

1987 Assembly Bill 728

Date of enactment: **April 8, 1988**
Date of publication: **April 18, 1988**

1987 Wisconsin Act 220

AN ACT to amend 701.16 (4) (a), 701.16 (4) (c), 853.40 (2) (a), 879.47 and 880.25 (1) and (2); and to create 701.16 (4) (am), 701.16 (4) (d) and 881.01 (3) of the statutes, relating to disclaimers and accounting by testamentary trustees and guardians.

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

SECTION 1. 701.16 (4) (a) of the statutes is amended to read:

701.16 (4) (a) A testamentary trustee is required to make and file a verified account annually with the court, except as provided in ~~par. pars. (am) and (b)~~. If the trustee is accounting on a calendar-year basis, the court may not require the trustee to file the annual

account prior to April 15. Production of securities and other assets for examination ~~shall is not be~~ necessary upon the filing of an annual account unless the court determines such production is necessary to ascertain the correctness of an account filed for a particular trust. In the case of a testamentary charitable trust a copy of the annual account filed with the court shall be filed with the attorney general.

SECTION 2. 701.16 (4) (am) of the statutes is created to read:

701.16 (4) (am) The annual accounting requirements under par. (a) do not apply to corporate trustees or to corporate cotrustees if those trustees or cotrustees agree, in their initial consent to act as trustees or cotrustees or in a subsequent filing with the register in probate for the county that has jurisdiction over the trust, to provide annual accounts to all persons interested, as defined in s. 851.21, who request those accounts by writing to the trustee or cotrustee. Each request is effective until the requester withdraws it or is no longer a person interested. A corporate trustee or cotrustee may withdraw its agreement by notifying the appropriate register in probate of its intent to do so.

SECTION 3. 701.16 (4) (c) of the statutes is amended to read:

701.16 (4) (c) Notwithstanding pars. (a), ~~(am)~~ and (b) the court may require an accounting at any time.

SECTION 4. 701.16 (4) (d) of the statutes is created to read:

701.16 (4) (d) Notwithstanding s. 879.47, trustees and cotrustees may submit to courts accounts in the format that they normally use for accounts submitted to beneficiaries under this subsection, if all of the information required by the court is included.

SECTION 5. 853.40 (2) (a) of the statutes is amended to read:

853.40 (2) (a) *In general.* A person who is an heir, person succeeding to a disclaimed intestate interest, beneficiary under a will, person succeeding to a disclaimed interest created by will, donee of a power created by will, appointee under a power exercised by will or taker in default under a power created by will, or a guardian of any person identified in this paragraph if that guardian is qualified to disclaim and if that guardian disclaims for the guardian's ward may disclaim any property or interest in property, including contingent or future interests or the right to receive discretionary distributions, by delivering a written instrument of disclaimer under this section.

SECTION 6. 879.47 of the statutes is amended to read:

879.47 Papers, preparation and filing. The attorney for any person desiring to file any paper in court is responsible for the preparation of the paper. All Except as provided in s. 701.16 (4) (d), all papers shall be legibly written on substantial paper and shall state the title of the proceeding in which they are filed and the character of the paper. Uniform forms shall be used if suitable and available. If papers are not so written or if uniform forms are not used when suitable and available, the court may refuse to receive and file them. The court shall show on all papers the date of their filing.

SECTION 7. 880.25 (1) and (2) of the statutes are amended to read:

880.25 (1) ANNUAL REPORTS. Every guardian, except a corporate guardian, shall prior to ~~March~~ April 15 of each year file an account under oath and specify therein the amount of property received by him and remaining in his hands or invested by him, and the nature and manner of such investment, and his receipts and expenditures during the preceding calendar year and whenever ordered by the court, he shall, within 30 days, render and file a like account for any shorter term. In lieu of the filing of such accounts before March of each year, the court may, by appropriate order upon motion of the guardian, direct the guardian of an estate to thereafter render and file such annual accountings within 60 days after the anniversary date of the guardian's qualification as such guardian, with the accounting period from the anniversary date of qualification to the ensuing annual anniversary date. When any guardian of a minor has the custody of his ward and the care of his education he shall state in his report the time his ward attended school (naming the school) during the time for which the account is rendered, and shall also report any change in the status of the surety upon his bond.

(2) DISPLAY OF ASSETS. Upon rendering any such account the guardian shall produce for examination by the court, or some person satisfactory to the court, all securities, evidences of deposit and investments reported by him, which shall be described in such account in sufficient detail so that the same may be readily identified. It shall be ascertained whether such securities, evidences of deposit and investments correspond with such account. ~~But such court may by a general or special order exempt any trust company bank, or any bank with trust powers, which has made the deposit required by s. 223.02 from the requirements of this section, if such bank within 30 days after each examination by its proper supervisory banking authority files in such court a certificate of the examiner in charge, that at such examination the securities, evidences of deposits and investments of all trust accounts of such bank were examined and compared with the records of the several trusts and found to be correct. Notwithstanding any such order of exemption the court may at any time require the guardian to produce all securities, evidences of debt and investments for examination as provided in this section.~~

SECTION 8. 881.01 (3) of the statutes is created to read:

881.01 (3) Within the limitations of the instrument, if the instrument directs or permits investment in obligations of the federal government or of an agency of the federal government, the trustee may invest in and hold those obligations either directly or in the form of interests in an open-end management investment company or investment trust registered under the investment company act of 1940 or in an investment vehicle authorized for the collective investment of trust funds under 9 CFR 12 if the portfolio of that investment company, investment trust or collective investment

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vehicle is limited to obligations of the federal government or of an agency of the federal government and to repurchase agreements fully collateralized by those obligations.

SECTION 11. Effective dates. This act takes effect on the day following publication, except as follows:

(1) The treatment of section 853.40 (2) (a) of the statutes takes effect on January 1, 1989.
