



2001 ASSEMBLY BILL 933

May 1, 2002 – Introduced by LAW REVISION COMMITTEE. Referred to Committee on Rules.

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 decedents’ 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

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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 before 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.

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1 **SECTION 1.** 18.62 of the statutes is renumbered 18.62 (intro.) and amended to
2 read:

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

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

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

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

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

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

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

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1 ~~(a) Proof is made that there are valuable improvements thereon and that such~~
2 ~~on the resold land.~~

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

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

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1 testamentary or other letters authorizing the administration of a decedent's estate,
2 letters of guardianship, or letters of trust ~~or appointment of a trustee in bankruptcy.~~

3 b. Title executed by the ~~administrator, executor~~ personal representative,
4 guardian, or trustee.

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

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

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

21 39.32 (6) The board shall satisfy the loan of any student who obtained a loan
22 under this section or under s. 39.023, 1965 stats., between July 1, 1966, and
23 December 15, 1968, ~~where such~~ if the student died or dies after July 1, 1966, and
24 before completing repayment thereof of the loan, and shall write off the balance of
25 principal and interest owing on the loan on the date it that the board received

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1 confirmation of ~~such~~ the student's death. Obligation to repay such a loan shall
2 terminate on the date of the student's death and any payments made ~~thereon~~ on the
3 loan to the board after ~~such~~ the date of the student's death shall be refunded to the
4 payor or the payor's heirs, ~~executor or administrator~~ personal representative upon
5 receipt by the board of an application for refund.

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

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

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

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

19 **SECTION 9.** 66.0823 (13) of the statutes is renumbered 66.0823 (13) (a) (intro.)
20 and amended to read:

21 66.0823 (13) (a) (intro.) ~~Public officers and agencies of the state, political~~
22 ~~subdivisions, insurance companies, trust companies, banks, savings banks, savings~~
23 ~~and loan associations, investment companies, personal representatives, executors,~~
24 ~~administrators, trustees and other fiduciaries~~ Any of the following may properly and

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1 legally invest funds, including capital in their control or belonging to them, in bonds
2 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 banks.
14 7. Savings and loan associations.
15 8. Investment companies.
16 9. Personal representatives.
17 10. Trustees.
18 11. Other fiduciaries not listed in 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) (intro.) ~~All public officers and agencies and political~~
22 ~~subdivisions of the state and all insurance companies, trust companies, banks,~~
23 ~~savings banks, savings and loan associations, investment companies, executors,~~

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

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1 every ~~executor, administrator, trustee, guardian or other person, holding trust funds~~
2 ~~or acting in a fiduciary capacity~~ fiduciary, unless the instrument under which the
3 fiduciary is acting expressly forbids, ~~the state, its subdivisions, cities, all other public~~
4 ~~bodies, all public officers, corporations organized under or subject to the provisions~~
5 ~~of the banking law, the division of banking as conservator, liquidator or rehabilitator~~
6 ~~of any person, partnership or corporation, persons, partnerships and corporations~~
7 ~~organized under or subject to the provisions of the banking law, the commissioner of~~
8 ~~insurance as conservator, liquidator or rehabilitator of any person, partnership or~~
9 ~~corporation, any of which~~ and every governmental unit, bank, or conservator that
10 owns or holds any real property within a development area, may do all of the
11 following:

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

12 **SECTION 14.** 66.1309 (1) of the statutes is created to read:

13 66.1309 (1) In this section:

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

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

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

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

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

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

3 **SECTION 15.** 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 16.** 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 17.** 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

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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 18.** 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 19.** 70.21 (1) of the statutes is amended to read:

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

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

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

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

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

19 **SECTION 20.** 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

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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 names of all of the ~~executors, administrators~~ personal representatives or
6 trustees of the estate residing in this state. In case ~~the executor, administrator~~ no
7 personal representative or trustee, ~~or all of them if more than one, do not reside~~
8 resides in this state, the taxable personal property belonging to the estate may be
9 assessed in the name of the ~~executors or administrators~~ personal representative or
10 trustee, or in the names of all of the personal representatives or trustees if there are
11 more than one, or in the name of the estate.

NOTE: Reorders text and eliminates unnecessary language. In the last sentence,
“trustee” is added for internal consistency.

12 **SECTION 21.** 70.22 (2) (b) of the statutes is amended to read:

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

18 **SECTION 22.** 70.22 (3) of the statutes is amended to read:

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

23 **SECTION 23.** 70.36 (1) of the statutes is amended to read:

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

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

13 **SECTION 24.** 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 25.** 71.13 (2) (a) and (b) of the statutes are amended to read:

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

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

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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:

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

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

3 **SECTION 29.** 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.

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1 **SECTION 30.** 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 ~~sueh~~ that person, binding upon
7 that person, ~~or that person's executor, administrator or personal representative,~~
8 effective upon ~~sueh~~ 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 ~~sueh~~ 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 31.** 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

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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 29, 30, and 31, the text is reordered to accommodate the
subdivision of this provision and to improve sentence structure.

17 **SECTION 32.** 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

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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:

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

13 101.91 **(3)** (a) A receiver, trustee, ~~administrator~~, ~~executor~~ personal
14 representative, guardian, or other person appointed by or acting under the judgment
15 or order of any court.

16 **SECTION 37.** 101.9211 (4) (a) 1. of the statutes is amended to read:

17 101.9211 **(4)** (a) 1. Evidence satisfactory to the department of the appointment
18 of a trustee in bankruptcy or of the issuance of the letters of administration, letters
19 testamentary or other letters authorizing the administration of a decedent’s estate,
20 letters of guardianship, or letters of trust ~~or appointment of the trustee in~~
21 ~~bankruptcy.~~

22 **SECTION 38.** 101.9211 (4) (a) 2. of the statutes, as affected by 2001 Wisconsin
23 Act 16, is amended to read:

24 101.9211 **(4)** (a) 2. The title executed by such ~~administrator~~, ~~executor~~ the
25 personal representative, guardian, or trustee, except that this subdivision does not

ASSEMBLY BILL 933**SECTION 38**

1 apply if there is no certificate of title as a result of the exemption under s. 101.9203
2 (4).

3 **SECTION 39.** 109.03 (3) of the statutes is renumbered 109.03 (3) (a) and
4 amended to read:

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

11 (b) An employer may, not less than 5 days after the death of an employee and
12 before the filing of a petition or application for letters ~~testamentary or of~~
13 administration ~~in the matter~~ of the decedent's estate, make payments of the wage
14 due the deceased employee to the spouse, children, ~~parent, brother or sister~~ parents,
15 or siblings of the decedent, giving preference in the foregoing order; ~~or, if no such~~
16 listed.

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

22 (d) The making of payment in such the manner described in this subsection
23 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

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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.

1 **SECTION 40.** 112.01 (1) (b) of the statutes is amended to read:

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

8 **SECTION 41.** 112.01 (11) of the statutes is amended to read:

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

22 **SECTION 42.** 112.02 (1) of the statutes is renumbered 112.02 (2m) and amended
23 to read:

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1 112.02 **(2m)** Whenever an ~~executor, administrator, guardian or testamentary~~
2 trustee a fiduciary is engaged in war service as defined in this section, ~~such, the~~
3 ~~fiduciary,~~ or any other person interested in the estate or fund for which the fiduciary
4 is acting, may present a petition to the court having jurisdiction praying for a decree
5 suspending the powers of such the fiduciary while the fiduciary is engaged in war
6 service and until the further order of the court, ~~and if.~~ If the suspension of such the
7 fiduciary will leave no person acting as ~~executor, administrator, guardian or~~
8 ~~testamentary trustee~~ fiduciary, or will leave the sole beneficiary of a trust as the only
9 acting trustee ~~thereof~~ of the trust, the petition must pray for the appointment of a
10 successor unless a successor has been named in the will and such the named
11 successor is not engaged in war service or is not for other reasons unable or unwilling
12 to act as a fiduciary.

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

13 **SECTION 43.** 112.02 (1m) of the statutes is created to read:

14 112.02 **(1m)** In this section, “fiduciary” means a personal representative,
15 guardian, or testamentary trustee.

16 **SECTION 44.** 112.02 (2) (intro.) of the statutes is amended to read:

17 112.02 **(2)** (intro.) ~~For the purposes of~~ In this section a fiduciary shall be deemed
18 considered to be engaged in war service in any of the following cases:

19 **SECTION 45.** 112.02 (4) of the statutes is amended to read:

20 112.02 **(4)** Upon the filing of the petition and the proof of service of the notice
21 prescribed, the court may, notwithstanding any other provision of law, suspend the
22 a fiduciary engaged in war service from the exercise of all of the fiduciary’s powers
23 and duties while such the fiduciary remains engaged in war service and until the

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1 further order of the court. The decree may further provide that the remaining
2 executor, administrator, guardian or testamentary trustee fiduciary or, if there be is
3 none, the successor named in the will or appointed by the court is possessed of and
4 may exercise all of the powers and duties incidental to the person's office as fiduciary.

5 **SECTION 46.** 112.02 (5) of the statutes is renumbered 112.02 (5) (a) and
6 amended to read:

7 112.02 (5) (a) When the suspended fiduciary ceases to be engaged in war service
8 the suspended fiduciary may be reinstated as ~~executor, administrator, guardian or~~
9 ~~testamentary trustee~~ if any of the duties of such the office remain unexecuted, upon
10 application to the court and upon such any notice as that the presiding judge thereof
11 ~~may direct. If of the court directs. Upon reinstatement of~~ the suspended fiduciary
12 ~~is reinstated,~~ the court shall thereupon remove the suspended fiduciary's successor
13 and revoke the successor fiduciary's letters, and make such any other order or decree
14 as that justice requires, ~~but such removal.~~

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

19 **SECTION 47.** 113.06 of the statutes is amended to read:

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

24 **SECTION 48.** 137.01 (7) of the statutes, as affected by 2001 Wisconsin Act 16,
25 is amended to read:

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1 137.01 (7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold
2 office, the notary public, or in case of the notary public's death the notary public's
3 ~~executor or administrator~~ personal representative, shall deposit the notary public's
4 official records and papers in the office of the secretary of state. If ~~any such~~ the notary
5 or ~~any executor or administrator~~ personal representative, after ~~such~~ the records and
6 papers come to his or her hands, neglects for 3 months to deposit them, he or she shall
7 forfeit not less than \$50 nor more than \$500. If any person knowingly destroys,
8 defaces, or conceals any records or papers of any notary public, the person shall
9 forfeit not less than \$50 nor more than \$500, and shall be liable for all damages
10 resulting to the party injured ~~for all damages thereby sustained~~. The secretary of
11 state shall receive and safely keep all such papers and records ~~in their office~~.

12 **SECTION 49.** 179.65 of the statutes is amended to read:

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

22 **SECTION 50.** 180.0622 (4) of the statutes is renumbered 180.0622 (4) (a) and
23 amended to read:

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1 180.0622 (4) (a) ~~An executor, administrator,~~ In this subsection, “fiduciary”
2 means a personal representative, conservator, guardian, trustee, assignee for the
3 benefit of creditors, or receiver.

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

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

8 **SECTION 51.** 180.0724 (2) (b) of the statutes is amended to read:

9 180.0724 (2) (b) The name signed purports to be that of a personal
10 representative, ~~administrator, executor,~~ guardian, or conservator representing the
11 shareholder and, if the corporation requests, evidence of fiduciary status acceptable
12 to the corporation is presented with respect to the vote, consent, waiver, or proxy
13 appointment.

14 **SECTION 52.** 214.01 (1) (jg) of the statutes is amended to read:

15 214.01 (1) (jg) “Fiduciary” means a trustee, ~~executor, administrator~~ personal
16 representative, guardian, agent, receiver, trustee in bankruptcy, assignee for
17 creditors, or any holder of a similar position of trust.

18 **SECTION 53.** 215.14 (6) of the statutes is amended to read:

19 215.14 (6) SAVINGS ACCOUNTS ELIGIBLE INVESTMENT FOR TRUST FUNDS. ~~An~~
20 ~~administrator, executor,~~ A personal representative, guardian, trustee, or other
21 fiduciary authorized to invest trust funds, may acquire, own, or hold savings
22 accounts in an association, within the limits of standards contained in s. 881.01, and
23 shall have the same rights and be subject to the same obligations and limitations as
24 other savings account owners, except the right to be an officer or director. Savings

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

3 **SECTION 54.** 215.14 (9) of the statutes is amended to read:

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

10 **SECTION 55.** 218.0101 (23) (b) 1. of the statutes is amended to read:

11 218.0101 (23) (b) 1. Receivers, trustees, ~~administrators, executors~~ personal
12 representatives, guardians, or other persons appointed by or acting under the
13 judgment or order of any court.

14 **SECTION 56.** 218.10 (1g) (a) of the statutes is amended to read:

15 218.10 (1g) (a) A receiver, trustee, ~~administrator, executor~~ personal
16 representative, guardian, or other person appointed by or acting under the judgment
17 or order of any court.

18 **SECTION 57.** 219.01 (intro.) of the statutes is amended to read:

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

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

3 **SECTION 58.** 219.04 (1) (a) 2. of the statutes is amended to read:

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

6 **SECTION 59.** 219.06 (1) of the statutes is renumbered 219.06 (1) (a) (intro.) and
7 amended to read:

8 219.06 (1) (a) (intro.) ~~The state and all public officers, municipal corporations,~~
9 ~~political subdivisions, and public bodies, all banks, bankers, savings and loan~~
10 ~~associations, credit unions, trust companies, savings banks and institutions,~~
11 ~~investment companies and other persons carrying on a banking business, and all~~
12 ~~executors, administrators, guardians, trustees and other fiduciaries, Any of the~~
13 following may legally invest any sinking funds, moneys, or other funds belonging to
14 them or within their control in any bonds or other obligations issued by a
15 metropolitan sewerage district under ss. 200.21 to 200.65 or by a housing authority
16 created by or pursuant to under the housing authorities law of this state or issued
17 by any public housing authority or agency in the United States, ~~when such~~ if the
18 bonds or other obligations are secured by a pledge of annual contributions to be paid
19 by the ~~United States~~ U.S. government or any agency ~~thereof~~ of the U.S. government,
20 by the city, village, town, or county in which ~~operates~~ the housing authority issuing
21 such the bonds or other obligations operates or by the district under s. 200.55 or are
22 guaranteed by the state. ~~Such:~~

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

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

1 **SECTION 60.** 219.06 (1) (a) 1. to 3. of the statutes are created to read:

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

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

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

NOTE: See the previous section of this bill.

8 **SECTION 61.** 219.07 (1) (a) 2. of the statutes is amended to read:

9 219.07 (1) (a) 2. All ~~executors, administrators~~ personal representatives,
10 guardians, trustees, and other fiduciaries.

11 **SECTION 62.** 220.17 (2) of the statutes is renumbered 220.17 (2) (intro.) and
12 amended to read:

13 220.17 (2) (intro.) ~~And such~~ All of the following apply to a consolidated bank
14 or trust company described in sub. (1), if the consolidated bank or trust company is
15 authorized to perform fiduciary services, as of ~~at~~ the time of the taking effect of such
16 consolidation shall:

17 (a) The consolidated bank or trust company shall succeed to all rights,
18 obligations, relations, and trusts, and the duties and liabilities connected ~~therewith~~
19 with the performance of fiduciary services, held by any bank or trust company party
20 to ~~such~~ the consolidation, and without further appointment shall act as trustee,
21 ~~executor, administrator or personal representative~~ or in any other fiduciary capacity

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1 in which any ~~such consolidating~~ bank or trust company party to the consolidation
2 was acting at the time of ~~such~~ the consolidation, ~~and~~.

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

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

14 **SECTION 63.** 221.0316 (1) of the statutes is amended to read:

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

25 **SECTION 64.** 221.0324 (4) of the statutes is amended to read:

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1 221.0324 (4) BOND REQUIREMENTS. A bank that is authorized to exercise trust
2 powers and that complies with s. 223.02 is exempt from furnishing the bond specified
3 in s. 221.0316 and is entitled to the same exemption as to making and filing any oath
4 or giving any bond or security as is conferred on trust company banks by s. 223.03
5 ~~(8)~~ (6) (a).

6 **SECTION 65.** 221.0521 (2) (b) of the statutes is amended to read:

7 221.0521 (2) (b) The name signed purports to be that of a personal
8 representative, ~~administrator, executor, guardian, or conservator~~ representing the
9 shareholder and, if the bank requests, evidence of fiduciary status acceptable to the
10 bank is presented with respect to the vote, consent, waiver, or proxy appointment.

11 **SECTION 66.** 223.03 (intro.) of the statutes is amended to read:

12 **223.03 Corporate powers.** (intro.) ~~Any such corporation~~ A trust company
13 bank shall have the following powers:

14 **SECTION 67.** 223.03 (6) of the statutes is renumbered 223.03 (6) (intro.) and
15 amended to read:

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

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

21 **SECTION 68.** 223.03 (6) (c) of the statutes is created to read:

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

4 **SECTION 69.** 223.03 (7) of the statutes is amended to read:

5 223.03 (7) ~~And any such corporation may~~ To act generally as agent or attorney
6 for the transaction of business, the management of estates, the collection of rents,
7 interests, dividends, mortgages, bonds, bills, notes, and other securities, or moneys,
8 ~~and also to act~~ as agent also for the purpose of issuing, negotiating, registering,
9 transferring, or countersigning certificates of stock, bonds, or other obligations of
10 any corporation, association, or municipality, and to manage any sinking fund or
11 debt service fund therefor, on such terms as may be agreed upon; ~~and may also accept~~
12 ~~and execute the offices of executor, administrator, trustee, receiver, assignee, or~~
13 ~~guardian of any minor or insane or incompetent person or any person subject to~~
14 ~~guardianship; and in all cases in which application shall be made to any court for the~~
15 ~~appointment of any person in any such capacity, it shall be lawful to appoint such~~
16 ~~corporation, with 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.

17 **SECTION 70.** 223.03 (8) of the statutes is renumbered 223.03 (6) (a) and
18 amended to read:

19 223.03 (6) (a) ~~In case of such appointment, or in case such corporation shall be~~
20 ~~named as an executor in any will or as assignee in any assignment for the benefit of~~
21 ~~creditors, it~~ A trust company bank appointed by a court to act in a capacity described
22 in this subsection shall not be required to make and file any oath or give any bond

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1 or security, except in the discretion of the court making ~~such~~ the appointment, or
2 having jurisdiction of ~~such will or assignment~~ over the matter.

3 **SECTION 71.** 223.03 (9) of the statutes is renumbered 223.03 (6) (b) and
4 amended to read:

5 223.03 (6) (b) The accounts of ~~said corporation as such trustee, receiver,~~
6 ~~assignee, executor, administrator, or guardian~~ a trust company bank appointed by
7 a court to act in a capacity described in this subsection shall be regularly settled and
8 adjusted by the proper officers or tribunals; and all ~~proper, legal, usual,~~ and
9 customary charges, costs, and expenses shall be allowed to ~~such corporation~~ the trust
10 company bank for the care and management of the estate so committed to it.

11 **SECTION 72.** 223.03 (13) of the statutes is amended to read:

12 223.03 (13) It ~~shall be lawful for any such corporation to~~ To lease, purchase,
13 hold, and convey ~~such~~ any land as ~~that~~ may be necessary to carry on its business, and
14 to execute any trust committed to it, as well as ~~such~~ any real or personal estate as
15 ~~it may deem~~ that the trust company bank may consider necessary to acquire in the
16 enforcement or settlement of any claims or demands arising out of its business
17 transactions, ~~and to~~.

18 **(13m)** To execute and issue in the transaction of its business all necessary
19 receipts, certificates, and contracts, which shall be signed by ~~such~~ the person ~~or~~
20 ~~persons as may be~~ designated by its bylaws.

21 **SECTION 73.** 223.05 (1) of the statutes is renumbered 223.05 (1) (a) and
22 amended to read:

23 223.05 (1) (a) Every ~~such corporation~~ trust company bank shall keep its trust
24 accounts in books separate from its own general books of account. All funds and
25 property held by ~~it~~ a trust company bank in a trust capacity shall, at all times, be kept

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1 separate from the funds and property of the ~~corporation~~ trust company bank, and all
2 deposits by it of such funds held in a trust capacity in any banking institution shall
3 be deposited as trust funds to its credit as trustee ~~and not otherwise~~. Trust funds may
4 be deposited with funds belonging to other trusts in one account in any banking
5 institution to the credit of ~~such corporation~~ the trust company bank as trustee.

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

15 **SECTION 74.** 223.05 (2) of the statutes is renumbered 223.05 (2) (a) and
16 amended to read:

17 223.05 (2) (a) ~~Any~~ In this subsection, "bank" means a trust company bank, or
18 any a state bank or national banking association authorized to exercise trust powers
19 in this state,

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

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

9 (c) Any individual or individuals acting as executor, administrator personal
10 representative, guardian, testamentary trustee, or trustee of any an inter vivos
11 trust, unless prohibited by the terms of the trust instrument, is and are authorized
12 respectively to may request any bank or trust company bank incorporated under the
13 laws of the state of Wisconsin or any national bank located in this state to cause have
14 any stock or other securities that are deposited with such the bank or trust company
15 bank by such the individual or individuals as fiduciary or fiduciaries to be registered
16 and held in the name of a nominee or nominees of such the bank or trust company
17 bank. Such. The bank or trust company bank shall not redeliver such stock or other
18 the securities to such the individual as fiduciary or fiduciaries causing any stock or
19 other securities to be so registered in the name of the nominee of such bank or trust
20 company bank without first causing such stock or other having the securities to be
21 registered in the name of such the individual as fiduciary or fiduciaries as such. But
22 any. Any sale or transfer of such stock or other securities made by such a bank or
23 trust company bank at the direction of such an individual fiduciary or fiduciaries
24 shall not be construed to be redelivery, and any such the bank or trust company bank
25 or any and the nominee or nominees in whose name such the securities shall be are

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1 registered shall be deemed considered to have fully discharged the its
2 responsibilities of that bank, trust company bank, nominee or nominees if any such
3 the securities are sold or transferred in accordance with the direction of the
4 individual fiduciary or fiduciaries making such deposit, and the proceeds of such the
5 sale or transfer are accounted for and delivered to such the individual fiduciary or
6 fiduciaries. ~~Such. The bank or trust company bank may make any disposition of~~
7 ~~such stock or other securities authorized or directed in an order or decree of any court~~
8 ~~having jurisdiction.~~

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

17 **SECTION 75.** 223.12 (title) of the statutes is amended to read:

18 **223.12 (title) Foreign trust company as executor personal**
19 **representative or trustee in this state.**

20 **SECTION 76.** 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

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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 77.** 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 78.** 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, ~~duly and that~~
16 is acting and qualified as ~~executor~~ personal representative or trustee under any
17 foreign will, or any declaration, agreement, or other instrument of trust, shall have
18 the same rights and authority under ~~such~~ the will or trust document as to real estate
19 ~~within in~~ in this state ~~which that~~ any natural person ~~duly~~ acting as ~~such~~ a foreign
20 ~~executor~~ personal representative or trustee may have under the laws of this state,
21 without the foreign corporation being required to do any act qualifying it to do
22 business ~~within in~~ in this state that is not required of a natural person acting as ~~such~~
23 a foreign ~~executor~~ personal representative or trustee.

24 **SECTION 79.** 234.26 of the statutes is renumbered 234.26 (1) (intro.) and
25 amended to read:

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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 80.** 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 81.** 254.55 (2) (b) of the statutes is amended to read:

20 254.55 (2) (b) A person who has charge, care, or control of a dwelling or unit
21 of a dwelling as an agent of or as executor, ~~administrator~~ personal representative,
22 trustee, or guardian of the estate of a person under par. (a).

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1 **SECTION 82.** 292.01 (16) of the statutes is amended to read:

2 292.01 (16) "Representative" means any person acting in the capacity of a
3 conservator, guardian, court-appointed receiver, personal representative, ~~executor,~~
4 ~~administrator,~~ testamentary trustee of a deceased person, trustee of a living trust,
5 or fiduciary of real or personal property.

6 **SECTION 83.** 340.01 (11) (a) of the statutes is amended to read:

7 340.01 (11) (a) A receiver, trustee, ~~administrator,~~ ~~executor~~ personal
8 representative, guardian, or other person appointed by or acting under the judgment
9 or order of any court; or

10 **SECTION 84.** 342.17 (4) (a) 1. of the statutes is amended to read:

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

15 **SECTION 85.** 342.17 (4) (a) 2. of the statutes is amended to read:

16 342.17 (4) (a) 2. The title executed by ~~such administrator,~~ ~~executor~~ the personal
17 representative, guardian, or trustee; and

18 **SECTION 86.** 344.52 (2) of the statutes is renumbered 344.52 (2) (a) and
19 amended to read:

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

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

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

10 **SECTION 87.** 345.09 (1) of the statutes is amended to read:

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

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1 **SECTION 88.** 401.201 (12) of the statutes is amended to read:

2 401.201 (12) "Creditor" includes a general creditor, a secured creditor, a lien
3 creditor, and any representative of creditors, including an assignee for the benefit of
4 creditors, a trustee in bankruptcy, a receiver in equity, and ~~an executor or~~
5 ~~administrator~~ a personal representative of an insolvent debtor's or assignor's estate.

6 **SECTION 89.** 401.201 (35) of the statutes is amended to read:

7 401.201 (35) "Representative" includes an agent, an officer of a corporation or
8 association, and a trustee, ~~executor or administrator~~ or personal representative of
9 an estate, or any other person empowered to act for another.

10 **SECTION 90.** 406.103 (1) (d) of the statutes is amended to read:

11 406.103 (1) (d) Sales by ~~executors, administrators,~~ receivers, personal
12 representatives, trustees in bankruptcy, or any public officer under judicial process;

13 **SECTION 91.** 452.01 (3) (a) of the statutes is amended to read:

14 452.01 (3) (a) Receivers, trustees, ~~administrators, executors~~ personal
15 representatives, guardians, or other persons appointed by or acting under the
16 judgment or order of any court.

17 **SECTION 92.** 551.02 (3) (d) of the statutes is amended to read:

18 551.02 (3) (d) ~~An executor, administrator~~ A personal representative, guardian,
19 conservator, or pledgee;

20 **SECTION 93.** 551.23 (6) of the statutes is amended to read:

21 551.23 (6) Any judicial sale or any transaction by ~~an executor, administrator~~
22 a personal representative, sheriff, marshal, receiver, trustee in bankruptcy,
23 guardian, or conservator.

24 **SECTION 94.** 551.65 (1) of the statutes is amended to read:

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1 551.65 (1) Every applicant for license or registration under this chapter, every
2 person filing a notice filing under this chapter and every issuer that proposes to offer
3 a security in this state through any person acting as agent shall file with the division
4 or, if applying for a license, with the organization designated by the division under
5 s. 551.32 (1) (a), an irrevocable consent appointing the division to be his or her
6 attorney to receive service of any lawful process in any noncriminal suit, action, or
7 proceeding against him or her or a successor, ~~executor~~ or ~~administrator~~ personal
8 representative that arises under this chapter or any rule or order under this chapter
9 after the consent has been filed, with the same validity as if served personally on the
10 person filing the consent. The consent shall be in the form the division by rule
11 prescribes. The consent need not be filed by a person who has filed a consent in
12 connection with a previous registration or notice filing or license that is then in effect.
13 Service may be made by leaving a copy of the process at the office of the division, but
14 it is not effective unless the plaintiff, who may be the division in a suit, action, or
15 proceeding instituted by the division, promptly sends notice of the service and a copy
16 of the process by registered or certified mail to the defendant or respondent at the
17 person's last address on file with the division, and the plaintiff's affidavit of
18 compliance with this subsection is filed in the case on or before the return day of the
19 process, or within such time as the court allows.

20 **SECTION 95.** 551.65 (2) of the statutes is amended to read:

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

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

14 **SECTION 96.** 553.27 (10) of the statutes is amended to read:

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

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1 of the process by registered or certified mail to the defendant or respondent at his or
2 her last address on file with the division, and the plaintiff's affidavit of compliance
3 with this subsection is filed in the case on or before the return day of the process, if
4 any, or within the time that the court allows.

5 **SECTION 97.** 553.73 of the statutes is amended to read:

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

25 **SECTION 98.** 601.72 (3) of the statutes is amended to read:

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

NOTE: Text is reordered for more logical placement.

7 **SECTION 102.** 777.05 of the statutes is renumbered 877.05 and amended to
8 read:

9 **877.05 Judgment not to bind realty.** The A decedent's real estate which
10 belonged to any deceased person shall not be bound or in any way affected by any
11 judgment against the deceased person's executors or administrators, nor shall it be,
12 or liable to be sold by virtue of any execution issued upon such, any judgment against
13 the decedent's personal representative except as provided in s. 811.25.

14 **SECTION 103.** 777.06 of the statutes is renumbered 877.06 and amended to
15 read:

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

ASSEMBLY BILL 933**SECTION 103**

1 the claim shall be certified to the circuit court, and paid as other claims allowed
2 against the estate.

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

12 **SECTION 104.** 777.07 of the statutes is renumbered 877.07 and amended to
13 read:

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

19 **SECTION 105.** 777.08 of the statutes is renumbered 877.08 and amended to
20 read:

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

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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).

1 **SECTION 106.** 777.14 of the statutes is renumbered 877.14, and 877.14 (1) and
2 (2), as renumbered, are amended to read:

3 877.14 (1) In any action or proceeding against executors or administrators a
4 personal representative, the inventory of the decedent's property of the decedent
5 filed by ~~them~~ the personal representative shall be prima facie evidence of the
6 property which ~~that~~ has come to their the personal representative's possession or
7 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 107.** 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
17 the time of his or her death, a foreign ~~executor or administrator thereof~~ personal
18 representative of the decedent, upon filing the original, ~~or a certified copy of the~~
19 original, 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~~

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1 ~~personal representative~~ appointed in this state ~~can have or exercise in relation~~
2 ~~thereto~~ has.

3 **SECTION 108.** 777.17 of the statutes is renumbered 877.17 and amended to
4 read:

5 **877.17 Actions against executors personal representatives; when**
6 **allowed; when not.** No attachment or execution may be issued against the estate
7 of the decedent or the ~~executor or administrator~~, personal representative until the
8 expiration of the time limited for the payment of debts, except as provided in ss.
9 811.25 and 815.14.

10 **SECTION 109.** 777.18 of the statutes is renumbered 877.18 and amended to
11 read:

12 **877.18 Action to recover from heirs, legatees; parties defendant.**
13 Actions against the heirs or legatees and devisees of any ~~deceased person~~ decedent
14 to recover the value of any assets that may have been paid or delivered to them by
15 ~~any executor or administrator~~ a personal representative may be brought against all
16 of the heirs or all of the legatees and devisees jointly or against one or more of them.
17 If the action is not against all who are liable, the rest shall be made parties on request
18 of the defendant.

19 **SECTION 110.** 777.19 of the statutes is renumbered 877.19 and amended to
20 read:

21 **877.19 Action against heirs and legatees; what may be recovered;**
22 **costs.** If an action ~~mentioned~~ described in s. ~~777.18~~ 877.18 is brought, the plaintiff
23 must show that he or she has been or will be unable, with due diligence, to collect all
24 or part of his or her debt ~~or some part thereof~~ by proceedings in the circuit court or
25 from the personal representatives representative of the decedent. In that event,

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1 except as limited by s. 859.23, the plaintiff may recover the value of all the assets
2 received by all the defendants if necessary to satisfy his or her demand, and the
3 amount of the recovery shall be apportioned among the defendants in proportion to
4 the value of the property received by each of them; ~~and the costs.~~ Costs of the action
5 shall be apportioned in like manner. No allowance or deduction may be made from
6 the amount on account of other heirs or legatees or devisees to whom assets have also
7 been delivered or paid. The judgment shall express the amount recovered against
8 each defendant for damages and costs.

9 **SECTION 111.** 777.20 of the statutes is renumbered 877.20 and amended to
10 read:

11 **877.20 Contribution among heirs.** Any of the heirs heir against whom
12 recovery shall be had pursuant to ~~ss. 777.18 and 777.19~~ is made under ss. 877.18 and
13 877.19 may maintain an action against the other heirs to whom any ~~such~~ assets may
14 have been paid or delivered by the personal representative, jointly or against any of
15 them separately, for a just and equal contribution; and shall be entitled to recover
16 of from each defendant an amount ~~which shall be~~ that is in the same proportion to
17 the sum collected of from the plaintiff as the value of the assets delivered to ~~such~~ that
18 defendant bore to the value of all the assets delivered to all the heirs.

19 **SECTION 112.** 777.21 (title) of the statutes is renumbered 877.21 (title).

20 **SECTION 113.** 777.21 (1) of the statutes is renumbered 877.21 (1) (intro.) and
21 amended to read:

22 877.21 (1) (intro.) If the an action is brought against all the legatees and
23 devisees, the plaintiff shall not recover unless the plaintiff shows, in addition to the
24 facts required to be shown in an action against the heirs: ~~that,~~ any of the following:

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

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

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

8 **SECTION 114.** 777.21 (2) of the statutes is renumbered 877.21 (2) and amended
9 to read:

10 877.21 (2) If ~~the~~ an action be is brought against a preferred legatee or devisee
11 or a preferred class, the plaintiff must also show the same matters as to the legatee
12 or devisee or class to whom the defendants are preferred as is ~~above~~ required to be
13 shown under sub. (1) as to the heirs. ~~And any~~

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

17 **SECTION 115.** 777.21 (3) of the statutes is renumbered 877.21 (3) and amended
18 to read:

19 877.21 (3) Specific legacies and devises are preferred to residuary ~~ones~~ legacies
20 and devises.

21 **SECTION 116.** 777.22 of the statutes is renumbered 877.22 and amended to
22 read:

23 **877.22 Payment a discharge.** In case of any judgment against several heirs
24 ~~or,~~ legatees, or devisees, the payment or satisfaction of the amount recovered against

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1 any one of the defendants shall discharge ~~such~~ that defendant from the judgment
2 and from execution ~~thereon~~ on the judgment.

3 **SECTION 117.** 777.26 of the statutes is renumbered 877.26 and amended to
4 read:

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

9 **SECTION 118.** 777.28 of the statutes is renumbered 877.28 and amended to
10 read:

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

15 **SECTION 119.** 777.29 of the statutes is renumbered 877.29 and amended to
16 read:

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

22 **SECTION 120.** 777.32 of the statutes is renumbered 877.32 and amended to
23 read:

24 **877.32 Judgment, how collected.** If any real estate ~~which~~ that descended
25 or was devised to any defendant is not aliened by the defendant before the filing of

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1 a notice of the pendency of ~~the~~ an action, the court shall adjudge that the debt of
2 owing to the plaintiff, or the portion thereof which of the debt that the plaintiff is
3 entitled to recover against ~~such~~ the defendant, shall be levied only out of ~~such~~ the real
4 estate so descended or devised, ~~and not otherwise.~~

5 **SECTION 121.** 777.36 of the statutes is renumbered 877.36, and 877.36 (intro.),
6 as renumbered, is amended to read:

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

11 **SECTION 122.** 777.38 of the statutes is renumbered 877.38 and amended to
12 read:

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

19 **SECTION 123.** 777.39 of the statutes is renumbered 877.39 and amended to
20 read:

21 **877.39 Extent of liability.** If the personal property delivered to ~~such~~ the
22 decedent's next of kin or legatee, legatees or if the real estate descended or devised
23 to ~~such~~ the decedent's heirs or devisees, ~~exceed~~ exceeds the amount of debts which
24 that are entitled to a preference over the debt for which ~~the~~ an action is brought,
25

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1 judgment shall be rendered against ~~them~~ the next of kin, legatees, heirs, or devisees
2 only for such a sum as shall be that is a just proportion to the other debts of the same
3 class with that on which the action is brought.

4 **SECTION 124.** 777.40 of the statutes is renumbered 877.40 and amended to
5 read:

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

13 **SECTION 125.** 777.41 of the statutes is renumbered 877.41 (intro.) and amended
14 to read:

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

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

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

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

6 **SECTION 126.** 777.42 of the statutes is renumbered 877.42 and amended to
7 read:

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

13 **SECTION 127.** 803.01 (2) of the statutes is amended to read:

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

22 **SECTION 128.** 806.04 (4) (intro.) of the statutes is amended to read:

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

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1 administration of a trust, or of the estate of a decedent, an infant, mental
2 incompetent, or insolvent, may have a declaration of rights or legal relations in
3 respect thereto to the administration of the trust or estate for any of the following
4 purposes:

5 **SECTION 129.** 806.04 (4) (b) of the statutes is amended to read:

6 806.04 (4) (b) To direct the personal representatives, ~~executors, administrators~~
7 or trustees to do or abstain from doing any particular act in their fiduciary capacity;
8 or

9 **SECTION 130.** 813.026 of the statutes is amended to read:

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

23 **SECTION 131.** 814.14 of the statutes is renumbered 814.14 (1) (a) and amended
24 to read:

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

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

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

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1 such the obligation, or any less the actual amount which the fiduciary may have paid
2 any such to the company for such purpose.

3 **SECTION 132.** 814.28 (1) of the statutes is amended to read:

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

10 **SECTION 133.** 815.15 of the statutes is amended to read:

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

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1 personal representative, the moneys so collected on the judgment shall be paid to the
2 clerk of the court.

3 **SECTION 134.** 815.53 (3) of the statutes is amended to read:

4 815.53 (3) A certified copy of the creditor's letters of administration or letters
5 testamentary or other letters authorizing the administration of the decedent's
6 estate, in the case of an ~~administrator or executor~~ a personal representative.

7 **SECTION 135.** 815.56 of the statutes is amended to read:

8 **815.56 Sheriff's deed; grantee if purchaser dead.** ~~In case~~ If the person who
9 would be entitled to a deed of real estate sold on execution dies before the delivery
10 of that deed, the sheriff shall execute a deed to the ~~person's executors or~~
11 ~~administrators.~~ The decedent's personal representative who shall either hold the
12 ~~real estate so conveyed shall be held in trust for the use of the heirs or devisees of the~~
13 ~~deceased person~~ decedent, subject to the surviving spouse's right to elect under s.
14 861.02 (1), ~~but may be sold or sell the real estate~~ for the payment of debts in the same
15 ~~manner as lands of which the person died seized~~ owned by the decedent.

16 **SECTION 136.** 847.05 of the statutes is amended to read:

17 **847.05 Actions between cotenants.** One joint tenant or tenant in common
18 ~~and, or~~ his or her executors or administrators personal representative, may maintain
19 an action for money had and received against ~~the tenant's~~ a cotenant for receiving
20 more than the cotenant's just proportion of the rents or profits of the estate owned
21 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."

22 **SECTION 137.** 847.07 of the statutes is renumbered 847.07 (1) (intro.) and
23 amended to read:

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

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

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

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

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

18 **SECTION 138.** 853.07 (3) (a) of the statutes is amended to read:

19 853.07 (3) (a) A provision for employment as ~~executor~~ personal representative
20 or trustee or in some other capacity after death of the testator and a provision for
21 compensation at a rate or in an amount not greater than that usual for the services
22 to be performed;

23 **SECTION 139.** 854.14 (2) (a) 3. of the statutes is amended to read:

ASSEMBLY BILL 933**SECTION 139**

1 854.14 (2) (a) 3. Nominates or appoints the killer to serve in any fiduciary or
2 representative capacity, including personal representative, ~~executor~~, trustee, or
3 agent.

4 **SECTION 140.** 856.03 of the statutes is amended to read:

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

11 **SECTION 141.** 856.05 (1) of the statutes is amended to read:

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

24 **SECTION 142.** 856.05 (3) of the statutes is amended to read:

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1 856.05 (3) PENALTY. Any person who with intent to injure or defraud any person
2 interested therein in a will suppresses or secretes any will of a person then deceased
3 or any information as to the existence or location of any will or having custody of any
4 will fails to file it in the court or to deliver it to the executor person named therein
5 ~~shall be punished by the court by imprisonment in the will to act as personal~~
6 representative shall be fined not more than \$500 or imprisoned in the county jail for
7 not more than one year ~~or by fine not to exceed \$500~~ or both.

NOTE: Conforms penalty provision to current style.

8 **SECTION 143.** 856.07 (1) of the statutes is amended to read:

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

12 **SECTION 144.** 856.09 (4) of the statutes is amended to read:

13 856.09 (4) The name and post-office address of the person named as ~~executor~~
14 in the will to act as personal representative;

15 **SECTION 145.** 856.21 (1) of the statutes is amended to read:

16 856.21 (1) The executor person named in the will to act as personal
17 representative.

18 **SECTION 146.** 856.23 (1) (intro.) and (e) of the statutes are amended to read:

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

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

23 **SECTION 147.** 868.03 (1) (a) of the statutes is amended to read:

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

7 **SECTION 148.** 879.35 of the statutes is amended to read:

8 **879.35 Costs in will contests.** Costs may be awarded out of the estate to an
9 unsuccessful proponent of a will if the unsuccessful proponent is named in the will
10 to act as ~~an executor therein~~ personal representative and propounded the document
11 in good faith, and to the unsuccessful contestant of a will if the unsuccessful
12 contestant is named to act as ~~an executor~~ personal representative in another
13 document propounded by the unsuccessful contestant in good faith as the last will
14 of the decedent.

15 **SECTION 149.** 879.37 of the statutes is amended to read:

16 **879.37 Attorney fees in contests.** Reasonable attorney fees may be awarded
17 out of the estate to the prevailing party in all appealable contested matters, to an
18 unsuccessful proponent of a will if the unsuccessful proponent is named in the will
19 to act as ~~an executor therein~~ personal representative and propounded the document
20 in good faith, and to the unsuccessful contestant of a will if the unsuccessful
21 contestant is named to act as ~~an executor~~ personal representative in another
22 document propounded by the unsuccessful contestant in good faith as the last will
23 of the decedent.

24 **SECTION 150.** 879.59 (2) of the statutes is amended to read:

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1 879.59 (2) BETWEEN TESTATE AND INTESTATE DISTRIBUTEES; PARTIES. The court also
2 may authorize the person named to act as executor personal representative in one
3 or more instruments purporting to be the last will and testament of a ~~person~~
4 deceased decedent, or the petitioners for administration with the will or wills
5 annexed, to adjust by compromise any controversy that may arise between the
6 persons claiming as devisees or legatees under the will or wills and the persons
7 entitled to or claiming the estate of the deceased under the statutes regulating the
8 descent and distribution of intestate estates, to which agreement or compromise the
9 persons named as ~~executors~~ to act as personal representatives or the petitioners for
10 administration with will annexed, those claiming as devisees or legatees and those
11 claiming the estate as intestate shall be parties, provided that persons named to act
12 as ~~executors~~ personal representatives in any instrument who have renounced or
13 shall renounce ~~such executorship~~ the right to act as personal representative and any
14 person whose interest in the estate is unaffected by the proposed compromise shall
15 not be required to be parties to the compromise.

16 **SECTION 151.** 880.295 (1) of the statutes is renumbered 880.295 (1) (a) and
17 amended to read:

18 880.295 (1) (a) When a patient in any state or county hospital or mental
19 hospital or in any state institution for the mentally deficient, or a resident of the
20 county home or infirmary, appears in need of a guardian, and does not have a
21 guardian, the department of health and family services by its collection and
22 deportation counsel, or the county corporation counsel, may apply to the circuit court
23 of the county in which the patient resided at the time of commitment or to the circuit
24 court of the county in which the facility in which the patient resides is located for the
25 appointment of a guardian of the person and estate, or either, or for the appointment

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1 of a conservator of the estate, and the court, upon the application, may appoint the
2 guardian or conservator in the manner provided for the appointment of guardians
3 under ss. 880.08 (1) and 880.33 or for the appointment of conservators under s.
4 880.31.

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

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

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

17 (e) Before any county employee administers the funds of a person's estate ~~of~~ for
18 which the county has been appointed guardian or conservator, the employee must be
19 designated as securities agent in the classified service of the county, and the
20 employee's designation as securities agent shall appear on all court papers ~~which~~
21 that the security agent signs in the name of the county as guardian or conservator.
22 The securities agent, before entering upon the duties, shall also furnish an official
23 bond in ~~such~~ the amount and with ~~such~~ the sureties as that the county board
24 determines, subject to the prior approval of the amount by the court assigned to

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1 exercise jurisdiction. The bond shall be filed in the office of the register in probate,
2 and a duplicate original thereof of the bond filed in the office of the county clerk.

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

8 **SECTION 152.** 891.32 of the statutes is amended to read:

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

17 **SECTION 153.** 893.22 of the statutes is amended to read:

18 **893.22 Limitation in case of death.** If a person entitled to bring an action
19 dies before the expiration of the time limited for the commencement of the action and
20 the cause of action survives, an action may be commenced by the person's
21 representatives after the expiration of that time and within one year from the
22 person's death. If a person against whom an action may be brought dies before the
23 expiration of the time limited for the commencement of the action and the cause of
24 action survives, an action may be commenced after the expiration of that time and

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1 within one year after the issuing, within this state, of letters testamentary or ~~of other~~
2 letters authorizing the administration of the decedent's estate.

3 **SECTION 154.** 893.46 of the statutes is amended to read:

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

9 **SECTION 155.** 893.47 of the statutes is amended to read:

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

18 **SECTION 156.** 893.49 of the statutes is amended to read:

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

23 **SECTION 157.** 895.02 of the statutes is amended to read:

24 **895.02 Measure of damages against executor personal representative.**

25 When any action ~~mentioned~~ described in s. 895.01 (1) shall be prosecuted to

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1 judgment against the ~~executor or administrator~~ personal representative, the
2 plaintiff shall be entitled to recover only for the value of the goods taken, including
3 any unjust enrichment of the defendant, or for the damages actually sustained,
4 without any vindictive or exemplary damages or damages for alleged outrage to the
5 feelings of the injured party.

6 **SECTION 158.** 895.031 of the statutes is amended to read:

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

NOTE: This treatment attempts to reduce wordiness.

21 **SECTION 159.** 895.38 (5) of the statutes is amended to read:

22 895.38 (5) The procedure for hearing, settling, and allowing such the
23 principal's account shall be according to the practice prescribed by ch. 862 in the
24 ~~matter of account of executors and administrators~~ for personal representatives.

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

5 **SECTION 160.** 895.41 (3) (a) (intro.) of the statutes is amended to read:

6 895.41 (3) (a) (intro.) In case an employee who was required to give a cash bond
7 dies before the cash bond is withdrawn in the manner provided in sub. (1), the
8 accounting and withdrawal may be effected not less than 5 days after the employee's
9 death and before the filing of a petition for letters testamentary or of other letters
10 authorizing the administration ~~in the matter~~ of the decedent's estate, by the
11 employer with any of the following, in the following order:

12 **SECTION 161.** 895.41 (3) (d) of the statutes is amended to read:

13 895.41 (3) (d) If no relatives designated under par. (a) survive, the employer
14 may apply the cash bond, or so much ~~thereof~~ of the cash bond as may be necessary,
15 to paying creditors of the decedent in the order of preference prescribed in s. 859.25
16 for satisfaction of debts by ~~executors and administrators~~ personal representatives.
17 The making of payment under this paragraph shall be a discharge and release of the
18 employer to the amount of the payment.

19 **SECTION 162.** 895.42 (1) of the statutes is renumbered 895.42 (1) (b) (intro.) and
20 amended to read:

21 895.42 (1) (b) (intro.) ~~In case~~ If in any proceeding in any court of record it is
22 determined that moneys or other personal property in the custody of or under the
23 control of any ~~administrator, executor~~ personal representative, trustee, receiver, or
24 other officer of the court, belongs to a natural person if the person is alive, or to an
25 artificial person if it is in existence and entitled to receive, and otherwise to some

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1 other person, and the court or judge making such determination finds that there is
2 not sufficient evidence showing that the natural person first entitled to take is alive,
3 or that the artificial person is in existence and entitled to receive, or in case such
4 money or other personal property, including any legacy or share of intestate property
5 cannot be delivered to the legatee or heir or person entitled thereto because of the fact
6 that such person is a member of the military or naval forces of the United States or
7 any of its allies or is engaged in any of the armed forces abroad or with the American
8 Red Cross society or other body or other similar business, then in either or any of such
9 cases any of the following, the court or judge may direct that the officer having
10 custody or control of such the money or other personal property, to deposit the same
11 in the money or property with any trust company, or any state or national bank
12 within the state of Wisconsin authorized to exercise trust powers, taking its:

13 (c) Any officer depositing money or property with a trust company under par.
14 (b), shall take the trust company's receipt therefor, and the said for the deposit. The
15 receipt shall, to the extent of the deposit so made, constitute a complete discharge
16 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.

17 **SECTION 163.** 895.42 (1) (a) of the statutes is created to read:

18 895.42 (1) (a) In this subsection, "trust company" means any trust company or
19 any state or national bank in this state that is authorized to exercise trust powers.

NOTE: This definition is created to simplify sentence structure.

20 **SECTION 164.** 895.42 (1) (b) 1. and 2. of the statutes are created to read:

21 895.42 (1) (b) 1. That there is not sufficient evidence showing that the natural
22 person first entitled to take is alive, or that the artificial person is in existence and
23 entitled to receive.

