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State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1160/Pa 2

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THURSDAY FRIDAY if possible

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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AN ACT relating to: repealing, consolidating, renumbering, amending, and  
 revising various provisions of the statutes for the purpose of correcting errors,  
 supplying omissions, correcting and clarifying references, <sup>and</sup> eliminating defects,  
 anachronisms, conflicts, ambiguities, and obsolete provisions (Revisor's  
 Revision Bill).

**Analysis by the Legislative Reference Bureau**

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

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

**Introductory Note:** This revision bill, prepared and presented under s. 13.93 (2) (i), replaces obsolete references to persons authorized to administer decedent's estates and modernizes language, style, and numbering in otherwise affected provisions.

Historically, a person named in a will to administer the decedent's estate was denominated the executor and issued letters testamentary. If a person died without a will, the court appointed an administrator and issued letters of administration. In certain special cases in which no executor or administrator was appointed, persons denominated by various titles were granted authority to administer a decedent's estate or to take certain actions regarding the estate. Chapter 300 of the Laws of 1953

introduced the term "personal representative" into the probate code and included the following definition:

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

Chapter 300 of the Laws of 1953 used the term "personal representative" in several new and substantially 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 chs. 856 and 879, where it was (and still is) used to refer to the person named in a will to administer the estate prior to court authorization. Under the revised probate code a person authorized by a court to administer an estate, whether or not nominated by will, except in very limited circumstances, was denominated as a "personal representative," defined in Section 851.23 as follows:

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

Neither Chapter 339 of the Laws of 1969 nor 1997 Wisconsin Act 188, which made major changes to the probate code, made any changes to conform the terminology used in statutes outside the probate code with that used in the probate code. As a result, throughout the statutes, there are many references to "executors and administrators" rather than "personal representatives," many of which predate the 1953 introduction of the term "personal representative" into the Probate Code.

This bill revises the terminology outside the Probate Code regarding persons administering the estates of decedents for conformity with terminology used in the Probate Code by replacing "executors and administrators" with "personal representatives." A definition of "personal representative" as "a person, however denominated, who is authorized to administer a decedent's estate," applicable to all statutes, except the probate code, is added to s. 990.01. The use of "executor" in chs. 856 and 879 is ~~now~~ eliminated and replaced with the phrase "person named in the will to act as personal representative." References to letters authorizing administration of an estate are changed to "letters testamentary or other letters authorizing the administration of the decedent's estate."

This bill, under s. 13.93 (1) (b), also renumbers ch. 777, currently titled "Actions By and Against Executors, Administrators, Heirs and Legatees," to ch. 877 to locate it within the Probate Code with all other statutes that relate directly to the administration of the estates of decedents.

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

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

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

2 read:

*in accordance with a change in drafting style, commas after the last item in a series, "which" is replaced with "that" where grammatically correct.*

*Stat. No change*

*Comment*

*The term*

*are added*

1           **18.62 Revenue obligations as legal investments.** (intro.) Any other  
2 provision of law to the contrary notwithstanding, ~~the any of the following may legally~~  
3 invest any sinking funds, moneys, or other funds belonging to them or within their  
4 control in any revenue obligations issued under this subchapter, <sup>which</sup> ~~that~~ shall be  
5 authorized security for all public deposits:

6           **(1)** The state, the investment board, all public officers, municipal corporations,  
7 political subdivisions, and public bodies, all banks,

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

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

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

16           **SECTION 2.** 24.33 of the statutes is renumbered 24.33 (1) (intro.) and amended  
17 to read:

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

23           **(a)** Proof <sup>is made</sup> that there are valuable improvements thereon and that such <sup>after</sup> on the  
24 resold land.

## SECTION 2

1            <sup>is made</sup>  
 2            (b) Proof that the forfeiture was occasioned by the death of the holder of the first  
 3            certificate, or the neglect of that person's executor or administrator, and payment the  
 4            first certificate holder's personal representative.

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

12           (2) Upon the surrender of the certificate, receipt, or patent given upon the  
 13           resale, the purchaser of the resold land shall be paid out of the state treasury to the  
 14           last purchaser the amount paid by the last purchaser and at resale, together with the  
 15           said interest thereon collected of such from the person so redeeming, on surrender  
 16           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.

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

18           30.35 (7) (d) ~~Administrators, executors~~ Personal representatives, guardians,  
 19           trustees, and other fiduciaries.

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

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

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

3 **SECTION 5.** 36.29 (2) of the statutes is amended to read:

4 36.29 (2) All gifts, grants, or bequests under sub. (1) may be made to the board,  
5 the president, a chancellor, or any officer, or to any person as trustee, or may be  
6 charged upon any ~~executor personal representative,~~ trustee, heir, devisee, or legatee,  
7 or made in any other manner indicating an intention to create a trust, and may be  
8 made as well for the benefit of the system or any of its institutions, colleges, schools,  
9 departments, or facilities to provide any means of instruction, illustration, or  
10 knowledge in connection therewith, or for the benefit of any students or any class or  
11 group of students whether by way of scholarship, fellowship, or otherwise, or  
12 whether for the benefit of students or any class or group of students in any course,  
13 subcourse, special course, postgraduate course, summer school, or teachers course,  
14 oratorical or debating course, laboratory, shop, lectureship, drill, gymnasium, or any  
15 other like division or department of study, experiment, research, observation, travel,  
16 or mental or physical improvement in any manner connected with the system, or to  
17 provide for the voluntary retirement of any of the faculty.

18 **SECTION 6.** 39.32 (6) of the statutes is amended to read:

19 39.32 (6) The board shall satisfy the loan of any student who obtained a loan  
20 under this section or <sup>under</sup> s. 39.023, 1965 stats., between July 1, 1966, and December 15,  
21 1968, ~~where such~~ if the student died or dies after July 1, 1966, and before completing  
22 repayment ~~thereof~~ of the loan, and shall write off the balance of principal and  
23 interest owing on the loan on the date ~~it~~ <sup>that the board</sup> received confirmation of ~~such~~ the student's  
24 death. Obligation to repay such a loan shall terminate on the date of the student's  
25 death and any payments made ~~thereon~~ on the loan to the board after ~~such~~ the date

**SECTION 6**

1 of the student's death shall be refunded to the payor or the payor's heirs, ~~executor~~  
2 ~~or administrator~~ personal representative upon receipt by the board of an application  
3 for refund.

4 **SECTION 7.** 45.37 (10) (d) of the statutes is amended to read:

5 45.37 (10) (d) A person who at the time of death is a member of the home is a  
6 resident of Waupaca County for the probate of the person's will and, issuance of  
7 letters testamentary or other letters authorizing the administration of the decedent's  
8 estate, and the administration of the estate.

9 **SECTION 8.** 59.35 (2) of the statutes is amended to read:

10 59.35 (2) The coroner shall be responsible for every default or misconduct in  
11 office of a deputy coroner during the coroner's term of office, and after the coroner's  
12 death, resignation, or removal from office of the coroner, as well as before; ~~and an~~.  
13 An action for any such default or misconduct under this subsection may be  
14 prosecuted against the coroner and the sureties on the coroner's official bond or  
15 against the ~~executors and administrators of the coroner~~ coroner's personal  
16 representative.

INSERT  
6-17

17 ~~**SECTION 9.** 66.0823 (13) of the statutes is amended to read:~~

18 ~~66.0823 (13) BONDS ELIGIBLE FOR INVESTMENT. Public officers and agencies of~~  
19 ~~the state, political subdivisions, insurance companies, trust companies, banks,~~  
20 ~~savings banks, savings and loan associations, investment companies, personal~~  
21 ~~representatives, ~~executors, administrators, trustees, and other fiduciaries may~~~~  
22 ~~properly and legally invest funds, including capital in their control or belonging to~~  
23 ~~them, in bonds of the authority. The authority's bonds are securities that may~~  
24 ~~properly and legally be deposited with and received by any officer or agency of the~~

*delete*

*Insert  
s. 140.*

1 state or any political subdivision for any purpose for which the deposit of bonds or  
2 obligation of the state or any political subdivision is authorized by law.

3 **SECTION 10.** 66.0825 (15) of the statutes is amended to read:

4 66.0825 (15) BONDS ELIGIBLE FOR INVESTMENT. All public officers and agencies  
5 and political subdivisions of the state and all insurance companies, trust companies,  
6 banks, savings banks, savings and loan associations, investment companies,  
7 ~~executors, administrators personal representatives,~~ trustees, and other fiduciaries  
8 may invest funds, including capital in their control or belonging to them, in bonds  
9 issued by a company under this section. The bonds may be deposited with and  
10 received by any officer or agency of the state or any political subdivision for any  
11 purpose for which the deposit of bonds or obligation of the state or any political  
12 subdivision is authorized by law.

Insert  
SS. 24

13 **SECTION 11.** 66.1309 (intro.) of the statutes is amended to read:

14 **66.1309 Urban redevelopment; transfer of land.** (intro.) Notwithstanding  
15 any other law or the absence of direct provision for transfer of land in the instrument  
16 under which a fiduciary is acting, every ~~executor, administrator~~ personal  
17 representative, trustee, guardian, or other person, holding trust funds or acting in  
18 a fiduciary capacity, unless the instrument under which the fiduciary is acting  
19 expressly forbids, the state, its subdivisions, cities, all other public bodies, all public  
20 officers, corporations organized under or subject to the provisions of the banking law,  
21 the division of banking as conservator, liquidator, or rehabilitator of any person,  
22 partnership or corporation, persons, partnerships, and corporations organized  
23 under or subject to the provisions of the banking law, the commissioner of insurance  
24 as conservator, liquidator, or rehabilitator of any person, partnership, or corporation,

Insert SS. 56

1 any of which owns or holds any real property within a development area, may do all  
2 of the following:

3 **SECTION 12.** 66.1317 (2) (a) 1. of the statutes is amended to read:

4 66.1317 (2) (a) 1. Every ~~executor, administrator~~ personal representative,  
5 trustee, guardian, committee, or other person or corporation holding trust funds or  
6 acting in a fiduciary capacity.

7 **SECTION 13.** 70.19 (1) of the statutes is amended to read:

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

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

21 **SECTION 14.** 70.19 (2) of the statutes is amended to read:

22 70.19 (2) The person so assessed under sub. (1) and s. 70.18 (1) is personally  
23 liable for the tax on the property. The person assessed under sub. (1) and s. 70.18 (1)  
24 has a personal right of action against the owner ~~or person beneficially entitled to of~~



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

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

15 **SECTION 15.** 70.21 (title) of the statutes is amended to read:

16 **70.21 (title) Partnership; estates in hands of executor personal**  
17 **representative; personal property, how assessed.**

18 **SECTION 16.** 70.21 (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 decendent 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 thereafter is<sup>subsequently</sup> appointed, otherwise~~and~~<sup>OR</sup> 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 appointed.

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

19           **SECTION 17.** 70.22 (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 18.** 70.22 (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 19.** 70.22 (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 20.** 70.36 (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 ~~sueh~~ 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~~ on the property, shall forfeit the sum of \$10 for every \$100 or major  
11          fraction ~~thereof~~ of \$100 so withheld from the knowledge of ~~sueh~~ the assessor or board  
12          of review.

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

13          **SECTION 21.** 71.03 (2) (b) of the statutes is amended to read:

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

17          **SECTION 22.** 71.13 (2) (a) (intro.), 1., 2. and 3. and (b) of the statutes are  
18          amended to read:

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

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

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

8           3. Gift tax returns or reports, sales and use tax returns, and withholding  
9 returns or reports ~~which~~ <sup>that</sup> were required to be filed, if not ~~theretofore~~ previously filed.

10           (b) Upon receipt of ~~such~~ the returns described in par. (a), the department shall  
11 immediately determine the amount of taxes including interest, penalties, and costs  
12 to be payable, as well as any delinquent income, withholding, sales, use and gift  
13 taxes, penalties, interest, and costs due, and shall certify ~~such~~ those amounts to the  
14 court. The court shall ~~thereupon~~ <sup>then</sup> enter an order directing the ~~executor,~~  
15 ~~administrator~~, personal representative or trustee to pay the amounts found to be due  
16 by the department and take ~~its~~ the department's receipt ~~therefor~~ for the amount <sup>paid</sup>. The  
17 receipt shall be evidence of the payment and shall be filed with the court before a final  
18 distribution of the estate or trust is ordered and the ~~executor, administrator,~~ personal  
19 representative or trustee is discharged. The filing of ~~such~~ the receipt shall in no  
20 manner affect the obligation of the ~~executor, administrator,~~ personal representative  
21 or trustee to file income, sales, and withholding returns covering transactions  
22 reportable during the final taxable year of the estate or trust and to pay income,  
23 sales, use and withholding taxes, penalties, interest, and costs due as the result of  
24 such transactions.

25           **SECTION 23.** 71.15 (2) of the statutes is amended to read:

1           71.15 (2) A personal exemption for the decedent under s. 71.07 (8) shall not be  
2 allowed the ~~executor or administrator, personal representative~~ except against the  
3 tax on income of the decedent in the year of death. If the decedent would have been  
4 entitled to an exemption for the decedent's spouse or a dependent under s. 71.07 (8),  
5 had the decedent lived, ~~such~~ the exemption shall be allowed to the ~~executor or~~  
6 ~~administrator~~ personal representative so long as over one-half of the support of the  
7 spouse or dependent is supplied by the decedent or by the ~~executor or administrator~~  
8 personal representative from the decedent's estate and the gross income of the  
9 spouse or dependent for the calendar year in which the taxable year of the ~~executor~~  
10 ~~or administrator~~ personal representative begins is less than \$500.

11           **SECTION 24.** 71.17 (3) of the statutes is renumbered 71.17 (3) (intro.) and  
12 amended to read:

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

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

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

25           **SECTION 25.** 71.80 (12) (title) of the statutes is amended to read:

1           71.80 (12) (title) DEPARTMENT ~~DEEMED~~ CONSIDERED LAWFUL ATTORNEY FOR  
2 NONRESIDENT.

3           **SECTION 26.** 71.80 (12) (a) of the statutes is renumbered 71.80 (12) (a) (intro.)  
4 and amended to read:

5           71.80 (12) (a) (intro.) The transaction of business or the performance of  
6 personal services in this state or the derivation of income from property the income  
7 from which has a taxable situs in this state by any nonresident person, except where  
8 the nonresident is a foreign corporation that has been licensed pursuant to under ch.  
9 180, shall be deemed all of the following:

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

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

1           **SECTION 27.** 71.80 (12) (b) of the statutes is renumbered 71.80 (12) (b) (intro.)  
2 and amended to read:

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

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

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

21           **SECTION 28.** 71.80 (12) (c) of the statutes is renumbered 71.80 (12) (c) 1. and  
22 amended to read:

23           71.80 (12) (c) 1. Service under par. (a) 1. or (b) 1. shall be made by serving a copy  
24 of the notice, order, pleading, or process upon the department of financial institutions



1 or by filing ~~such a copy of the notice, order, pleading, or process~~ with the department  
2 of financial institutions, ~~and such service shall be sufficient service.~~

3 2. Service under subd. 1. upon such a person, or that person's executor,  
4 administrator or personal representative, shall be sufficient if all of the following  
5 conditions are met:

6 a. Within 10 days of completion of service, notice of such the service and a copy  
7 of the served notice, order, pleading, or process are within 10 days thereafter sent by  
8 mail by the state department, officer, or agency making such the service to such the  
9 person, or that person's executor, administrator or personal representative, at that  
10 person's last-known address, and that an,

11 b. An affidavit of compliance herewith with this paragraph is filed with the  
12 department of financial institutions.

13 3. The department of financial institutions shall keep a record of all such  
14 notices, orders, pleadings, processes, and affidavits and shall note served upon or  
15 filed with it under this section, noting in such the record the day and hour of service  
16 upon the department or filing.

NOTE: In SECTIONS 26, 27, and 28, the text is reordered to accommodate the  
subdivision of this provision and to improve sentence structure.

17 **SECTION 29.** 71.91 (6) (g) 2. of the statutes is amended to read:

18 71.91 (6) (g) 2. The owners of any real property sold under par. (f), their heirs,  
19 executors or administrators or personal representatives, or any person having an  
20 interest in or a lien on that property, or any person in on behalf of a person specified  
21 in this subdivision may redeem the property sold, or any part of that property, within  
22 120 days after the sale by payment to the purchaser or, if the purchaser cannot be  
23 found in the county in which the property to be redeemed is situated, then to the

1 department, for the use of the purchaser or the purchaser's heirs or assigns, the  
2 amount paid by the purchaser and interest at the rate of 18% per year.

3 **SECTION 30.** 77.51 (10) of the statutes is amended to read:

4 77.51 (10) "Person" includes any natural person, firm, partnership, limited  
5 liability company, joint venture, joint stock company, association, public or private  
6 corporation, the United States, the state of ~~Wisconsin~~, including any unit or division  
7 ~~thereof of the state~~, any county, city, village, town, municipal utility, municipal power  
8 district or other governmental unit, cooperative, estate, trust, receiver, ~~executor,~~  
9 ~~administrator~~ personal representative, any other fiduciary, and any representative  
10 appointed by order of any court or otherwise acting on behalf of others. "Person" also  
11 includes the owner of a single-owner entity that is disregarded as a separate entity  
12 under ch. 71.

13 **SECTION 31.** 100.18 (3m) of the statutes is amended to read:

14 100.18 (3m) It is deceptive advertising to represent the retailing of  
15 merchandise to be a selling-out or closing-out sale if the merchandise is not of a  
16 bankrupt, insolvent, assignee, liquidator, adjuster, ~~administrator~~, trustee, ~~executor~~  
17 personal representative, receiver, wholesaler, jobber, manufacturer, or of any  
18 business that is in liquidation, that is closing out, closing, or disposing of its stock,  
19 that has lost its lease or has been or is being forced out of business, or that is disposing  
20 of stock on hand because of damage by fire, water, or smoke. This subsection does  
21 not apply to any "closing-out sale" of seasonable merchandise or any merchandise  
22 having a designated model year if the person conducting the sale is continuing in  
23 business.

24 **SECTION 32.** 100.20 (1m) of the statutes is amended to read:

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

11           **SECTION 33.** 109.03 (3) of the statutes is renumbered 109.03 (3) (a) and  
12 amended to read:

13           109.03 (3) (a) In case of the death of an employee to whom wages are due, the  
14 full amount of the wages due shall upon demand be paid by the employer to the  
15 spouse, children, or other dependent living with ~~such~~ the employee at the time of  
16 death. ~~In the case of an employee of the state, the amount of the wage due includes~~  
17 ~~all unused vacation allowance. Any county or municipality may include unused~~  
18 ~~vacation allowances for any employee who died after January 1, 1961.~~

19           **(b)** An employer may, not less than 5 days after the death of an employee and  
20 before the filing of a petition or application for letters ~~testamentary~~ ~~or~~ of  
21 administration ~~in the matter~~ of the decedent's estate, make payments of the wage  
22 due the deceased employee to the spouse, children, ~~parent~~, ~~brother~~ or ~~sister~~ <sup>parents,</sup> or siblings  
23 of the decedent, giving preference in the foregoing order; ~~or, if no such~~ listed. add  
"s"

24           **(c)** If none of the relatives survive listed in par. (b) survives, the employer may  
25 apply such the payment of the wage or so much thereof of the wage as may be

1 necessary to paying creditors of the decedent in the order of preference prescribed  
2 in s. 859.25 for satisfaction of debts by ~~executors and administrators~~ personal  
3 representatives.

4 (d) The making of payment in such the manner described in this subsection  
5 shall be a discharge and release 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 employees 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 employee is necessary as those allowances are already included in the term "wage" by definition.

6 **SECTION 34.** 112.01 (1) (b) of the statutes is amended to read:

7 112.01 (1) (b) "Fiduciary" includes a trustee under any trust, expressed,  
8 implied, resulting or constructive, ~~executor, administrator~~ personal representative,  
9 guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the  
10 benefit of creditors, prime contractor, <sup>or</sup> subcontractor who is a trustee under ch. 779,  
11 partner, agent, officer of a corporation, public or private, public officer, or any other  
12 person acting in a fiduciary capacity for any person, trust, or estate.

13 **SECTION 35.** 112.01 (11) of the statutes is amended to read:

14 112.01 (11) DEPOSIT OR SAFE DEPOSIT BOX RENTAL IN NAME OF ESTATE OR TWO OR  
15 MORE FIDUCIARIES. When a deposit is made in a bank account or a safe deposit box or  
16 storage space rented, in the name of 2 or more persons as trustees, ~~executors or~~  
17 ~~administrators~~ personal representatives, or in the name of an estate having 2 or  
18 more ~~executors or administrators~~ personal representatives, and a check is drawn  
19 upon such the account, or access to said the safe deposit box or storage space is sought  
20 by any one or more of such the fiduciaries authorized by the other fiduciary or  
21 fiduciaries to draw checks upon such the account, or to enter said the safe deposit box

1 or said storage space, neither the payee nor the other holder nor the bank is bound  
2 to inquire whether it is a breach of trust to authorize ~~such~~ the fiduciary or fiduciaries  
3 to draw checks upon ~~such~~ the account, or to enter ~~said~~ the safe deposit box or storage  
4 space, and is not liable unless the circumstances ~~be~~ <sup>are</sup> such that the action of the payee  
5 or other holder or the bank amounts to bad faith.

6 **SECTION 36.** 112.02 (1) of the statutes is renumbered 112.02 (2m) and amended  
7 to read:

8 112.02 (2m) Whenever ~~an executor, administrator, guardian or testamentary~~  
9 ~~trustee~~ a fiduciary is engaged in war service ~~as defined in this section, such, the~~  
10 ~~fiduciary, or any other person interested in the estate or fund~~ for which the fiduciary  
11 ~~is acting, may present a petition to the court having jurisdiction praying for a decree~~  
12 ~~suspending the powers of~~ such the fiduciary while the fiduciary is engaged in war  
13 service and until the further order of the court, ~~and if, If the suspension of~~ such the  
14 ~~fiduciary will leave no person acting as executor, administrator, guardian or~~  
15 ~~testamentary trustee~~ fiduciary, or will leave the sole beneficiary of a trust as the only  
16 acting trustee ~~thereof~~ of the trust, the petition must pray for the appointment of a  
17 successor unless a successor has been named in the will and ~~such~~ the named  
18 successor is not engaged in war service or is not for other reasons unable or unwilling  
19 to act as a fiduciary.

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

20 **SECTION 37.** 112.02 (1m) of the statutes is created to read:

21 112.02 (1m) In this section, “fiduciary” means a personal representative,  
22 guardian, or testamentary trustee.

23 **SECTION 38.** 112.02 (2) (intro.) of the statutes is amended to read:

1 112.02 (2) (intro.) ~~For the purposes of~~ In this section a fiduciary shall be deemed  
2 considered to be engaged in war service in any of the following cases:

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

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

12 SECTION 40. 112.02 (5) of the statutes is renumbered 112.02 (5) (a) and  
13 amended to read:

14 112.02 (5) (a) When the suspended fiduciary ceases to be engaged in war service  
15 the suspended fiduciary may be reinstated as ~~executor, administrator, guardian or~~  
16 ~~testamentary trustee~~ if any of the duties of ~~such~~ the office remain unexecuted, upon  
17 application to the court and upon <sup>any</sup> ~~such~~ notice <sup>that</sup> ~~as~~ the presiding judge thereof of the  
18 court may direct. ~~If~~ Upon reinstatement of the suspended fiduciary is reinstated, the  
19 court shall ~~thereupon~~ remove the suspended fiduciary's successor and revoke the  
20 successor fiduciary's letters and make such any other order or decree as that justice  
21 requires, ~~but such removal.~~

22 (b) Removal and revocation of letters under par. (a) shall not bar the successor  
23 from subsequently again qualifying as a fiduciary in accordance with the provisions  
24 of the will or if for any reason ~~it thereafter becomes necessary that~~ the appointment  
25 of a successor fiduciary be appointed is required subsequently.

← LPS, please correct the scoring  
directs.

1           **SECTION 41.** 113.06 of the statutes is amended to read:

2           **113.06 Death of obligor, estate liable.** On the death of a joint obligor in  
3 contract, the joint obligor's ~~executor or administrator~~ (personal representative or  
4 estate) shall be bound as such jointly and severally bound with the surviving obligor  
5 or obligors.

6           **SECTION 42.** 137.01 (7) of the statutes is amended to read:

7           **137.01 (7) OFFICIAL RECORDS TO BE FILED.** When any notary public ceases to hold  
8 office, the notary public, or in case of the notary public's death the notary public's  
9 ~~executor or administrator~~ personal representative, shall deposit the notary public's  
10 official records and papers in the office of the clerk of the circuit court of the county  
11 of the notary public's residence. If ~~any such~~ <sup>the</sup> notary or ~~any executor or administrator~~  
12 ~~personal representative,~~ after such records and papers come to his or her hands,  
13 neglects for 3 months to deposit them, <sup>the</sup> he or she shall forfeit not less than \$50 nor  
14 more than \$500. If any person knowingly destroys, defaces, or conceals any records  
15 or papers of any notary public, the person shall forfeit not less than \$50 nor more  
16 than \$500, and shall be liable <sup>for all damages resulting</sup> to the party injured ~~for all damages thereby sustained.~~  
17 The clerks of the circuit courts shall receive and safely keep all such papers and  
18 records in their office.

19           **SECTION 43.** 179.65 of the statutes is amended to read:

20           **179.65 Power of estate of deceased or incompetent partner.** If a partner  
21 who is an individual dies or is adjudged incompetent to manage his or her person or  
22 property, the partner's ~~executor, administrator~~ personal representative, guardian,  
23 conservator, or other legal representative may exercise all of the partner's rights for  
24 the purpose of settling his or her estate or administering his or her property,  
25 including any power the partner had to give an assignee the right to become a limited

plain period

1 partner. If a partner is a corporation, limited liability company, trust, or other entity  
2 and is dissolved or terminated, the powers of that partner may be exercised by its  
3 legal representative or successor.

4 **SECTION 44.** 180.0622 (4) of the statutes is renumbered 180.0622 (4) (a) and  
5 amended to read:

6 180.0622 (4) (a) ~~An executor, administrator,~~ In this subsection, “fiduciary”  
7 means a personal representative, conservator, guardian, trustee, assignee for the  
8 benefit of creditors, or receiver.

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

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

13 **SECTION 45.** 180.0724 (2) (b) of the statutes is amended to read:

14 180.0724 (2) (b) The name signed purports to be that of a personal  
15 representative, ~~administrator, executor,~~ guardian, or conservator representing the  
16 shareholder and, if the corporation requests, evidence of fiduciary status acceptable  
17 to the corporation is presented with respect to the vote, consent, waiver, or proxy  
18 appointment.

19 **SECTION 46.** 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 47.** 215.14 (6) of the statutes is amended to read:



1           215.14 (6) SAVINGS ACCOUNTS ELIGIBLE INVESTMENT FOR TRUST FUNDS. ~~An~~  
2 ~~administrator, executor, a~~ personal representative, guardian, trustee, or other  
3 fiduciary authorized to invest trust funds, may acquire, own, or hold savings  
4 accounts in an association, within the limits of standards contained in s. 881.01, and  
5 shall have the same rights and be subject to the same obligations and limitations as  
6 other savings account owners, except the right to be an officer or director. Savings  
7 accounts owned or held by ~~an administrator, executor, a~~ personal representative,  
8 guardian, trustee, or other fiduciary shall specifically name the trust represented.

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

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

16           **SECTION 49.** 218.0101 (23) (b) 1. of the statutes is amended to read:

17           218.0101 (23) (b) 1. 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 50.** 218.10 (1g) (a) of the statutes is amended to read:

21           218.10 (1g) (a) A receiver, trustee, ~~administrator, executor~~ personal  
22 representative, guardian, or other person appointed by or acting under the judgment  
23 or order of any court.

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

1           **219.01 Loans, advances of credit, investment in securities, insured or**  
2 **guaranteed by specified agencies.** (intro.) Credit unions, savings and loan  
3 associations, investment associations, state banks, savings banks, trust company  
4 banks, land mortgage associations, executors ~~personal representatives~~, guardians,  
5 trustees, ~~administrators~~, and other fiduciaries, except where it is contrary to the will  
6 or other instrument of trust, the state of ~~Wisconsin~~ and its agencies and its  
7 municipalities, districts, and other subdivisions, and all institutions and agencies  
8 thereof, <sup>of the state</sup> and all other persons, associations, and corporations, subject to the laws of  
9 this state, are authorized:

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

11           219.04 (1) (a) 2. All ~~executors, administrators~~ personal representatives,  
12 guardians, trustees, and other fiduciaries.

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

15           219.06 (1) (a) (intro.) ~~The state and all public officers, municipal corporations,~~  
16 ~~political subdivisions, and public bodies, all banks, bankers, savings and loan~~  
17 ~~associations, credit unions, trust companies, savings banks and institutions,~~  
18 ~~investment companies and other persons carrying on a banking business, and all~~  
19 ~~executors, administrators, guardians, trustees and other fiduciaries, Any of the~~  
20 following may legally invest any sinking funds, moneys, or other funds belonging to  
21 them or within their control in any bonds or other obligations issued by a  
22 metropolitan sewerage district under ss. 200.21 to 200.65 or by a housing authority  
23 created by or ~~pursuant to~~ <sup>under</sup> the housing authorities law of this state or issued by any  
24 public housing authority or agency in the United States, ~~when such~~ if the bonds or  
25 other obligations are secured by a pledge of annual contributions to be paid by the

1 ~~United States~~ U.S. government or any agency thereof ~~of the U.S. government~~, by the  
2 city, village, town, or county in which ~~operates~~ the housing authority issuing ~~such the~~  
3 bonds or other obligations operates or by the district under s. 200.55 or are  
4 guaranteed by the state. ~~Such:~~

5 (b) The bonds and other obligations described in par. (a) shall be authorized  
6 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.

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

8 219.06 (1) (a) 1. The state and all public officers, municipal corporations,  
9 political subdivisions, and public bodies.

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

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

NOTE: See the previous section of this bill.

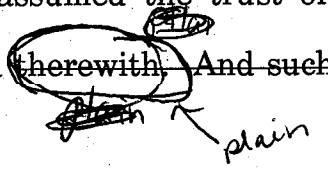
14 **SECTION 55.** 219.07 (1) (a) 2. of the statutes is amended to read:

15 **219.07 (1) (a) 2.** All ~~executors, administrators~~ personal representatives,  
16 guardians, trustees, and other fiduciaries.

17 **SECTION 56.** 220.17 (2) of the statutes is renumbered 220.17 (2) (intro.) and  
18 amended to read:

19 220.17 (2) (intro.) ~~And such~~ All of the following apply to a consolidated bank  
20 or trust company described in sub. (1), if the consolidated bank or trust company is  
21 authorized to perform fiduciary services, as of ~~at~~ the time of the taking effect of such  
22 consolidation shall:

1           (a) The consolidated bank or trust company shall succeed to all rights,  
2 obligations, relations, and trusts, and the duties and liabilities connected therewith  
3 with the performance of fiduciary services, held by any bank or trust company party  
4 to ~~such~~ the consolidation, and without further appointment shall act as trustee,  
5 ~~executor, administrator or personal representative~~ or in any other fiduciary capacity  
6 in which any ~~such consolidating bank or trust company~~ party to the consolidation  
7 was acting at the time of ~~such~~ the consolidation, and.

8           (b) The consolidated bank or trust company shall execute and perform each and  
9 ~~every such trust or relation~~ described in par. (a) in the same manner as if the  
10 consolidated bank or trust company itself had assumed the trust or relation,  
11 including the obligations and liabilities connected therewith. And such ~~with the~~  
12 ~~performance of fiduciary services,~~  ~~with the~~

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

20           **SECTION 57.** 221.0316 (1) of the statutes is amended to read:

21           221.0316 (1) GENERAL. When authorized by the division, and after the bank has  
22 in good faith complied with all requirements of law and fulfilled all the conditions  
23 precedent to the exercise of trust powers imposed by law upon trust company banks,  
24 a bank may act as trustee, ~~executor, administrator~~ personal representative, registrar  
25 of stocks and bonds, guardian of estates, assignee, receiver, and in any other

1 fiduciary capacity in which trust company banks are permitted to act. A bank  
2 authorized by the division to exercise trust powers under this section shall comply  
3 with s. 223.02 before exercising such authority. Upon compliance with s. 223.02, the  
4 bank is entitled to the same exemption as to making and filing any oath or giving any  
5 bond or security as is conferred on trust company banks by s. 223.03 (8) (6) (a).

6 **SECTION 58.** 221.0324 (4) of the statutes is amended to read:

7 221.0324 (4) BOND REQUIREMENTS. A bank that is authorized to exercise trust  
8 powers and that complies with s. 223.02 is exempt from furnishing the bond specified  
9 in s. 221.0316 and is entitled to the same exemption as to making and filing any oath  
10 or giving any bond or security as is conferred on trust company banks by s. 223.03  
11 ~~(8)~~ (6) (a).

12 **SECTION 59.** 221.0521 (2) (b) of the statutes is amended to read:

13 221.0521 (2) (b) The name signed purports to be that of a personal  
14 representative, ~~administrator, executor,~~ <sup>stet.</sup> guardian, or conservator representing the  
15 shareholder and, if the bank requests, evidence of fiduciary status acceptable to the  
16 bank is presented with respect to the vote, consent, waiver, or proxy appointment.

17 **SECTION 60.** 223.03 (intro.) of the statutes is amended to read:

18 **223.03 Corporate powers.** (intro.) ~~Any such corporation~~ A trust company  
19 bank shall have the following powers:

20 **SECTION 61.** 223.03 (6) of the statutes is renumbered 223.03 (6) (intro.) and  
21 amended to read:

22 223.03 (6) (intro.) To act as trustee, ~~executor, administrator~~ personal  
23 representative, registrar of stocks and bonds, custodian, agent, guardian of estates,  
24 guardian of any person subject to guardianship, assignee, receiver, and in any other

1 fiduciary capacity authorized by the division, subject to all of the following  
2 conditions:

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

3 SECTION 62. 223.03 (6) (c) of the statutes is created to read:

4 223.03 (6) (c) In all cases in which application is made to a court for the  
5 appointment of a person to act in a capacity described in this subsection, it shall be  
6 lawful to appoint a trust company bank, with its consent, to hold the office or offices.

7 SECTION 63. 223.03 (7) of the statutes is amended to read:

8 223.03 (7) ~~And any such corporation may~~ To act generally as agent or attorney

9 for the transaction of business, the management of estates, the collection of rents,

10 interests, dividends, mortgages, bonds, bills, notes, and other securities, <sup>strike com</sup> or moneys,

11 ~~and also as agent~~ <sup>to act also</sup> for the purpose of issuing, negotiating, registering, transferring,

12 or countersigning certificates of stock, bonds, or other obligations of any corporation,

13 association, or municipality, and <sup>to</sup> manage any sinking fund or debt service fund

14 therefor, on such terms as may be agreed upon; ~~and may also accept and execute the~~

15 ~~offices of executor, administrator, trustee, receiver, assignee, or guardian of any~~

16 ~~minor or insane or incompetent person or any person subject to guardianship; and~~

17 ~~in all cases in which application shall be made to any court for the appointment of~~

18 ~~any person in any such capacity, it shall be lawful to appoint such corporation, with~~

19 its consent, 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, except for the authority to serve as guardian of a person which is moved to sub. (6) by this bill.

20 SECTION 64. 223.03 (8) of the statutes is renumbered 223.03 (6) (a) and

21 amended to read:

1           223.03 (6) (a) ~~In case of such appointment, or in case such corporation shall be~~  
2           ~~named as an executor in any will or as assignee in any assignment for the benefit of~~  
3           ~~creditors, it~~ A trust company bank appointed by a court to act in a capacity described  
4           in this subsection shall not be required to make and file any oath or give any bond  
5           or security, except in the discretion of the court making ~~such~~ the appointment, or  
6           having jurisdiction of ~~such will or assignment~~ over the matter.

7           **SECTION 65.** 223.03 (9) of the statutes is renumbered 223.03 (6) (b) and  
8           amended to read:

9           223.03 (6) (b) The accounts of ~~said corporation as such trustee, receiver,~~  
10          ~~assignee, executor, administrator, or guardian~~ a trust company bank appointed by  
11          a court to act in a capacity described in this subsection shall be regularly settled and  
12          adjusted by the proper officers or tribunals, and all ~~proper~~, legal, ~~usual~~, and  
13          customary charges, costs, and expenses shall be allowed to ~~such corporation~~ the trust  
14          company bank for the care and management of the estate so committed to it.

15          **SECTION 66.** 223.03 (13) of the statutes is amended to read:

16          223.03 (13) ~~It shall be lawful for any such corporation to~~ To lease, purchase,  
17          hold, and convey ~~such~~ <sup>any</sup> land ~~as~~ <sup>that</sup> may be necessary to carry on its business, and ~~to~~ <sup>to</sup> execute  
18          any trust committed to it, as well as ~~such~~ <sup>any</sup> real or personal estate ~~as it may deem~~ <sup>that</sup> the  
19          trust company bank may consider necessary to acquire in the enforcement or  
20          settlement of any claims or demands arising out of its business transactions, ~~and to~~.

21          (13m) To execute and issue in the transaction of its business all necessary  
22          receipts, certificates, and contracts, ~~which~~ <sup>plain</sup> ~~that~~ shall be signed by ~~such~~ the person or  
23          persons as may be designated by its bylaws.

24          **SECTION 67.** 223.05 (1) of the statutes is renumbered 223.05 (1) (a) and  
25          amended to read:

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

9           **(b)** Every security in which trust funds or property are invested shall ~~at once,~~  
10 immediately upon the receipt ~~thereof of the security by the bank~~, be transferred to  
11 it, ~~as trustee, executor, administrator, guardian, receiver, assignee or other trustee~~  
12 ~~as the case may be for each~~ the bank in its fiduciary capacity for the particular trust  
13 or fund by name and ~~immediately~~ be entered in the proper ~~books~~ records as belonging  
14 to the particular trust whose funds have been invested ~~therein~~ in the security. Any  
15 change in ~~such~~ the investment of trust funds or property shall be fully specified in  
16 ~~and under~~ the account of the particular trust to which it belongs, so that all trust  
17 funds and property shall be readily identified at any time by any person.

18           **SECTION 68.** 223.05 (2) of the statutes is renumbered 223.05 (2) (a) and  
19 amended to read:

20           223.05 (2) (a) ~~Any~~ In this subsection, "bank" means a trust company bank, or  
21 ~~any a~~ state bank or national banking association authorized to exercise trust powers  
22 in this state.

23           **(b) 1.** Any bank acting alone as executor, administrator personal  
24 representative, guardian, testamentary trustee, or trustee of any an inter vivos  
25 trust, unless prohibited by the terms of the trust instrument, whether alone or may



~~executor, administrator~~ personal representative, guardian,  
testamentary trustee, or trustee

1 have any of the stock or other securities that are held in the fiduciary capacity  
2 described in this subdivision registered and held in the name of a nominee of the  
3 bank.

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

12 (c) Any individual or individuals acting as ~~executor, administrator, guardian,~~  
13 ~~testamentary trustee or trustee~~ of any an inter vivos trust, unless prohibited by the  
14 terms of the trust instrument, is and are authorized respectively to testamentary

15 trustee, personal representative, or guardian may request any bank or trust  
16 company bank incorporated under the laws of the state of Wisconsin or any national  
17 bank located in this state to cause have any stock or other securities that are  
18 deposited with such the bank or trust company bank by such the individual or  
19 individuals as fiduciary or fiduciaries to be registered and held in the name of a  
20 nominee or nominees of such the bank or trust company bank. Such. The bank or  
21 trust company bank shall not redeliver such stock or other the securities to such the  
22 individual as fiduciary or fiduciaries causing any stock or other securities to be so  
23 registered in the name of the nominee of such bank or trust company bank without  
24 first causing such stock or other having the securities to be registered in the name  
25 of such the individual as fiduciary or fiduciaries as such. But any. Any sale or

1 transfer of ~~such stock or other~~ securities made by ~~such a bank or trust company bank~~  
2 at the direction of ~~such an~~ individual fiduciary or ~~fiduciaries~~ shall not be construed  
3 to be redelivery, and ~~any such the~~ bank or ~~trust company bank~~ or ~~any and the~~  
4 nominee or nominees in whose name ~~such the~~ securities shall be ~~are~~ registered shall  
5 be ~~deemed~~ considered to have fully discharged the ~~responsibilities~~ <sup>its</sup> of that bank, trust  
6 company bank, nominee or nominees if any ~~such the~~ securities are sold or transferred  
7 in accordance with the direction of ~~the~~ individual fiduciary or ~~fiduciaries~~ making  
8 ~~such deposit~~, and the proceeds of ~~such the~~ sale or transfer are accounted for and  
9 delivered to ~~such the~~ individual fiduciary or ~~fiduciaries~~. ~~Such. The~~ bank or trust  
10 company bank may make any disposition of ~~such stock or other~~ securities authorized  
11 or directed in an order or decree of any court having jurisdiction.

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

20 SECTION 69. 223.12 (1) (intro.) of the statutes is amended to read:

21 223.12 (1) EXCEPTION FROM QUALIFICATION TO DO BUSINESS. (intro.) Any A foreign  
22 corporation may act in this state as trustee, executor, administrator personal

1 representative, guardian, or in any other like fiduciary capacity, whether the  
2 appointment is by will, deed, court order, or otherwise, without complying with any  
3 laws of this state relating to the qualification of corporations organized under the  
4 laws of this state to conduct a trust business or laws relating to the qualification of  
5 foreign corporations other than this section, only if the foreign corporation meets all  
6 of the following requirements:

7 **SECTION 70.** 223.12 (4) (a) (intro.) of the statutes is amended to read:

8 223.12 (4) (a) (intro.) Prior to the time that any foreign corporation acts in this  
9 state as a testamentary trustee, trustee appointed by any court, trustee under any  
10 written agreement, declaration, or instrument of trust, ~~executor, administrator,~~  
11 personal representative, or guardian or in any other like fiduciary capacity, the  
12 foreign corporation shall do all of the following:

13 **SECTION 71.** 223.12 (5) of the statutes is amended to read:

14 223.12 (5) RIGHTS AND AUTHORITY OF FOREIGN CORPORATION. Any foreign  
15 corporation that is eligible to act in this state in a fiduciary capacity, <sup>and that is</sup> ~~duly~~ acting and  
16 qualified as ~~executor~~ personal representative or trustee under any foreign will, or  
17 any declaration, agreement, or other instrument of trust, shall have the same rights  
18 and authority under such the will or trust document as to real estate ~~within~~ in this  
19 state ~~which~~ that any natural person ~~duly~~ acting as such a foreign ~~executor~~ personal  
20 representative or trustee may have under the laws of this state, without the foreign  
21 corporation being required to do any act qualifying it to do business ~~within~~ in this  
22 state that is not required of a natural person acting as such a foreign ~~executor~~  
23 personal representative or trustee.

24 **SECTION 72.** 234.26 of the statutes is renumbered 234.26 (1) (intro.) and  
25 amended to read:

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

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

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

12           **SECTION 73.** 234.26 (1) (a) to (c) of the statutes are created to read:

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

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

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

NOTE: See the previous section of this bill.

19           **SECTION 74.** 292.01 (16) of the statutes is amended to read:

20           292.01 (16) "Representative" means any person acting in the capacity of a  
21 conservator, guardian, court-appointed receiver, personal representative, ~~executor,~~

1 ~~administrator~~, testamentary trustee of a deceased person, trustee of a living trust,  
2 or fiduciary of real or personal property.

3 **SECTION 75.** 340.01 (11) (a) of the statutes is amended to read:

4 340.01 (11) (a) A receiver, trustee, ~~administrator, executor~~ personal  
5 representative, guardian, or other person appointed by or acting under the judgment  
6 or order of any court; or

7 **SECTION 76.** 342.17 (4) (a) 1. of the statutes is amended to read:

8 342.17 (4) (a) 1. Evidence satisfactory to the department of the issuance of the  
9 ~~letters of administration, letters testamentary~~ or other letters authorizing the  
10 administration of an estate, letters of guardianship, or letters of trust, or of the  
11 appointment of the trustee in bankruptcy;

12 **SECTION 77.** 342.17 (4) (a) 2. of the statutes is amended to read:

13 342.17 (4) (a) 2. The title executed by ~~such administrator, executor~~ the personal  
14 representative, guardian, or trustee; and

15 **SECTION 78.** 344.52 (2) of the statutes is renumbered 344.52 (2) (a) and  
16 amended to read:

17 344.52 (2) (a) If a motor vehicle rented for compensation outside this state is  
18 operated in this state, the lessor of ~~such~~ the vehicle is ~~deemed~~ considered to have  
19 irrevocably appointed the secretary as the agent or attorney upon whom legal  
20 process may be served in any action or proceeding against ~~such~~ the lessor or the  
21 lessor's ~~executor, administrator~~, personal representative, successors, or assigns,  
22 growing out of the operation of ~~such~~ the rented motor vehicle in this state. ~~Such,~~  
23 which appointment is binding upon the lessor's ~~executor, administrator~~, personal  
24 representative, successors, or assigns. The operation of ~~such~~ the rented motor  
25 vehicle in this state is a signification of the lessor's agreement that ~~such~~ legal process

1 or notice may be served upon the lessor or the lessor's ~~executor, administrator,~~  
2 personal representative, successors, or assigns and that process or notice so served  
3 has the same legal force as if personally served upon them in this state.

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

7 SECTION 79. 345.09 (1) of the statutes is amended to read:

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

23 SECTION 80. 401.201 (12) of the statutes is amended to read:

24 401.201 (12) "Creditor" includes a general creditor, a secured creditor, a lien  
25 creditor, and any representative of creditors, including an assignee for the benefit of

1 creditors, a trustee in bankruptcy, a receiver in equity, and ~~an executor or~~  
2 ~~administrator~~ a personal representative of an insolvent debtor's or assignor's estate.

3 **SECTION 81.** 401.201 (35) of the statutes is amended to read:

4 401.201 (35) "Representative" includes an agent, an officer of a corporation or  
5 association, and a trustee, ~~executor or administrator~~ or personal representative of  
6 an estate, or any other person empowered to act for another.

7 **SECTION 82.** 406.103 (1) (d) of the statutes is amended to read:

8 406.103 (1) (d) Sales by ~~executors, administrators,~~ receivers, personal  
9 representatives, trustees in bankruptcy, or any public officer under judicial process;

10 **SECTION 83.** 452.01 (3) (a) of the statutes is amended to read:

11 452.01 (3) (a) Receivers, trustees, ~~administrators, executors~~ personal  
12 representatives, guardians, or other persons appointed by or acting under the  
13 judgment or order of any court.

14 **SECTION 84.** 551.02 (3) (d) of the statutes is amended to read:

15 551.02 (3) (d) ~~An executor, administrator~~ A personal representative, guardian,  
16 conservator, or pledgee;

17 **SECTION 85.** 551.23 (6) of the statutes is amended to read:

18 551.23 (6) Any judicial sale or any transaction by ~~an executor, administrator~~  
19 a personal representative, sheriff, marshal, receiver, trustee in bankruptcy,  
20 guardian, or conservator.

21 **SECTION 86.** 551.65 (1) of the statutes is amended to read:

22 551.65 (1) Every applicant for licensc or registration under this chapter, every  
23 person filing a notice filing under this chapter and every issuer that proposes to offer  
24 a security in this state through any person acting as agent shall file with the division  
25 or, if applying for a license, with the organization designated by the division under

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

16 **SECTION 87.** 551.65 (2) of the statutes is amended to read:

17 551.65 (2) When any person, including any nonresident of this state, engages  
18 in conduct prohibited or made actionable by this chapter or any rule or order under  
19 this chapter, and the person has not filed a consent to service of process under sub.  
20 (1) and personal jurisdiction over the person cannot otherwise be obtained in this  
21 state, that conduct shall be considered equivalent to the person's appointment of the  
22 division to be his or her attorney to receive service of any lawful process in any  
23 noncriminal suit, action, or proceeding against the person or the person's successor,  
24 ~~executor or administrator~~ which personal representative that arises out of that  
25 conduct and ~~which that~~ is brought under this chapter or any rule or order under this



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

10 SECTION 88. 553.27 (10) of the statutes is amended to read:

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

1           **SECTION 89.** 553.73 of the statutes is amended to read:

2           **553.73 Service of process.** When any person, including any nonresident of  
3 this state, engages in conduct prohibited or made actionable by this chapter or any  
4 rule or order under this chapter, whether or not the person has filed a consent to  
5 service of process under s. 553.27 (10), and personal jurisdiction over the person  
6 cannot otherwise be obtained in this state, that conduct shall be considered  
7 equivalent to the person's appointment of the division to be the person's attorney to  
8 receive service of any lawful process in any noncriminal suit, action, or proceeding  
9 against the person or the person's successor, ~~executor or administrator~~ which  
10 personal representative that grows out of that conduct and ~~which~~ that is brought  
11 under this law or any rule or order under this chapter, with the same force and  
12 validity as if served on the person personally. Service may be made by leaving a copy  
13 of the process at the office of the division, but it is not effective unless the plaintiff,  
14 who may be the division in a suit, action, or proceeding instituted by the division,  
15 ~~forthwith~~ immediately sends notice of the service and a copy of the process by  
16 registered or certified mail to the defendant or respondent at his or her last-known  
17 address or takes other steps ~~which~~ that are reasonably calculated to give actual  
18 notice, and the plaintiff's affidavit of compliance with this section is filed in the case  
19 on or before the return day of the process, if any, or within ~~such~~ any further time ~~as~~  
20 that the court allows.

21           **SECTION 90.** 601.72 (3) of the statutes is amended to read:

22           **601.72 (3) OTHERS AFFECTED.** The commissioner and department of financial  
23 institutions shall also be attorneys for the ~~executors, administrators or~~ personal  
24 representatives, receivers, trustees, or other successors in interest of the persons  
25 specified in sub. (1).

1           **SECTION 91.** Chapter 777 (title) of the statutes is renumbered Chapter 877  
2 (title) and amended to read:

3                                   **CHAPTER 877**  
4                                   **ACTIONS BY AND AGAINST**  
5                                   **EXECUTORS, ADMINISTRATORS**  
6                                   **PERSONAL REPRESENTATIVES, HEIRS,**  
7                                   **AND LEGATEES**

8           **SECTION 92.** 777.01 of the statutes is renumbered 877.01 and amended to read:

9           **877.01 Tort actions on surviving causes.** If the a cause of action survives  
10 under ch. 895, ~~the executors or administrators~~ a personal representative may  
11 maintain an action ~~thereon~~ on the cause of action against the wrongdoer, in every  
12 case ~~where their~~ in which the decedent could, if living, maintain the action and, after  
13 the wrongdoer's death, against the wrongdoer's ~~executors or administrators.~~ But  
14 personal representative, except that this section shall not extend to actions for  
15 slander or libel.

16           **SECTION 93.** 777.03 of the statutes is renumbered 877.03 and amended to read:

17           **877.03 ~~Executors, etc.,~~ Multiple personal representatives to be**  
18 **considered one.** In ~~actions~~ <sup>actions</sup> ~~or proceedings~~ <sup>proceeding</sup> ~~against executors or administrators they~~  
19 more than one personal representative of an estate, all of the personal  
20 representatives shall all be considered as to be representing their ~~testator or~~  
21 ~~intestate, and service the decedent.~~ Service of the summons on one personal  
22 representative shall constitute service on all, although the plaintiff may serve each  
23 of them. Judgment shall be rendered as if all had been served and execution may be  
24 issued against the property of the ~~testator or intestate~~ decedent as if all had  
25 appeared. ~~But the plaintiff may actually serve each of them.~~

*delete comma*

NOTE: Text is reordered for more logical placement.

1 SECTION 94. 777.05 of the statutes is renumbered 877.05 and amended to read:

2 **877.05 Judgment not to bind realty.** ~~The A decedent's real estate which~~  
3 ~~belonged to any deceased person~~ shall not be bound or in any way be affected by ~~any~~  
4 ~~judgment against the deceased person's executors or administrators, nor shall it be~~  
5 ~~liable to be sold by virtue of any execution issued upon such, any judgment against~~  
6 ~~the decedent's personal representative~~ except as provided in s. 811.25.

7 SECTION 95. 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

against his or her predecessor or the decedent. The successor  
personal representative shall

1 by or against <sup>his or her</sup> ~~the~~ predecessor or <sup>the</sup> ~~the~~ decedent and to ~~collect and enforce~~ <sup>in the collection and enforcement of</sup> any judgment  
 2 as <sup>his or her</sup> ~~the~~ predecessor or <sup>the</sup> ~~the~~ decedent had.

3 SECTION 96. 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 97. 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 according to Black's 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).

15 SECTION 98. 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 the  
 18 decedent's property of the decedent filed by ~~them~~ the personal representative shall  
 19 be prima facie evidence of the property ~~which~~ that has come to ~~their~~ the personal  
 20 representative's possession or knowledge and of the value ~~thereof~~ of the property.

21 (2) In such an action or proceeding against a personal representative, the  
 22 ~~defendants~~ defendant shall not be charged with ~~choses~~ chooses in action specified in ~~their~~ the

1 defendant's inventory unless it appear appears that the same choses in action have  
2 been collected or might have been collected with due diligence.

3 SECTION 99. 777.16 of the statutes is renumbered 877.16 and amended to read:

4 **877.16 Foreign executors, personal representatives empowered to act.**

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

15 SECTION 100. 777.17 of the statutes is renumbered 877.17 and amended to  
16 read:

17 **877.17 Actions against executors personal representatives; when**  
18 **allowed; when not.** No attachment or execution may be issued against the estate  
19 of the decedent or the ~~executor or administrator,~~ personal representative until the  
20 expiration of the time limited for the payment of debts, except as provided in ss.  
21 811.25 and 815.14.

22 SECTION 101. 777.18 of the statutes is renumbered 877.18 and amended to  
23 read:

24 **877.18 Action to recover from heirs, legatees; parties defendant.**

25 Actions against the heirs or legatees and devisees of any ~~deceased person~~ decedent

1 to recover the value of any assets that may have been paid or delivered to them by  
2 ~~any executor or administrator~~ a personal representative may be brought against all  
3 of the heirs or all of the legatees and devisees jointly or against one or more of them.  
4 If the action is not against all who are liable, the rest shall be made parties on request  
5 of the defendant.

6 **SECTION 102.** 777.19 of the statutes is renumbered 877.19 and amended to  
7 read:

8 **877.19 Action against heirs and legatees; what may be recovered;**  
9 **costs.** If an action ~~mentioned~~ described in s. ~~777.18~~ 877.18 is brought, the plaintiff  
10 must show that he or she has been or will be unable, with due diligence, to collect all  
11 or part of his or her debt ~~or some part thereof~~ by proceedings in the circuit court or  
12 from the personal ~~representatives~~ representative of the decedent. In that event,  
13 except as limited by s. 859.23, the plaintiff may recover the value of all the assets  
14 received by all the defendants if necessary to satisfy his or her demand, and the  
15 amount of the recovery shall be apportioned among the defendants in proportion to  
16 the value of the property received by each of them; ~~and the costs.~~ Costs of the action  
17 shall be apportioned in like manner. No allowance or deduction may be made from  
18 the amount on account of other heirs or legatees or devisees to whom assets have also  
19 been delivered or paid. The judgment shall express the amount recovered against  
20 each defendant for damages and costs.

21 **SECTION 103.** 777.20 of the statutes is renumbered 877.20 and amended to  
22 read:

23 **877.20 Contribution among heirs.** Any of the heirs heir against whom  
24 recovery ~~shall be had pursuant to ss. 777.18 and 777.19~~ is made under ss. 877.18 and  
25 877.19 may maintain an action against the other heirs to whom any ~~such~~ assets may

SECTION #. 777.21 (title) <sup>of the statutes</sup> is renumbered 877.21 (title).

1 have been paid or delivered by the personal representative, jointly or against any of  
2 them separately, for a just and equal contribution; and shall be entitled to recover  
3 of from each defendant an amount ~~which shall be~~ that is in the same proportion to  
4 the sum collected of from the plaintiff as the value of the assets delivered to ~~such~~ that  
5 defendant bore to the value of all the assets delivered to all the heirs.

6 SECTION 104. 777.21 <sup>(1)</sup> of the statutes is renumbered 877.21 <sup>(1) (intro.)</sup> and amended to  
7 read:

8 **877.21 Recovery against legatee; contribution.** (1) <sup>(intro.)</sup> If the an action is

9 brought against all the legatees and devisees, the plaintiff shall not recover unless  
10 the plaintiff shows, in addition to the facts required to be shown in an action against  
11 the heirs: that, any of the following:

12 (a) That no assets were delivered by the executor or administrator personal  
13 representative to the heirs; or that.

14 (b) That the value of such the assets delivered to the heirs has been recovered  
15 by some other creditor; or that such.

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

19 (2) If the an action <sup>877.21</sup> ~~be is~~ brought against a preferred legatee or devisee or a  
20 preferred class, the plaintiff must also show the same matters as to the legatee or  
21 devisee or class to whom the defendants are preferred as is ~~above~~ required to be  
22 shown under sub. (1) as to the heirs. ~~And any~~

23 (2m) Any legatee or devisee against whom recovery shall be had is made may  
24 maintain an action for contribution against others of the same class as heirs may  
25 among themselves.

SECTION #. 777.21 (2) <sup>of the statutes</sup> is renumbered 877.21 (2) and amended to read:



SECTION #. 777.21 (3) of the statutes is renumbered 877.21(3) and amended to read;

1 ~~877.21~~ (3) Specific legacies and devises are preferred to residuary ones legacies and  
2 devises.

3 SECTION 105. 777.22 of the statutes is renumbered 877.22 and amended to  
4 read:

5 **877.22 Payment a discharge.** In case of any judgment against several heirs  
6 ~~or legatees or devisees,~~ the payment or satisfaction of the amount recovered against  
7 any one of the defendants shall discharge such that defendant from the judgment  
8 and from execution ~~thereon~~ on the judgment.

9 SECTION 106. 777.26 of the statutes is renumbered 877.26 and amended to  
10 read:

11 **877.26 Accounts as evidence.** The account of the ~~executor or administrator~~  
12 personal representative, settled by the proper circuit court, may be used in any action  
13 brought under the provisions of this chapter as presumptive evidence of any matter  
14 of fact stated ~~therein~~ in the action.

15 SECTION 107. 777.28 of the statutes is renumbered 877.28 and amended to  
16 read:

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

21 SECTION 108. 777.29 of the statutes is renumbered 877.29 and amended to  
22 read:

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

1 exclusively out of particular property or of any beneficiary made exclusively liable  
2 for ~~any such~~ the debt.

3 **SECTION 109.** 777.32 of the statutes is renumbered 877.32 and amended to  
4 read:

5 **877.32 Judgment, how collected.** If any real estate ~~which~~ that descended  
6 or was devised to any defendant is not aliened by the defendant before the filing of  
7 a notice of the pendency of ~~the~~ an action, the court shall adjudge that the debt of  
8 owing to the plaintiff, or the portion ~~thereof which~~ of the debt that the plaintiff is  
9 entitled to recover against ~~such~~ the defendant, shall be levied only out of ~~such~~ the real  
10 estate so descended or devised, ~~and not otherwise.~~

11 **SECTION 110.** 777.36 of the statutes is renumbered 877.36, and 877.36 (intro.),  
12 as renumbered, is amended to read:

13 **877.36 Debts, order of payment.** (intro.) <sup>The</sup> When ~~the~~ next of kin, legatees,  
14 heirs, or devisees <sup>who</sup> are liable for demands against the decedent as prescribed in this  
15 chapter ~~they, those persons~~ shall be given preference in the payment of ~~the same~~  
16 ~~demands against the decedent~~ and shall be liable ~~therefor~~ <sup>for</sup> ~~the~~ demands <sup>against the estate</sup> in the  
17 following order:

18 **SECTION 111.** 777.38 of the statutes is renumbered 877.38 and amended to  
19 read:

20 **877.38 Defenses.** ~~The~~ If the decedent's next of kin, legatees, heirs, and  
21 devisees may show that there are unsatisfied debts of the decedent that are of a class  
22 prior class ~~unsatisfied or that there are unpaid debts of the same class with that to~~  
23 the class of the debt on which the action is brought; and ~~if it appear~~ that the value  
24 of the personal property delivered to them or of the real estate descended or devised

1 to them does not exceed the debts of a ~~prior class~~ prior to that of the debt on which  
2 the action is brought, judgment shall be rendered in their favor.

3 **SECTION 112.** 777.39 of the statutes is renumbered 877.39 and amended to  
4 read:

5 **877.39 Extent of liability.** If the personal property delivered to such the  
6 decedent's next of kin or legatees, or if the real estate descended or devised to such the  
7 decedent's heirs or devisees, ~~exceed~~ <sup>plain common</sup> exceeds the amount of debts which that are  
8 entitled to a preference over the debt for which ~~the~~ an action is brought, judgment  
9 shall be rendered against ~~them~~ the next of kin, legatees, heirs, or devisees only for  
10 such a sum as shall be that is a just proportion to the other debts of the same class  
11 with that on which the action is brought.

12 **SECTION 113.** 777.40 of the statutes is renumbered 877.40 and amended to  
13 read:

14 **877.40 Preferred debts deducted.** If any debt of the decedent that is of the  
15 same or a prior class to that on which the an action is brought, ~~or of the same class,~~  
16 ~~shall have~~ has been paid by any next of kin, legatees, heirs or devisees they legatee,  
17 heir, or devisee, that person may give evidence of such the payment, and the amount  
18 of debts so paid shall be estimated in ascertaining the amount to be recovered in the  
19 same manner as if such those paid debts were outstanding and unpaid as prescribed  
20 in ss. ~~777.38~~ 877.38 and ~~777.39~~ 877.39.

21 **SECTION 114.** 777.41 of the statutes is renumbered 877.41 (intro.) and amended  
22 to read:

23 **877.41 Rights and liabilities of posthumous child and witness to will.**  
24 (intro.) A child born after the making of a will who is entitled to succeed to a portion  
25 of any of the real or personal testator's property or both of the testator, or a witness

1 to a will who is entitled to recover any portion of such the testator's property from  
2 the legatees or devisees, shall have:

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

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

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

12 **SECTION 115.** 777.42 of the statutes is renumbered 877.42 and amended to  
13 read:

14 **877.42 Estate of deceased heir liable.** The estate of any heir, devisee,  
15 legatee, or next of kin of a decedent who dies before paying his or her just share of  
16 the decedent's debts is liable ~~therefor~~ for his or her share of the decedent's debts, as  
17 for a personal debt, to the same extent to which that he or she would have been liable  
18 if living.

19 **SECTION 116.** 803.01 (2) of the statutes is amended to read:

20 803.01 (2) REPRESENTATIVES. A personal representative, executor,  
21 administrator, guardian, bailee, or trustee of an express trust, a party with whom or  
22 in whose name a contract has been made for the benefit of another, or a party  
23 authorized by statute may sue in the party's name without joining the person for  
24 whose benefit the action is brought. A partner asserting a partnership claim may  
25 sue in the partner's name without joining the other members of the partnership, but

1 the partner shall indicate in the pleading that the claim asserted belongs to the  
2 partnership.

3 SECTION 117. 806.04 (4) (intro.) of the statutes is amended to read:

4 806.04 (4) REPRESENTATIVES, ETC. (intro.) Any person interested as or through  
5 a personal representative, ~~executor, administrator,~~ trustee, guardian or other  
6 fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the  
7 administration of a trust, or of the estate of a decedent, ~~an~~ infant, mental  
8 incompetent, or insolvent, may have a declaration of rights or legal relations in  
9 respect ~~thereto~~ to the administrator or the trustee of the estate for any of the following purposes:

10 SECTION 118. 813.026 of the statutes is amended to read:

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

24 SECTION 119. 814.14 of the statutes is renumbered 814.14 (1) (a) and amended  
25 to read:

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

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

12 (2) In addition to other costs, all actions or proceedings in which any receiver,  
 13 assignee, guardian, guardian ad litem, executor, administrator, or other fiduciary  
 14 may be entitled to recover costs, the fiduciary may recover ~~in addition to other costs~~,  
 15 ~~such~~ any sum that the fiduciary paid to a company, authorized by the laws of this  
 16 state, ~~so to do~~ act as the fiduciary's surety, for becoming the fiduciary's surety upon  
 17 any bond or other obligation given by the fiduciary in the fiduciary's representative  
 18 capacity, in ~~such~~ the action or proceeding, pursuant to law or the order of any court  
 19 ~~or judge~~, as may be allowed by the court ~~or judge~~, in which ~~or before whom~~ the  
 20 fiduciary accounts, not exceeding the lesser of 2% per year on the amount secured by  
 21 ~~such~~ the obligation, or ~~any less the actual~~ amount which the fiduciary may have paid  
 22 ~~any such to the company for such purpose~~.

23 SECTION 120. 814.28 (1) of the statutes is amended to read:

24 814.28 (1) DEFENDANT MAY REQUIRE. Except as otherwise provided by s. 814.29,  
 25 the defendant may require the plaintiffs to file security for costs if the plaintiffs are

1 all nonresidents; or are foreign corporations, nonresident ~~executors, administrators~~  
2 personal representatives, guardians, trustees, or receivers; or are trustees or  
3 assignees of any debtor; or are imprisoned for crime for terms less than life; or shall  
4 take issue upon the answer of the garnishee.

5 **SECTION 121.** 815.15 of the statutes is amended to read:

6 **815.15 Execution after judgment creditor's death.** If the judgment  
7 creditor dies before satisfaction of the judgment, an execution may be issued by the  
8 judgment creditor's attorney of record in the name of ~~such~~ the decedent or in the  
9 name of the judgment creditor's ~~executor or administrator~~ personal representative.  
10 Before an execution shall issue in the name of ~~an executor or administrator~~ the  
11 ~~executor or administrator~~ a personal representative, the personal representative  
12 shall file with the clerk a copy of ~~his or her~~ the letters testamentary or ~~of other letters~~  
13 authorizing the administration, and of the decedent's estate, which the clerk shall  
14 file ~~such papers~~ with the other papers in the action or proceeding ~~and~~. The clerk shall  
15 also enter at the foot of the judgment, in the judgment record, the fact of the death  
16 of ~~such~~ the judgment creditor; ~~and~~ the name and date of appointment of ~~such~~  
17 ~~executor or administrator~~ the personal representative. The moneys collected  
18 ~~thereon on the judgment~~ shall be paid to the ~~executors or administrators of such~~  
19 ~~creditor, judgment creditor's personal representative, but if there be none then is no~~  
20 personal representative, the moneys so collected on the judgment shall be paid to the  
21 clerk of the court.

22 **SECTION 122.** 815.53 (3) of the statutes is amended to read:

23 815.53 (3) A certified copy of the creditor's ~~letters of administration or letters~~  
24 testamentary or other letters authorizing the administration of the decedent's  
25 estate, in <sup>the</sup> case of an administrator or executor a personal representative.

**SECTION 123**

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**SECTION 123.** 815.56 of the statutes is amended to read:

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

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**SECTION 124.** 847.05 of the statutes is amended to read:

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

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

**SECTION 125.** 847.07 of the statutes is renumbered 847.07 (1) (intro.) and amended to read:

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

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



1           **(b)** The description is ambiguous and does not clearly or fully describe the  
2 premises intended to be conveyed, if the.

3           **(c)** The grantor therein of the conveyance is dead, a nonresident of the state,  
4 a corporation which that has ceased to exist or an administrator, executor a personal  
5 representative, guardian, trustee, or other person authorized to convey and who has  
6 been discharged from his or her trust and the person to whom it was made grantee,  
7 his or her heirs, legal representatives, or assigns have been in the quiet, undisturbed,  
8 and peaceable possession of the premises intended to be conveyed from the date of  
9 the conveyance.

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

12           **SECTION 126.** 854.14 (2) (a) 3. of the statutes is amended to read:

13           854.14 (2) (a) 3. Nominates or appoints the killer to serve in any fiduciary or  
14 representative capacity, including personal representative, ~~executor~~, trustee, or  
15 agent.

16           **SECTION 127.** 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 128.** 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,

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 129.** 856.05 (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 130.** 856.07 (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 131.** 856.09 (4) of the statutes is amended to read:

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

3           **SECTION 132.** 856.21 (1) of the statutes is amended to read:

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

6           **SECTION 133.** 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 134.** 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 135.** 879.35 of the statutes is amended to read:

19          **879.35 Costs in will contests.** Costs may be awarded out of the estate to an  
20 unsuccessful proponent of a will if the unsuccessful proponent is named in the will  
21 to act as an executor therein personal representative and propounded the document  
22 in good faith, and to the unsuccessful contestant of a will if the unsuccessful  
23 contestant is named to act as an executor personal representative in another  
24 document propounded by the unsuccessful contestant in good faith as the last will  
25 of the decedent.

1           **SECTION 136.** 879.37 of the statutes is amended to read:

2           **879.37 Attorney fees in contests.** Reasonable attorney fees may be awarded  
3 out of the estate to the prevailing party in all appealable contested matters, to an  
4 unsuccessful proponent of a will if the unsuccessful proponent is named in the will  
5 to act as an executor therein personal representative and propounded the document  
6 in good faith, and to the unsuccessful contestant of a will if the unsuccessful  
7 contestant is named to act as an executor personal representative in another  
8 document propounded by the unsuccessful contestant in good faith as the last will  
9 of the decedent.

10           **SECTION 137.** 879.59 (2) of the statutes is amended to read:

11           **879.59 (2) BETWEEN TESTATE AND INTESTATE DISTRIBUTEES; PARTIES.** The court also  
12 may authorize the person named to act as executor personal representative in one  
13 or more instruments purporting to be the last will and testament of a person  
14 deceased decedent, or the petitioners for administration with the will or wills  
15 annexed, to adjust by compromise any controversy that may arise between the  
16 persons claiming as devisees or legatees under the will or wills and the persons  
17 entitled to or claiming the estate of the deceased under the statutes regulating the  
18 descent and distribution of intestate estates, to which agreement or compromise the  
19 persons named as executors to act as personal representatives or the petitioners for  
20 administration with will annexed, those claiming as devisees or legatees and those  
21 claiming the estate as intestate shall be parties, provided that persons named to act  
22 as executors personal representatives in any instrument who have renounced or  
23 shall renounce ~~such executorship~~ the right to act as personal representative and any  
24 person whose interest in the estate is unaffected by the proposed compromise shall  
25 not be required to be parties to the compromise.

1           **SECTION 138.** 880.295 (1) of the statutes is renumbered 880.295 (1) (a) and  
2 amended to read:

3           880.295 (1) (a) When a patient in any state or county hospital or mental  
4 hospital or in any state institution for the mentally deficient, or a resident of the  
5 county home or infirmary, appears in need of a guardian, and does not have a  
6 guardian, the department of health and family services by its collection and  
7 deportation counsel, or the county corporation counsel, may apply to the circuit court  
8 of the county in which the patient resided at the time of commitment or to the circuit  
9 court of the county in which the facility in which the patient resides is located for the  
10 appointment of a guardian of the person and estate, or either, or for the appointment  
11 of a conservator of the estate, and the court, upon the application, may appoint the  
12 guardian or conservator in the manner provided for the appointment of guardians  
13 under ss. 880.08 (1) and 880.33 or for the appointment of conservators under s.  
14 880.31.

15           **(b)** If application is made by a corporation counsel, a copy of the petition made  
16 to the court shall be filed with the department of health and family services.

17           **(c)** If application is made by a corporation counsel for appointment of a  
18 guardian of the estate of the patient or resident, or by the patient or resident for  
19 appointment of a conservator of the patient's or resident's estate, the court may  
20 designate the county as guardian or conservator if the court finds that no relative or  
21 friend is available to serve as guardian or conservator and the county is not required  
22 to make or file any oath or give any bond or security, except in the discretion of the  
23 court making the appointment, as similarly provided under s. 223.03 ~~(8)~~ (6) (a) in the  
24 case of the appointment of a trust company bank corporation.

1           (d) The court may place any limitations upon the guardianship or  
2 conservatorship as it ~~deems~~ considers to be in the best interest of the patient.

3           (e) Before any county employee administers the funds of a person's estate ~~of~~ for  
4 which the county has been appointed guardian or conservator, the employee must be  
5 designated as securities agent in the classified service of the county, and the  
6 employee's designation as securities agent shall appear on all court papers ~~which~~  
7 that the security agent signs in the name of the county as guardian or conservator.  
8 The securities agent, before entering upon the duties, shall also furnish an official  
9 bond in ~~such~~ the amount and with ~~such~~ the sureties as that the county board  
10 determines, subject to the prior approval of the amount by the court assigned to  
11 exercise jurisdiction. The bond shall be filed in the office of the register in probate,  
12 and a duplicate original ~~thereof~~ of the bond filed in the office of the county clerk.

13           (f) A conservatorship under this section shall be terminated by the court upon  
14 discharge of the patient unless application for continued conservatorship is made.  
15 The superintendent or director of the facility shall notify the court of the discharge  
16 of a patient for whom a guardian or conservator has been appointed under this  
17 subsection.

18           **SECTION 139.** 891.32 of the statutes is amended to read:

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

1 those allegations shall be taken as true unless specifically denied by the defendant  
2 by in the defendant's answer.

3 **SECTION 140.** 893.22 of the statutes is amended to read:

4 **893.22 Limitation in case of death.** If a person entitled to bring an action  
5 dies before the expiration of the time limited for the commencement of the action and  
6 the cause of action survives, an action may be commenced by the person's  
7 representatives after the expiration of that time and within one year from the  
8 person's death. If a person against whom an action may be brought dies before the  
9 expiration of the time limited for the commencement of the action and the cause of  
10 action survives, an action may be commenced after the expiration of that time and  
11 within one year after the issuing, within this state, of letters testamentary or of other  
12 letters authorizing the administration of the decedent's estate.

13 **SECTION 141.** 893.46 of the statutes is amended to read:

14 **893.46 Acknowledgment, who not bound by.** If there are 2 or more joint  
15 contractors or joint administrators personal representatives of any contractor, no  
16 such joint contractor, ~~executor or administrator~~ joint personal representative shall  
17 lose the benefit of this chapter so as to be chargeable by reason only of any  
18 acknowledgment or promise made by any other of them.

19 **SECTION 142.** 893.47 of the statutes is amended to read:

20 **893.47 Actions against parties jointly liable.** In actions commenced  
21 against 2 or more joint contractors or joint ~~executors or administrators~~ personal  
22 representatives of any contractors, if it shall appear, on the trial or otherwise, that  
23 the plaintiff is barred by this chapter as to one or more of the defendants, but is  
24 entitled to recover against any other or others of them, by virtue of a new  
25 acknowledgment or promise, or otherwise, judgment shall be given for the plaintiff

1 as to any of the defendants against whom the plaintiff is entitled to recover and for  
2 the other defendant or defendants against the plaintiff.

3 **SECTION 143.** 893.49 of the statutes is amended to read:

4 **893.49 Payment by one not to affect others.** If there are 2 or more joint  
5 contractors or joint ~~executors or administrators~~ personal representatives of any  
6 contractor no one of them shall lose the benefit of this chapter, so as to be chargeable,  
7 by reason only of any payment made by any other of them.

8 **SECTION 144.** 895.02 of the statutes is amended to read:

9 **895.02 Measure of damages against ~~executor~~ personal representative.**  
10 When any action ~~mentioned~~ described in s. 895.01 (1) shall be prosecuted to  
11 judgment against the ~~executor or administrator~~ personal representative, the  
12 plaintiff shall be entitled to recover only for the value of the goods taken, including  
13 any unjust enrichment of the defendant, or for the damages actually sustained,  
14 without any vindictive or exemplary damages or damages for alleged outrage to the  
15 feelings of the injured party.

16 **SECTION 145.** 895.031 of the statutes is amended to read:

17 **895.031 Recovery from estate of wrongdoer.** ~~Whenever~~ If the death of a  
18 person shall be is caused by a wrongful act, neglect or default and the act, neglect or  
19 ~~default is such as would~~ or omission committed in this state that, if death had not  
20 ensued, would have entitled the ~~party~~ injured party to maintain an action and  
21 recover damages ~~in respect thereof, then in every such case, and~~ the wrongdoer who  
22 ~~would have been liable if death had not ensued, although such wrongdoer shall die~~  
23 dies prior to the time of the death of ~~such~~ the injured person, the wrongdoer shall be  
24 liable to an action for damages notwithstanding the wrongdoer's prior either death  
25 and notwithstanding the death of the person injured; provided that such action shall



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

NOTE: This treatment attempts to reduce wordiness.

6 **SECTION 146.** 895.38 (5) of the statutes is amended to read:

7 895.38 (5) The procedure for hearing, settling, and allowing ~~such the~~  
8 ~~principal's~~ account shall be according to the practice prescribed by ch. 862 ~~in the~~  
9 ~~matter of account of executors and administrators~~ for personal representatives.

10 Upon the trust fund or estate being found or made good and paid over or properly  
11 secured, ~~such the~~ surety shall be discharged from all liability. Upon demand by the  
12 principal, the discharged surety shall return the unearned part of the premium paid  
13 for the canceled bond.

14 **SECTION 147.** 895.41 (3) (a) (intro.) of the statutes is amended to read:

15 895.41 (3) (a) (intro.) In case an employee who was required to give a cash bond  
16 dies before the cash bond is withdrawn in the manner provided in sub. (1), the  
17 accounting and withdrawal may be effected not less than 5 days after the employee's  
18 death and before the filing of a petition for letters testamentary or ~~of~~ other letters  
19 authorizing the administration in the matter of the decedent's estate, by the  
20 employer with any of the following, in the following order:

21 **SECTION 148.** 895.41 (3) (d) of the statutes is amended to read:

22 895.41 (3) (d) If no relatives designated under par. (a) survive, the employer  
23 may apply the cash bond, or so much ~~thereof~~ of the cash bond as may be necessary,  
24 to paying creditors of the decedent in the order of preference prescribed in s. 859.25

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1 for satisfaction of debts by ~~executors and administrators~~ personal representatives.  
2 The making of payment under this paragraph shall be a discharge and release of the  
3 employer to the amount of the payment.

4 SECTION 149. 895.42 (1) of the statutes is renumbered 895.42 (1) (b) (intro.) and  
5 amended to read:

6 895.42 (1) (b) (intro.) ~~In case~~ If in any proceeding in any court of record it is  
7 determined that moneys or other personal property in the custody of or under the  
8 control of any ~~administrator, executor~~ personal representative, trustee, receiver, or  
9 other officer of the court, belongs to a natural person<sup>er</sup> if the person is alive, or to an  
10 artificial person<sup>er</sup> if it is in existence and entitled to receive, and otherwise to some  
11 other person, and the court ~~or judge making such determination~~ finds that there is  
12 ~~not sufficient evidence showing that the natural person first entitled to take is alive,~~  
13 ~~or that the artificial person is in existence and entitled to receive, or in case such~~  
14 ~~money or other personal property, including any legacy or share of intestate property~~  
15 ~~cannot be delivered to the legatee or heir or person entitled thereto because of the fact~~  
16 ~~that such person is a member of the military or naval forces of the United States or~~  
17 ~~any of its allies or is engaged in any of the armed forces abroad or with the American~~  
18 ~~Red Cross society or other body or other similar business, then in either or any of such~~  
19 ~~cases,~~ <sup>er</sup> any of the following, <sup>plain comma</sup> the court or judge may direct that the officer having  
20 custody or control of such the money or other personal property, <sup>Strike comma</sup> to deposit the same in  
21 <sup>the money</sup> or property with any trust company, ~~or any state or national bank within the state~~  
22 ~~of Wisconsin authorized to exercise trust powers, taking its:~~

23 (c) Any officer depositing money or property with a trust company under par.

24 (b), shall take the trust company's receipt therefor, and the said for the deposit. The

1 receipt shall, to the extent of the deposit so made, constitute a complete discharge  
2 of the ~~said~~ officer in any accounting made by the officer ~~made~~ in ~~said~~ the proceeding.

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

3 **SECTION 150.** 895.42 (1) (a) of the statutes is created to read:

4 895.42 (1) (a) In this subsection, “trust company” means any trust company or  
5 any state or national bank in this state that is authorized to exercise trust powers.

NOTE: This definition is created to simplify sentence structure.

6 **SECTION 151.** 895.42 (1) (b) 1. and 2. of the statutes are created to read:

7 895.42 (1) (b) 1. That there is not sufficient evidence showing that the natural  
8 person first entitled to take is alive, or that the artificial person is in existence and  
9 entitled to receive.

10 2. That the money or other personal property, including any legacy or share of  
11 intestate property cannot be delivered to the person entitled to the money or property  
12 because the person is a member of the military or naval forces of the United States  
13 or any of its allies or is engaged in any of the armed forces abroad or with the  
14 American Red Cross society or other body or similar business.

NOTE: See SECTION 149 of this bill.

15 **SECTION 152.** 898.27 of the statutes is amended to read:

16 **898.27 Assignment of bond.** If any ~~such~~ bond ~~shall be given under s. 898.17~~  
17 ~~is forfeited,~~ the party at whose suit the person executing the same bond shall have  
18 been confined or, in case of his or her death, ~~the executor or administrator of such~~  
19 ~~party~~ that party's personal representative, shall be entitled to an assignment thereof  
20 of the bond, which shall be made by the sheriff taking the same, or, in case of a  
21 vacancy in the sheriff's office, by the sheriff's undersheriff.

22 **SECTION 153.** 990.01 (7) of the statutes is repealed.

