

01-1160

"/P3" → "/P4"
1st Run

01-1160/P3

December 12, 2001

Please review this revisor's bill and return it to me. If you think of any other attorneys that should review it, please add their initials to the router.

MJL ✓

MES ✓

RJM ✓

RAC ✓

PJK ✓

RRN ✓

JK ✓

Thanks,
Heather

~~Paul - Please check 36.29(2)
39.32(2)~~



I have reviewed my own sections and all other sections with respect to the change to "personal representative." Please review your own sections with respect to other changes made by Bruce Hoesly.



SOON

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

1 **AN ACT relating to:** repealing, consolidating, renumbering, amending, and
2 revising various provisions of the statutes for the purpose of correcting errors,
3 supplying omissions, correcting and clarifying references, and eliminating
4 defects, anachronisms, conflicts, ambiguities, and obsolete provisions
5 (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) (j), 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 s. 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 of 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 of 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 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. In accordance with a change in drafting style, commas are added ~~at~~ the last item in a series. The term "which" is replaced with "that" where grammatically correct. 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.

→ before

1 Any of the following may ~~properly and legally~~ invest funds, including capital in their
2 control or belonging to them, in bonds of the authority;

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

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

7 SECTION 10. 66.0823 (13) (a) 1. to 11. of the statutes are created to read:

8 66.0823 (13) (a) 1. Public officers and agencies of the state.

9 2. Political subdivisions.

10 3. Insurance companies.

11 4. Trust companies.

12 5. Banks.

13 6. Savings bank. *A*

14 7. Savings and loan associations.

15 8. Investment companies.

16 9. Personal representatives.

17 10. Trustees.

18 11. Other fiduciaries not listed in ~~subsections~~

this paragraph

NOTE: See the previous section of this bill.

19 SECTION 11. 66.0825 (15) of the statutes is renumbered 66.0825 (15) (a) (intro.)

20 and amended to read:

21 66.0825 (15) (a) BONDS ELIGIBLE FOR INVESTMENT. (intro.) ~~All public officers and~~
22 ~~agencies and political subdivisions of the state and all insurance companies, trust~~
23 ~~companies, banks, savings banks, savings and loan associations, investment~~

1 ~~companies, executors, administrators, trustees and other fiduciaries~~ Any of the
2 following may invest funds, including capital in their control or belonging to them,
3 in bonds issued by a company under this section-:

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

NOTE: See the next section of this bill.

8 **SECTION 12.** 66.0825 (15) (a) 1. to 10. of the statutes are created to read:

9 66.0825 (15) (a) 1. Public officers and agencies and political subdivisions of the
10 state.

11 2. Insurance companies.

12 3. Trust companies.

13 4. Banks.

14 5. Savings banks.

15 6. Savings and loan associations.

16 7. Investment companies.

17 8. Personal representatives.

18 9. Trustees.

19 10. Other fiduciaries not listed in ~~subintro.~~

this paragraph

NOTE: See the previous section of this bill.

20 **SECTION 13.** 66.1309 (intro.) of the statutes is renumbered 66.1309 (2) (intro.)
21 and amended to read:

22 66.1309 (2) (intro.) Notwithstanding any other law or the absence of direct
23 provision for transfer of land in the instrument under which a fiduciary is acting,

name

in the names of all of the personal representatives or trustees if there are more than one

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 21. 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 22. 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 23. 70.36 (1) of the statutes is amended to read:

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

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

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

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

24 **SECTION 26.** 71.15 (2) of the statutes is amended to read:

plain comma

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 27.** 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} 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} 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 28.** 71.80 (12) (title) of the statutes is amended to read:

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 33.** 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 34.** 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 35.** 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 36.** 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~~ parents,
23 or siblings of the decedent, giving preference in the foregoing order; or, if no such
24 listed.

Insert 21-10

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

6 (d) The making of payment in ~~such~~ the manner described in this subsection
7 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.

8 **SECTION 37.** 112.01 (1) (b) of the statutes is amended to read:

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

15 **SECTION 38.** 112.01 (11) of the statutes is amended to read:

16 112.01 (11) DEPOSIT OR SAFE DEPOSIT BOX RENTAL IN NAME OF ESTATE OR TWO OR
17 MORE FIDUCIARIES. When a deposit is made in a bank account or a safe deposit box or
18 storage space rented, in the ~~name~~ ^{names} of 2 or more persons as trustees, ~~executors~~ or
19 ~~administrators~~ personal representatives, or in the name of an estate having 2 or
20 more ~~executors or administrators~~ personal representatives, and a check is drawn
21 upon ~~such~~ the account, or access to ~~said~~ the safe deposit box or storage space is sought

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

5 **SECTION 44.** 113.06 of the statutes is amended to read:

6 **113.06 Death of obligor, estate liable.** On the death of a joint obligor in
7 contract, the joint obligor's ~~executor or administrator~~ **(personal representative** or
8 **estate)** shall be ~~bound as such~~ jointly and severally **bound** with the surviving obligor
9 or obligors.

10 **SECTION 45.** 137.01 (7) of the statutes, as affected by 2001 Wisconsin Act 16,
11 is amended to read:

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

23 **SECTION 46.** 179.65 of the statutes is amended to read:

24 **179.65 Power of estate of deceased or incompetent partner.** If a partner
25 who is an individual dies or is adjudged incompetent to manage his or her person or

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

4 (b) 1. Any bank acting alone as ~~executor, administrator~~ personal
5 representative, guardian, testamentary trustee, or trustee of any an inter vivos
6 trust, unless prohibited by the terms of the trust instrument, ~~whether alone or may~~
7 have any of the stock or other securities that are held in the fiduciary capacity
8 described in this subdivision registered and held in the name of a nominee of the
9 bank ~~except as provided under subd. 2~~

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

18 (c) Any individual or individuals acting as executor, administrator personal
19 representative, guardian, testamentary trustee, or trustee of any an inter vivos
20 trust, unless prohibited by the terms of the trust instrument, ~~is and are authorized~~
21 ~~respectively to~~ may request any bank or trust company bank incorporated under the
22 ~~laws of the state of Wisconsin or any national bank located in this state to cause~~ have
23 ~~any stock or other securities that are deposited with such the bank or trust company~~
24 ~~bank by such the individual or individuals as fiduciary or fiduciaries to be registered~~
25 ~~and held in the name of a nominee or nominees of such the bank or trust company~~

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

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

Insert 37-1

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

1 SECTION 72. 223.12 (1) (intro.) of the statutes is amended to read:
2 223.12 (1) EXCEPTION FROM QUALIFICATION TO DO BUSINESS. (intro.) Any A foreign
3 corporation may act in this state as trustee, ~~executor, administrator~~ personal
4 representative, guardian, or in any other like fiduciary capacity, whether the
5 appointment is by will, deed, court order, or otherwise, without complying with any
6 laws of this state relating to the qualification of corporations organized under the
7 laws of this state to conduct a trust business or laws relating to the qualification of
8 foreign corporations other than this section, only if the foreign corporation meets all
9 of the following requirements:

10 SECTION 73. 223.12 (4) (a) (intro.) of the statutes is amended to read:
11 223.12 (4) (a) (intro.) Prior to the time that any foreign corporation acts in this
12 state as a testamentary trustee, trustee appointed by any court, trustee under any
13 written agreement, declaration, or instrument of trust, ~~executor, administrator,~~
14 personal representative, or guardian or in any other like fiduciary capacity, the
15 foreign corporation shall do all of the following:

16 SECTION 74. 223.12 (5) of the statutes is amended to read:
17 223.12 (5) RIGHTS AND AUTHORITY OF FOREIGN CORPORATION. Any foreign
18 corporation that is eligible to act in this state in a fiduciary capacity, duly and that
19 is acting and qualified as ~~executor~~ personal representative or trustee under any
20 foreign will, or any declaration, agreement, or other instrument of trust, shall have
21 the same rights and authority under such the will or trust document as to real estate
22 ~~within~~ in this state ~~which~~ that any natural person ~~duly~~ acting as such a foreign

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

5 **SECTION 75.** 234.26 of the statutes is renumbered 234.26 (1) (intro.) and
6 amended to read:

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

16 **(2)** The notes and bonds described in sub. (1) shall be authorized security for
17 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.

18 **SECTION 76.** 234.26 (1) (a) to (c) of the statutes are created to read:

19 234.26 (1) (a) The state, the investment board, all public officers, municipal
20 corporations, political subdivisions, and public bodies.

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

Insert 39-2

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

NOTE: See the previous section of this bill.

2 SECTION 77. 292.01 (16) of the statutes is amended to read:

3 292.01 (16) "Representative" means any person acting in the capacity of a
4 conservator, guardian, court-appointed receiver, personal representative, ~~executor,~~
5 administrator, testamentary trustee of a deceased person, trustee of a living trust,
6 or fiduciary of real or personal property.

7 SECTION 78. 340.01 (11) (a) of the statutes is amended to read:

8 340.01 (11) (a) A receiver, trustee, ~~administrator, executor~~ personal
9 representative, guardian, or other person appointed by or acting under the judgment
10 or order of any court; or

11 SECTION 79. 342.17 (4) (a) 1. of the statutes is amended to read:

12 342.17 (4) (a) 1. Evidence satisfactory to the department of the issuance of the
13 ~~letters of administration,~~ letters testamentary or other letters authorizing the
14 administration of an estate, letters of guardianship, or letters of trust, or of the
15 appointment of the trustee in bankruptcy;

16 SECTION 80. 342.17 (4) (a) 2. of the statutes is amended to read:

17 342.17 (4) (a) 2. The title executed by ~~such administrator, executor~~ the personal
18 representative, guardian, or trustee; and

19 SECTION 81. 344.52 (2) of the statutes is renumbered 344.52 (2) (a) and
20 amended to read:

21 344.52 (2) (a) If a motor vehicle rented for compensation outside this state is
22 operated in this state, the lessor of ~~such~~ the vehicle is deemed considered to have
23 irrevocably appointed the secretary as the agent or attorney upon whom legal
24 process may be served in any action or proceeding against ~~such~~ the lessor or the

1 ~~or intestate, and service the decedent. Service of the summons on one personal~~
2 ~~representative shall constitute service on all, although the plaintiff may serve each~~
3 ~~of them.~~ Judgment shall be rendered as if all had been served and execution may be
4 issued against the property of the testator ~~or intestate~~ decedent as if all had
5 appeared. ~~But the plaintiff may actually serve each of them.~~

NOTE: Text is reordered for more logical placement.

6 SECTION 97. 777.05 of the statutes is renumbered 877.05 and amended to read:

7 **877.05 Judgment not to bind realty.** The A decedent's real estate which

8 belonged to any deceased person shall not be bound or in any way ^{be} affected by any
9 judgment against the deceased person's executors or administrators, ~~nor shall it be~~
10 ~~liable to be sold by virtue of any execution issued upon such,~~ any judgment against
11 the decedent's personal representative except as provided in s. 811.25.

add striking

12 SECTION 98. 777.06 of the statutes is renumbered 877.06 and amended to read:

13 **877.06 ~~Executor may prosecute; set-off; judgment~~ Prosecution and**
14 **defense of actions by personal representatives; setoff of claims against**
15 **decedent; judgments, how appealed and paid.** (1) ~~An executor or~~
16 ~~administrator~~ A personal representative may commence and prosecute an action
17 and may prosecute any action commenced by his or her predecessor or decedent for
18 the recovery of any claim or cause of action which ~~which~~ that survived and may have
19 execution on any judgment. In the action the defendant may set off any claim
20 pleadable as a counterclaim ~~which~~ that he or she may have against the decedent,
21 instead of presenting it to the court. If judgment is rendered in favor of the defendant
22 the claim shall be certified to the circuit court, and paid as other claims allowed
23 against the estate.

1 **SECTION 101.** 777.14 of the statutes is renumbered 877.14 and amended to
2 read:

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

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

12 **SECTION 102.** 777.16 of the statutes is renumbered 877.16 and amended to
13 read:

14 **877.16 Foreign executors, personal representatives empowered to act.**

15 When no ~~executor or administrator~~ personal representative has been appointed in
16 this state, on for the estate of any decedent ~~who~~ ^{was} not a resident of this state at the
17 time of his or her death, a foreign ~~executor or administrator~~ personal
18 representative of the decedent, upon filing the original, or a certified copy ^g of the
19 original ² ~~appointment or a certified copy thereof~~ in any circuit court in this state, may
20 exercise any power over the estate, including sales and assignments, and may
21 prosecute and defend any action and proceeding relating ~~thereto~~ to the estate and
22 shall have all the remedies and defenses in regard to the property and ~~to collect the~~
23 collection of any demands of the estate ~~which an executor or administrator that a~~
24 personal representative appointed in this state ~~can have or exercise in relation~~
25 thereto has.

1 SECTION 112. 777.26 of the statutes is renumbered 877.26 and amended to
2 read:

3 877.26 Accounts as evidence. The account of the ~~executor or administrator~~
4 personal representative, settled by the proper circuit court, may be used in any action
5 brought under the provisions of this chapter as presumptive evidence of any matter
6 of fact stated therein ~~in the will~~ account

7 SECTION 113. 777.28 of the statutes is renumbered 877.28 and amended to
8 read:

9 877.28 Limit of liability. When part of the plaintiff's debt has been collected,
10 the plaintiff ~~can~~ may recover only the residue remaining unpaid; ~~and when.~~ When
11 the action is against the devisees and legatees, the plaintiff shall may recover only
12 ~~such~~ that part thereof ~~as shall~~ of the debt that is not be recoverable from the heirs.

13 SECTION 114. 777.29 of the statutes is renumbered 877.29 and amended to
14 read:

15 877.29 Debts charged upon realty not affected. Nothing in this chapter
16 shall affect the liability of heirs or beneficiaries for any debt of their decedent, ~~which~~
17 ~~that~~ was by the decedent's will expressly charged upon property or made payable
18 exclusively out of particular property or of any beneficiary made exclusively liable
19 for ~~any such~~ the debt.

20 SECTION 115. 777.32 of the statutes is renumbered 877.32 and amended to
21 read:

22 877.32 Judgment, how collected. If any real estate ~~which that~~ descended
23 or was devised to any defendant is not aliened by the defendant before the filing of
24 a notice of the pendency of ~~the~~ an action, the court shall adjudge that the debt of
25 owing to the plaintiff, or the portion thereof ~~which~~ of the debt that the plaintiff is

1 entitled to recover against ~~such the~~ defendant, shall be levied only out of ~~such the~~ real
2 estate so descended or devised, ~~and not otherwise.~~

3 **SECTION 116.** 777.36 of the statutes is renumbered 877.36, and 877.36 (intro.),
4 as renumbered, is amended to read:

5 **877.36 Debts, order of payment.** (intro.) ~~When the~~ The next of kin, legatees,
6 heirs, or devisees who are liable for demands against the decedent as ~~prescribed in~~
7 under this chapter ~~they~~ shall be given preference in the payment of ~~the same~~ and
8 shall be liable ~~therefor~~ for demands against the estate in the following order:

9 **SECTION 117.** 777.38 of the statutes is renumbered 877.38 and amended to
10 read:

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

18 **SECTION 118.** 777.39 of the statutes is renumbered 877.39 and amended to
19 read:

20 **877.39 Extent of liability.** If the personal property delivered to ~~such the~~
21 decedent's next of kin or legatee, legatees or if the real estate descended or devised
22 to ~~such the decedent's~~ heirs or devisees, ~~exceed~~ exceeds the amount of debts ~~which~~
23 that are entitled to a preference over the debt for which ~~the~~ an action is brought,
24 judgment shall be rendered against ~~them~~ the next of kin, legatees, heirs, or devisees

or the same as

1 only for such a sum as shall be that is a just proportion to the other debts of the same
2 class with that on which the action is brought.

3 **SECTION 119.** 777.40 of the statutes is renumbered 877.40 and amended to
4 read:

5 **877.40 Preferred debts deducted.** If any debt of the decedent that is of the
6 same or a prior class to that on which the an action is brought, ~~or of the same class,~~
7 ~~shall have~~ has been paid by any next of kin, legatees, heirs or devisees ~~they~~ legatee,
8 heir, or devisee, that person may give evidence of such the payment, and the amount
9 of debts so paid shall be estimated in ascertaining the amount to be recovered in the
10 same manner as if such those paid debts were outstanding and unpaid as prescribed
11 in ss. ~~777.38~~ 877.38 and ~~777.39~~ 877.39.

12 **SECTION 120.** 777.41 of the statutes is renumbered 877.41 (intro.) and amended
13 to read:

14 **877.41 Rights and liabilities of posthumous child and witness to will.**
15 (intro.) A child born after the making of a will who is entitled to succeed to a portion
16 of any of the real or personal testator's property ~~or both of the testator,~~ or a witness
17 to a will who is entitled to recover any portion of such the testator's property from
18 the legatees or devisees, shall have:

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

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

Insert 56-2

1 respect thereto to the administration of the trust or estate for any of the following
2 purposes:

3 SECTION 124. 813.026 of the statutes is amended to read:

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

17 SECTION 125. 814.14 of the statutes is renumbered 814.14 (1) (a) and amended
18 to read:

19 814.14 (1) (a) ~~In~~ Except as provided in par. (b) or unless otherwise specifically
20 provided in any action or proceeding prosecuted or defended in any court in
21 ~~Wisconsin~~ this state by an ~~executor, administrator~~ a personal representative,
22 guardian ad litem, trustee of an express trust, general guardian or ~~a~~ person
23 expressly authorized by statute, ~~unless otherwise specially provided,~~ costs shall may
24 be recovered as in an action by ~~and~~ or against a person prosecuting or defending in
25 the person's own right; ~~but such costs.~~

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

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

20 **SECTION 126.** 814.28 (1) of the statutes is amended to read:

21 814.28 (1) DEFENDANT MAY REQUIRE. Except as otherwise provided by s. 814.29,
22 the defendant may require the plaintiffs to file security for costs if the plaintiffs are
23 all nonresidents; or are foreign corporations, nonresident executors, administrators
24 personal representatives, guardians, trustees, or receivers; or are trustees or

1 **815.56 Sheriff's deed; grantee if purchaser dead.** ~~In case~~ If the person who
2 would be entitled to a deed of real estate sold on execution dies before the delivery
3 of that deed, the sheriff shall execute a deed to the person's ~~executors or~~
4 ~~administrators.~~ The decedent's personal representative who shall either hold the
5 ~~real estate so conveyed shall be held~~ in trust for the use of the heirs or devisees of the
6 ~~deceased person~~ decedent, subject to the surviving spouse's right to elect under s.
7 861.02 (1), ~~but may be sold~~ or sell the real estate for the payment of debts in the same
8 manner as lands ~~of which the person died seized~~ owned by the decedent.

9 **SECTION 130.** 847.05 of the statutes is amended to read:

10 **847.05 Actions between cotenants.** One joint tenant or tenant in common
11 ~~and, or his or her executors or administrators~~ personal representative, may maintain
12 an action for money had and received against the ~~tenant's~~ a cotenant for receiving
13 more than the cotenant's just proportion of the rents or profits of the estate owned
14 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."

15 **SECTION 131.** 847.07 of the statutes is renumbered 847.07 (1) (intro.) and
16 amended to read:

17 847.07 (1) (intro.) The circuit court of any county in which a conveyance of real
18 estate has been recorded may make an order correcting the description in the
19 ~~conveyances~~ conveyance on proof being made to the satisfaction of the court that ~~the~~
20 any of the following applies:

21 (a) The conveyance contains an erroneous description, not intended by the
22 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~~ ^{strike} ~~a personal~~ ^{or}
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 ~~was~~
7 ^{grantee or} 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.

Insert 60-11

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 132. 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 133. 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 134. 856.05 (1) of the statutes is amended to read:

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

Strike comma

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~~ ^{Any} 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~~ ^{Any}
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 135.** 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 136.** 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 137.** 856.09 (4) of the statutes is amended to read:

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 149.** 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 ² no one of them shall lose the benefit of this chapter, ~~so as to be chargeable,~~ *Strike comma*
7 by reason only of any payment made by any other of them.

8 **SECTION 150.** 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 151.** 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 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 consistent with other statutes.

3 SECTION 156. 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 157. 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 155 of this bill.

15 SECTION 158. 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 159. 990.01 (7) of the statutes is repealed.

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

1
2
3
4

SECTION 160. 990.01 (27m) of the statutes is created to read:

990.01 (27m) PERSONAL REPRESENTATIVE. "Personal representative" means a person, however denominated, who is authorized to administer a decedent's estate.

(END)

D-1160

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1160/P3dn
PJK: ~~amh~~hmf:jf

Bruce:

1. I added to the draft ss. 101.91 (3) (a), 101.9211 (4) (a) 1. and 2., 223.12 (title), 254.55 (2) (b), 806.04 (4) (b), and 853.07 (3) (a).
2. See the change I made to s. 70.22 (1). You may want to change your NOTE.
3. I changed "action" to "account" at the end of s. 877.26 (was 777.26).
4. I added "or the same as" to s. 877.38 (was 777.38). I don't know what it means but I thought you left it out when you revamped that section.
5. I changed "Every" at the beginning of each sentence in s. 856.05 (1) to "Any." It seems more accurate and is more consistent with the rest of the section.

Pamela J. Kahler
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2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1160/P3ins
PJK:cmh&hnh:jf

INSERT 21-10

1 SECTION 1. 101.91 (3) (a) of the statutes, as affected by 2001 Wisconsin Act 16,
2 is amended to read:

3 101.91 (3) (a) A receiver, trustee, ~~administrator, executor~~ personal
4 representative, guardian, or other person appointed by or acting under the judgment
5 or order of any court.

6 History: 1973 c. 116, 132; 1983 a. 27, 192; 1995 a. 362; 1999 a. 9, 53; 2001 a. 16 ss. 2533 to 2539, 2975 to 2977.

6 SECTION 2. 101.9211 (4) (a) 1. of the statutes is amended to read:

7 101.9211 (4) (a) 1. Evidence satisfactory to the department of the appointment
8 of a trustee in bankruptcy or of the issuance of the letters of administration, letters
9 testamentary or other letters authorizing the administration of a decedent's estate,
10 letters of guardianship, or letters of trust ~~or appointment of the trustee in~~
11 ~~bankruptcy.~~

12 History: 1999 a. 9, 53, 185; 2001 a. 16.

12 SECTION 3. 101.9211 (4) (a) 2. of the statutes, as affected by 2001 Wisconsin Act
13 16, is amended to read:

14 101.9211 (4) (a) 2. The title executed by ~~such administrator, executor~~ the
15 personal representative, guardian, or trustee, except that this subdivision does not
16 apply if there is no certificate of title as a result of the exemption under s. 101.9203
17 (4).

History: 1999 a. 9, 53, 185; 2001 a. 16.

(END OF INSERT 21-10)

INSERT 37-1

18 SECTION 4. 223.12 (title) of the statutes is amended to read:

1 **223.12** (title) **Foreign trust company as executor personal**
2 **representative or trustee in this state.**

History: 1991 a. 316; 1993 a. 213; 1995 a. 27, 273; 1997 a. 35.

(END OF INSERT 37-1)

INSERT 39-2

3 **SECTION 5.** 254.55 (2) (b) of the statutes is amended to read:

4 254.55 (2) (b) A person who has charge, care, or control of a dwelling or unit
5 of a dwelling as an agent of or as ~~executor, administrator~~ personal representative,
6 trustee, or guardian of the estate of a person under par. (a).

History: 1993 a. 27.

(END OF INSERT 39-2)

INSERT 56-2

7 **SECTION 6.** 806.04 (4) (b) of the statutes is amended to read:

8 806.04 (4) (b) To direct the personal representatives, ~~executors, administrators~~
9 or trustees to do or abstain from doing any particular act in their fiduciary capacity;
10 or

History: Sup. Ct. Order, 67 Wis. 2d 585, 718 (1975); 1975 c. 218; Sup. Ct. Order, 82 Wis. 2d ix (1978); 1977 c. 449; 1979 c. 38, 89, 175; 1979 c. 330 s. 13; 1979 c. 352, 355; 1981 c. 96 s. 67; 1981 c. 187 s. 10; 1981 c. 390 s. 252; 1983 a. 255 s. 6; 1985 a. 182 s. 57, Sup. Ct. Order, 166 Wis. 2d xix (1992).

(END OF INSERT 56-2)

INSERT 60-11

11 **SECTION 7.** 853.07 (3) (a) of the statutes is amended to read:

12 853.07 (3) (a) A provision for employment as ~~executor~~ personal representative
13 or trustee or in some other capacity after death of the testator and a provision for
14 compensation at a rate or in an amount not greater than that usual for the services
15 to be performed;

History: 1987 a. 403; 1997 a. 188.

(END OF INSERT 60-11)