Urban redevelopment; transfer of land.** (intro.) Notwithstanding any other law or the absence of direct provision for transfer of land in the instrument under which a fiduciary is acting, every ~~executor, administrator~~ personal representative, trustee, guardian, or other person, holding trust funds or acting in a fiduciary capacity, unless the instrument under which the fiduciary is acting expressly forbids, the state, its subdivisions, cities, all other public bodies, all public officers, corporations organized under or subject to the provisions of the banking law, the division of banking as conservator, liquidator, or rehabilitator of any person, partnership or corporation, persons, partnerships, and corporations organized under or subject to the provisions of the banking law, the commissioner of insurance as conservator, liquidator, or rehabilitator of any person, partnership, or corporation, any of which owns or holds any real property within a development area, may do all of the following:

History: 1995 a. 27; 1999 a. 150 s. 414; Stats. 1999 s. 66.1309.

✓ ~~INSERT 3-25~~ ✓

SECTION 2. 66.0825 (15) of the statutes is amended to read:

**66.0825 (15) BONDS ELIGIBLE FOR INVESTMENT.** All public officers and agencies and political subdivisions of the state and all insurance companies, trust companies, banks, savings banks, savings and loan associations, investment companies, ~~executors, administrators~~ personal representatives, trustees, and other fiduciaries may invest funds, including capital in their control or belonging to them, in bonds issued by a company under this section. The bonds may be deposited with and

↘



received by any officer or agency of the state or any political subdivision for any purpose for which the deposit of bonds or obligation of the state or any political subdivision is authorized by law.

History: 1977 c. 159; 1979 c. 110; 1979 c. 323 s. 33; 1983 a. 24, 27; 1983 a. 207 s. 93 (8); 1991 a. 221; 1993 a. 112; 1995 a. 225; 1997 a. 35, 204; 1999 a. 150 s. 211; Stats. 1999 s. 66.0825.

*(end of report)*

✓ ~~§ 219.07(1)(a)2~~

3. Gift tax returns or reports, sales and use tax returns, and withholding returns or reports which were required to be filed, if not ~~theretofore~~ previously filed.

History: 1987 a. 312; 1989 a. 31.

✓ ~~§ 219.07(1)(a)2~~

SECTION 3. 219.07 (1) (a) 2. of the statutes is amended to read:

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

History: 1971 c. 260; 1973 c. 336; 1999 a. 83; 1999 a. 150 s. 672.

✓ ~~§ 219.07(1)(b)1~~

*STRICTLY CONFIDENTIAL*  
(b) 1. Any bank acting alone as executor, administrator personal representative, guardian, testamentary trustee or trustee of any an inter vivos trust, unless prohibited by the terms of the trust instrument, whether alone or may have any of the stock or other securities that are held in the fiduciary capacity described in this subdivision registered and held in the name of a nominee of the bank.

*STRICTLY CONFIDENTIAL*  
2. Any bank acting jointly with an individual or individuals as personal representative, guardian, testamentary trustee or trustee of any inter vivos trust, unless prohibited by the terms of the trust instrument, may, with the consent of the individual fiduciary or fiduciaries, if any (who are hereby is authorized by this

✓

subdivision to give such consent) <sup>cause</sup> <sup>A</sup> have any of the stock or other securities that are held in any such the fiduciary capacity to be described in this subdivision registered and held in the name of a nominee or nominees of such trust company the bank or bank exercising trust powers; and provided further, that any bank,

(end of insert)

✓ ~~§ 814.14~~

SECTION 4. 814.14 of the statutes is renumbered 814.14 (1) (a) and amended to read:

✓ 814.14 (1) (a) In Except as provided in par. (b) or unless otherwise specifically provided, any action or proceeding prosecuted or defended in any court in Wisconsin by an executor, administrator <sup>personal representative</sup>, guardian ad litem, trustee of an express trust, general guardian or a person expressly authorized by statute, ~~unless otherwise specially provided~~, costs ~~shall~~ may be recovered as in an action by and or against a person prosecuting or defending in the person's own right; ~~but such costs.~~

(b) Costs recovered under par. (a) shall be chargeable only upon or collected of from the estate, fund, or party represented, unless the court ~~shall direct the same to~~ directs that the costs be paid by the plaintiff or defendant personally, for mismanagement or bad faith in ~~such~~ the action, proceeding, or defense.

② (2) In addition to other costs, all actions or proceedings in which any receiver, assignee, guardian, guardian ad litem, executor, administrator, or other fiduciary may be entitled to recover costs, the fiduciary may recover <sup>in addition to other costs,</sup> ~~such~~ any sum that the fiduciary paid to a company, authorized by the laws of this state, ~~so to do~~ act as the fiduciary's surety, for becoming the fiduciary's surety upon any bond or other obligation given by the fiduciary in the fiduciary's representative

✓

capacity, in such the action or proceeding, pursuant to law or the order of any court or judge, as may be allowed by the court or judge, in which or before whom the fiduciary accounts, not exceeding the lesser of 2% per year on the amount secured by such the obligation, or any less the actual amount which the fiduciary may have paid any such to the company for such purpose.

✓ ~~Section 54-5~~

SECTION 5. 815.53 (3) of the statutes is amended to read:

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

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 815.53; 1993 a. 301, 486; 1995 a. 224.

✓ Insert 6-2-20  
creates auto reference "a" — goes into Note on page 6 of inserts

SECTION 6. 895.42 (1) of the statutes is renumbered 895.42 (1) (b) (intro.) and amended to read:

895.42 (1) (b) (intro.) In If in case in any proceeding in any court of record it is determined that moneys or other personal property in the custody of or under the control of any administrator, ~~executor~~ personal representative, trustee, receiver, or other officer of the court, belongs to a natural person, if the person is alive, or to an artificial person, if it is in existence and entitled to receive, and otherwise to some other person, and the court or judge making such determination finds that there is not sufficient evidence showing that the natural person first entitled to take is alive, or that the artificial person is in existence and entitled to receive, or in case such money or other personal property, including any legacy or share of intestate property



~~cannot be delivered to the legatee or heir or person entitled thereto because of the fact that such person is a member of the military or naval forces of the United States or any of its allies or is engaged in any of the armed forces abroad or with the American Red Cross society or other body or other similar business, then in either or any of such cases, any of the following, the court or judge may direct that the officer having custody or control of such the money or other personal property, deposit ~~the same in~~ or property with any trust company, or any state or national bank within the state of Wisconsin authorized to exercise trust powers, taking its:~~

(c) Any officer depositing money or property with a trust company under par. (b), shall take the trust company's receipt therefor, and the said for the deposit. The receipt shall, to the extent of the deposit so made, constitute a complete discharge of the said officer in any accounting made by the officer made in said the proceeding.

History: 1973 c. 90; 1993 s. 486.

NOTE: This treatment attempts to reduce wordiness and redundancies and to make terminology throughout the section and with other statutes.

**SECTION 7.** 895.42 (1) (a) of the statutes is created to read:

895.42 (1) (a) In this subsection, "trust company" means any trust company or any state or national bank in this state that is authorized to exercise trust powers.

NOTE: This definition is created to simplify sentence structure.

**SECTION 8.** 895.42 (1) (b) 1. and 2. of the statutes are created to read:

895.42 (1) (b) 1. That there is not sufficient evidence showing that the natural person first entitled to take is alive, or that the artificial person is in existence and entitled to receive.

2. That the money or other personal property, including any legacy or share of intestate property cannot be delivered to the person entitled to the money or property because the person is a member of the military or naval forces of the United States

✓ or any of its allies or is engaged in any of the armed forces abroad or with the American Red Cross society or other body or similar business.

NOTE: See Section 6 of this bill.

CS use auto-reference "a" created on page 4 of inserts

✓ ~~Insert 5-13~~

SECTION 9. 36.29 (2) of the statutes is amended to read:

✓ 36.29 (2) All gifts, grants, or bequests under sub. (1) may be made to the board, the president, a chancellor or any officer, or to any person as trustee, or may be charged upon any ~~executor~~ personal representative, trustee, heir, devisee, or legatee, or made in any other manner indicating an intention to create a trust, and may be made as well for the benefit of the system or any of its institutions, colleges, schools, departments, or facilities to provide any means of instruction, illustration, or knowledge in connection therewith, or for the benefit of any students or any class or group of students whether by way of scholarship, fellowship, or otherwise, or whether for the benefit of students or any class or group of students in any course, subcourse, ~~special course~~, postgraduate course, summer school or teachers course, oratorical or debating course, laboratory, shop, lectureship, drill, gymnasium or any other like division or department of study, experiment, research, observation, travel, or mental or physical improvement in any manner connected with the system, or to provide for the voluntary retirement of any of the faculty.

✓ SECTION 10. 45.37 (10) (d) of the statutes is amended to read:

45.37 (10) (d) A person who at the time of death is a member of the home is a resident of Waupaca County for the probate of the person's will and, issuance of letters testamentary or other letters authorizing the administration of the decedent's estate, and the administration of the estate.



✓ SECTION 11. 59.35 (2) of the statutes is amended to read:

59.35 (2) The coroner shall be responsible for every default or misconduct in office of a deputy coroner during the coroner's term of office, and after the coroner's death, resignation or removal from office ~~of the coroner,~~ as well as before; ~~and an.~~ An action for any such default or misconduct under this subsection may be prosecuted against the coroner and the sureties on the coroner's official bond or against the ~~executors and administrators of the coroner~~ coroner's personal representative.

(end of insert)

✓ ~~SECTION 12. 180.0622 (4)~~

SECTION 12. 180.0622 (4) of the statutes is renumbered 180.0622 (4) (a) and amended to read:

180.0622 (4) (a) ~~An executor, administrator,~~ In this subsection, "fiduciary" means a personal representative, conservator, guardian, trustee, assignee for the benefit of creditors, or receiver.

(b) A fiduciary is not personally liable as a holder of or subscriber to shares of a corporation, but the estate and funds in ~~his or her~~ the fiduciary's hands are so liable. A pledgee or other holder of shares as collateral security is not personally liable as a shareholder.

NOTE: Creates a definition to allow the replacement of personal pronouns.

SECTION 13. 180.0724 (2) (b) of the statutes is amended to read:

180.0724 (2) (b) The name signed purports to be that of a personal representative, ~~administrator, executor,~~ guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable



to the corporation is presented with respect to the vote, consent, waiver, or proxy appointment.

(end of insert)

✓ ~~Insert 29-22~~

**SECTION 14.** 221.0521 (2) (b) of the statutes is amended to read:

221.0521 (2) (b) The name signed purports to be that of a personal representative, ~~administrator, executor,~~ guardian, or conservator representing the shareholder and, if the bank requests, evidence of fiduciary status acceptable to the bank is presented with respect to the vote, consent, waiver, or proxy appointment.

(end of insert)

✓ ~~Insert 35-10~~

**SECTION 15.** 223.12 (4) (a) (intro.) of the statutes is amended to read:

223.12 (4) (a) (intro.) Prior to the time that any foreign corporation acts in this state as a testamentary trustee, trustee appointed by any court, trustee under any written agreement, declaration, or instrument of trust, ~~executor, administrator,~~ personal representative, or guardian or in any other like fiduciary capacity, the foreign corporation shall do all of the following:

**SECTION 16.** 223.12 (5) of the statutes is amended to read:

223.12 (5) RIGHTS AND AUTHORITY OF FOREIGN CORPORATION. Any foreign corporation that is eligible to act in this state in a fiduciary capacity, duly acting and qualified as ~~executor~~ personal representative or trustee under any foreign will, or any declaration, agreement, or other instrument of trust, shall have the same rights and authority under such the will or trust document as to real estate ~~within in~~ this

✓

state which that any natural person ~~duly~~ acting as ~~such a~~ foreign executor personal representative or trustee may have under the laws of this state, without the foreign corporation being required to do any act qualifying it to do business ~~within~~ in this state that is not required of a natural person acting as ~~such a~~ foreign executor personal representative or trustee.

(end of insert)

✓ ~~Insert 36-8~~

SECTION 17. 292.01 (16) of the statutes is amended to read:

292.01 (16) "Representative" means any person acting in the capacity of a conservator, guardian, court-appointed receiver, personal representative, ~~executor,~~ administrator, testamentary trustee of a deceased person, trustee of a living trust, or fiduciary of real or personal property.

(end of insert)

✓ ~~Insert 38-23~~

SECTION 18. 551.23 (6) of the statutes is amended to read:

551.23 (6) Any judicial sale or any transaction by ~~an executor, administrator~~ a personal representative, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator.

(end of insert)

✓ ~~Insert 55-16~~

SECTION 19. 854.14 (2) (a) 3. of the statutes is amended to read:





854.14 (2) (a) 3. Nominates or appoints the killer to serve in any fiduciary or representative capacity, including personal representative, ~~executor~~, trustee, or agent.

(end of insert)

✓ ~~insert 57-18~~

SECTION 20. 879.35 of the statutes is amended to read:

**879.35 Costs in will contests.** Costs may be awarded out of the estate to an unsuccessful proponent of a will if the unsuccessful proponent is named in the will to act as an executor therein personal representative and propounded the document in good faith, and to the unsuccessful contestant of a will if the unsuccessful contestant is named to act as an executor personal representative in another document propounded by the unsuccessful contestant in good faith as the last will of the decedent.

SECTION 21. 879.37 of the statutes is amended to read:

**879.37 Attorney fees in contests.** Reasonable attorney fees may be awarded out of the estate to the prevailing party in all appealable contested matters, to an unsuccessful proponent of a will if the unsuccessful proponent is named ~~an executor therein~~ in the will to act as personal representative and propounded the document in good faith, and to the unsuccessful contestant of a will if the unsuccessful contestant is named to act as an executor personal representative in another document propounded by the unsuccessful contestant in good faith as the last will of the decedent.

SECTION 22. 879.59 (2) of the statutes is amended to read:

✓

879.59 (2) BETWEEN TESTATE AND INTESTATE DISTRIBUTEES; PARTIES. The court also may authorize the person named to act as executor personal representative in one or more instruments purporting to be the last will and testament of a ~~person~~ deceased decedent, or the petitioners for administration with the will or wills annexed, to adjust by compromise any controversy that may arise between the persons claiming as devisees or legatees under the will or wills and the persons entitled to or claiming the estate of the deceased under the statutes regulating the descent and distribution of intestate estates, to which agreement or compromise the persons named as ~~executors~~ to act as personal representatives or the petitioners for administration with will annexed, those claiming as devisees or legatees and those claiming the estate as intestate shall be parties, provided that persons named to act as executors personal representatives in any instrument who have renounced or shall renounce ~~such executorship~~ the right to act as personal representative and any person whose interest in the estate is unaffected by the proposed compromise shall not be required to be parties to the compromise.

(end of insert)

✓ ~~Insert 59-15~~

SECTION 23. 893.22 of the statutes is amended to read:

**893.22 Limitation in case of death.** If a person entitled to bring an action dies before the expiration of the time limited for the commencement of the action and the cause of action survives, an action may be commenced by the person's representatives after the expiration of that time and within one year from the person's death. If a person against whom an action may be brought dies before the expiration of the time limited for the commencement of the action and the cause of

action survives, an action may be commenced after the expiration of that time and within one year after the issuing, within this state, of letters testamentary or of other letters authorizing the administration of the decedent's estate.

(end of insert)

✓ ~~insert 6-15-16~~

**SECTION 24.** 895.41 (3) (a) (intro.) of the statutes is amended to read:

895.41 (3) (a) (intro.) In case an employee who was required to give a cash bond dies before the cash bond is withdrawn in the manner provided in sub. (1), the accounting and withdrawal may be effected not less than 5 days after the employee's death and before the filing of a petition for letters testamentary or of other letters authorizing the administration in the matter of the decedent's estate, by the employer with any of the following, in the following order:

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FROM THE  
LEGISLATIVE REFERENCE BUREAU

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SECTION 1. 66.0823 (13) of the statutes is renumbered 66.0823(13)(a)(intro.)  
and amended to read:

66.0823 (13) (a) (intro.) BONDS ELIGIBLE FOR INVESTMENT. ~~Public officers and agencies of the state, political subdivisions, insurance companies, trust companies, banks, savings banks, savings and loan associations, investment companies, personal representatives, executors, administrators, trustees and other fiduciaries~~  
Any of the following may properly and legally invest funds, including capital in their control or belonging to them, in bonds of the authority:

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

NOTE: Subdivides long provision for improved readability and conformity with current style. See the next section of this bill.

SECTION 2. 66.0823 (13) (a) 1. to 10. of the statutes are created to read:

66.0823 (13) (a) 1. Public officers and agencies of the state.

2. Political subdivisions.

3. Insurance companies.

4. Trust companies.

5. Banks.

5. Savings bank.

6. Savings and loan associations.

7. Investment companies.

8. Personal representatives.



9. Trustees.

10. Other fiduciaries not listed in ~~para.~~ <sup>subds</sup> 1. to 9.

NOTE: See the previous section of this bill.

SECTION 3. 66.0825 (15) of the statutes is renumbered 66.0825 (15) (a) (intro.) and amended to read:

66.0825 (15) (a) (intro.) BONDS ELIGIBLE FOR INVESTMENT. ~~All public officers and agencies and political subdivisions of the state and all insurance companies, trust companies, banks, savings banks, savings and loan associations, investment companies, executors, administrators, trustees and other fiduciaries~~ Any of the following may invest funds, including capital in their control or belonging to them, in bonds issued by a company under this section:

(b) The bonds described in par. (a) may be deposited with and received by any officer or agency of the state or any political subdivision for any purpose for which the deposit of bonds or ~~obligation~~ obligations of the state or any political subdivision is authorized by law.

NOTE: See the next section of this bill.

SECTION 4. 66.0825 (15) (a) 1. to 10. of the statutes are created to read:

66.0825 (15) (a) 1. Public officers and agencies and political subdivisions of the state.

- 2. Insurance companies.
- 3. Trust companies.
- 4. Banks.
- 5. Savings banks.
- 6. Savings and loan associations.
- 7. Investment companies.



8. Personal representatives.

9. Trustees.

10. Other fiduciaries not listed in ~~parts~~ <sup>subds</sup> 1. to 9.

NOTE: See the previous section of this bill.

**SECTION 5.** 66.1309 (intro.) of the statutes is renumbered 66.1309 (2) (intro.) and amended to read:

66.1309 (2) (intro.) Notwithstanding any other law or the absence of direct provision for transfer of land in the instrument under which a fiduciary is acting, every ~~executor, administrator, trustee, guardian or other person, holding trust funds or acting in a fiduciary capacity~~ fiduciary, unless the instrument under which the fiduciary is acting expressly forbids, ~~the state, its subdivisions, cities, all other public bodies, all public officers, corporations organized under or subject to the provisions of the banking law, the division of banking as conservator, liquidator or rehabilitator of any person, partnership or corporation, persons, partnerships and corporations organized under or subject to the provisions of the banking law, the commissioner of insurance as conservator, liquidator or rehabilitator of any person, partnership or corporation, any of which~~ and every governmental unit, bank, or conservator that owns or holds any real property within a development area, may do all of the following:

NOTE: Subdivides long provision by moving text to separate definitions for improved readability and conformity with current style. See the next section of this bill.

**SECTION 6.** 66.1309 (1) of the statutes is created to read:

66.1309 (1) In this section:

(a) "Bank" means a corporation organized under or subject to the provisions of the banking law.

(b) "Conservator" means any of the following:

1. The division of banking as conservator, liquidator, or rehabilitator of any person, partnership, or corporation, and persons, partnerships, and corporations organized under or subject to the provisions of the banking law.

2. The commissioner of insurance as conservator, liquidator, or rehabilitator of any person, partnership, or corporation.

(c) "Fiduciary" means a personal representative, trustee, guardian, or other person holding trust funds or acting in a fiduciary capacity.

(d) "Governmental unit" means the state, its subdivisions, cities, all other public bodies, and all public officers.

~~SECTION 7. (814.14 (1) (b) replacement)~~

(b) Except in cases in which the plaintiff or defendant is guilty of mismanagement or bad faith in the action, proceeding, or defense of the action, costs recovered under par. (a) shall be chargeable only upon or collected of from the estate, fund, or party represented, unless. In cases in which the plaintiff or defendant is guilty of mismanagement or bad faith in the action, proceeding or defense of the action, the court shall direct that the same to be costs recovered under par. (a) shall be paid by the plaintiff or defendant personally, for mismanagement or bad faith in such action, proceeding or defense.

END OF INSERT  
6-17

(END of insert 54-8)

LPS  
This is insert 54-8