

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 635

Session of
1981

INTRODUCED BY SNYDER, GEKAS, REIBMAN, KELLEY AND SHAFFER,
MARCH 31, 1981

REFERRED TO JUDICIARY, MARCH 31, 1981

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, clarifying certain
3 provisions relating to spouses' elections; authorizing the
4 payment of proceeds from insurance policies to decedent's
5 family; adding a provision concerning information services;
6 providing for the apportionment of death taxes; changing
7 certain provisions relating to gifts to minors; clarifying
8 provisions relating to distributions of income and principal
9 made during incompetency; adding provisions concerning powers
10 of attorney; authorizing the termination of certain trusts;
11 clarifying certain provisions relating to compensation to a
12 fiduciary; and making technical and editorial changes.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Sections 2206, 2209 and 2210 of Title 20, act of
16 November 25, 1970 (P.L.707, No.230), known as the Pennsylvania
17 Consolidated Statutes, are amended to read:

18 § 2206. Right of election personal to surviving spouse.

19 The right of election of the surviving spouse may be
20 exercised in whole or in part only during his lifetime by him or
21 by his attorney-in-fact in accordance with section 5603(d)
22 (relating to implementation of power of attorney). In the case

1 of a minor [or an incompetent] spouse, the right of election may
2 be exercised in whole or in part only by the spouse's guardian;
3 in the case of an incompetent spouse, the right of election may
4 be exercised in whole or in part only by the spouse's guardian
5 or by his attorney-in-fact in accordance with section 5603(d) if
6 the power of attorney qualifies as a durable power of attorney
7 under section 5604 (relating to durable powers of attorney);
8 provided, that, in each case, the election shall be exercised
9 only upon order of the court having jurisdiction of the minor's
10 or the incompetent's estate, after finding that exercise of the
11 right is advisable.

12 § 2209. Surviving spouse as witness.

13 [The] A person who is or claims to be the surviving spouse
14 shall be a competent witness as to all matters pertinent to his
15 rights under this chapter other than the creation of his status
16 as the surviving spouse.

17 § 2210. Procedure for election; time limit.

18 (a) How election made.--A surviving spouse's election to
19 take or not to take his elective share shall be by a writing
20 signed by him and filed with the clerk of the orphans' court
21 division of the county where the decedent died domiciled. Notice
22 of the election shall be given to the decedent's personal
23 representative, if any.

24 (b) Time limit.--The election must be filed with the clerk
25 before the expiration of six months after the decedent's death
26 or before the expiration of six months after the date of
27 probate, whichever is later. The court may extend the time for
28 election for such period and upon such terms and conditions as
29 the court shall deem proper under the circumstances on
30 application of the surviving spouse filed with the clerk within

1 the foregoing time limit. Failure to file an election in the
2 manner and within the time limit set forth in this section shall
3 be deemed a waiver of the right of election.

4 (c) Costs.--The costs of filing and recording the election
5 shall be reimbursed out of the estate as a part of the
6 administration expenses.

7 Section 2. Section 3101 of Title 20 is amended by adding a
8 subsection to read:

9 § 3101. Payments to family and funeral directors.

10 * * *

11 (d) Life insurance payable to estate.--Any insurance company
12 which upon the death of an individual residing in this
13 Commonwealth owes his estate a total amount of \$11,000 or less
14 under any policies of life, endowment, accident or health
15 insurance, or under any annuity or pure endowment contract or
16 contracts, may at any time after 60 days after such death pay
17 that amount with interest to the spouse, any child, the father
18 or mother or any sister or brother of the decedent (preference
19 being given in the order named) provided that at the time of
20 such payment no written claim for that sum has been received at
21 the home office of the company from any duly appointed personal
22 representative of the decedent. Any insurance company making any
23 payments in accordance with this section to an adult may rely on
24 the affidavit of any of the persons named in this subsection
25 concerning the existence and relationship of these persons and
26 shall be released to the same extent as if payment had been made
27 to a duly appointed personal representative of the decedent and
28 the insurance company shall not be required to see to the
29 application thereof. Any person to whom payment is made shall be
30 answerable therefor to anyone prejudiced by an improper

1 distribution.

2 Section 3. Section 3132.1(b) of Title 20 is amended to read:

3 § 3132.1. Self-proved wills.

4 * * *

5 (b) Acknowledgment and affidavits.--An attested will may at
6 the time of its execution or at any subsequent date be made
7 self-proved by the acknowledgment thereof by the testator and
8 the affidavits of the witnesses, each made before an officer
9 authorized to administer oaths under the laws of this
10 Commonwealth, or under the laws of the state where execution
11 occurs, and evidenced by the officer's certificate, under
12 official seal, attached or annexed to the will. A separate
13 affidavit may be used for each witness whose affidavit is not
14 taken at the same time as the testator's acknowledgment. The
15 acknowledgment and affidavits shall in form and content be
16 substantially as set forth in the Uniform Probate Code or as
17 follows:

18 Acknowledgment

19 Commonwealth of Pennsylvania (or state of)

20 County of

21 I, _____, testat--_____,
22 whose name is signed to the attached or foregoing instrument,
23 having been duly qualified according to law, do hereby acknow-
24 ledge that I signed and executed the instrument as my Last Will;
25 that I signed it willingly; and that I signed it as my free and
26 voluntary act for the purposes therein expressed.

27 Sworn or affirmed to and acknowledged before me, by _____
28 _____, the testat--_____, this _____ day of
29 _____, 19____.

1 _____
2 (SEAL) _____

3 (Official capacity of officer)

4 Affidavit

5 Commonwealth of Pennsylvania (or state of)

6 County of

7 We, [_____,] _____ and _____,
8 the witnesses whose names are signed to the attached or fore-
9 going instrument, being duly qualified according to law, do
10 depose and say that we were present and saw testat--_____sign
11 and execute the instrument as his Last Will; that _____ signed
12 willingly and that _____ executed it as _____ free and
13 voluntary act for the purposes therein expressed; that each of
14 us in the hearing and sight of the testat--_____ signed the
15 will as witnesses; and that to the best of our knowledge the
16 testat--_____ was at that time 18 or more years of age, of
17 sound mind and under no constraint or undue influence.

18 Sworn or affirmed to and subscribed to before me by [_____
19 _____,] _____ and _____,
20 witnesses, this _____ day of _____, 19 ____.

21 _____
22 Witness

23 _____
24 Witness

25 [_____
26 _____ Witness]

27 _____
28 (SEAL) _____

29 (Official capacity of officer)

30 Section 4. Title 20 is amended by adding a section to read:

1 can be controlled by the instrument containing the direction or
2 delegating the power to another.

3 § 3702. Equitable apportionment of Federal estate tax.

4 (a) General rule.--Subject to the provisions of section 3701
5 (relating to power of decedent), the Federal estate tax shall be
6 apportioned equitably among all parties interested in property
7 includible in the gross estate for Federal estate tax purposes
8 in proportion to the value of the interest of each party subject
9 to the rules stated in this section.

10 (b) Pre-residuary.--

11 (1) No Federal estate tax shall be apportioned against a
12 beneficiary of any pre-residuary gift made by will. Any
13 Federal estate tax attributable thereto shall be paid
14 entirely from the residue of the estate and charged in the
15 same manner as a general administration expense of the estate
16 except that when a portion of the residue of the estate is
17 allowable as a deduction for Federal estate tax purposes the
18 tax shall be paid to the extent possible from the portion of
19 the residue which is not so allowable.

20 (2) No Federal estate tax shall be apportioned against a
21 beneficiary of any pre-residuary gift made by inter vivos
22 trust. Any Federal estate tax attributable thereto shall be
23 paid entirely from the residue of the trust and charged in
24 the same manner as a general administration expense of the
25 trust except that when a portion of the residue of the trust
26 is allowable as a deduction for Federal estate tax purposes
27 the tax shall be paid to the extent possible from the portion
28 of the residue which is not so allowable.

29 (c) Deductions.--No Federal estate tax shall be apportioned
30 against an interest allowable as a Federal estate tax marital,

1 orphan's or charitable deduction (determined and valued without
2 regard to any Pennsylvania inheritance tax or other state or
3 foreign death taxes apportioned against such interest) except as
4 otherwise provided in subsections (b) and (g).

5 (d) Credits.--Any Federal estate tax credit for state or
6 foreign death taxes on property includible in the gross estate
7 for Federal estate tax purposes shall inure to the benefit of
8 the parties chargeable with the payment of the state or foreign
9 death taxes in proportion to the amount of the taxes paid by
10 each party but any credit inuring to the benefit of a party
11 shall not exceed the Federal estate tax apportionable to that
12 party. Any unified credit against Federal estate tax, credit for
13 tax on prior transfers (sometimes called the credit for property
14 previously taxed) or credit for gift taxes paid by the decedent
15 or his estate with respect to gifts made by the decedent before
16 January 1, 1977 shall inure to the benefit of all parties liable
17 to apportionment in proportion to the amount of Federal estate
18 tax apportioned against each party under the other provisions of
19 this chapter. Any Federal estate tax credit for gift taxes paid
20 by the donee of a gift made before January 1, 1977 shall inure
21 to the benefit of the donee.

22 (e) Election by spouse.--Property passing to a spouse who
23 elects to take an elective share under Chapter 22 (relating to
24 elective share of surviving spouse) shall be exempt from
25 apportionment of Federal estate tax only to the extent provided
26 in subsection (c).

27 (f) Additional Federal estate tax.--Any additional Federal
28 estate tax due because a qualified heir disposes of qualified
29 real property or ceases to use it for the qualified use shall be
30 apportioned against the qualified heir notwithstanding the

1 provisions of subsection (b).

2 (g) Present and future interests.--When both a present and a
3 future interest are involved, the Federal estate tax
4 apportioned, including interest and penalties, shall be paid
5 entirely from principal, except as otherwise provided in
6 subsection (h), even if the future interest qualifies for a
7 Federal estate tax charitable deduction or the holder of the
8 present interest also has rights in the principal or the
9 principal is otherwise exempt from apportionment.

10 (h) Interest and penalties.--Interest and penalties shall be
11 apportioned in the same manner as the principal amount of the
12 Federal estate tax unless the court finds it inequitable to do
13 so by reason of special circumstances in which case the court
14 may direct a different apportionment of interest and penalties.

15 (i) Values.--The values used in determining the amount of
16 Federal estate tax liability shall be used for Federal estate
17 tax apportionment purposes.

18 § 3703. Apportionment of Pennsylvania inheritance tax.

19 The Pennsylvania inheritance tax shall be apportioned as
20 provided in the act of June 15, 1961 (P.L.373, No.207), known as
21 the "Inheritance and Estate Tax Act of 1961."

22 § 3704. Apportionment of Pennsylvania estate tax.

23 The Pennsylvania estate tax shall be apportioned in the same
24 manner as the Federal estate tax.

25 § 3705. Apportionment of Federal generation-skipping tax.

26 Subject to the provisions of section 3701 (relating to power
27 of decedent), the Federal generation-skipping tax shall be
28 apportioned as provided by Federal law and, to the extent not
29 provided by Federal law, shall be apportioned by analogy to the
30 rules specified in section 3702 (relating to equitable

1 apportionment of Federal estate tax).

2 § 3706. Enforcement of contribution or exoneration of Federal
3 estate tax.

4 (a) Duty to pay.--Parties liable for apportionment of the
5 Federal estate tax, whether residents or nonresidents of this
6 Commonwealth, shall pay the amounts apportioned against them
7 respectively.

8 (b) Duty of fiduciary.--The fiduciary charged with the duty
9 to pay the Federal estate tax may recover from parties liable to
10 apportionment the amounts of Federal estate tax apportionable to
11 them respectively.

12 (c) Suspending distribution.--Distribution of property to
13 any party, other than a fiduciary charged with a duty to pay the
14 Federal estate tax, shall not be required of any fiduciary until
15 the Federal estate tax apportionable with respect thereto is
16 paid or, if the Federal estate tax has not been determined and
17 apportionment made, until adequate security for payment is
18 furnished to the fiduciary making the distribution.

19 (d) Court decrees.--The court, upon petition or at an
20 accounting or in any appropriate action or proceeding, shall
21 make such decrees or orders as it shall deem advisable
22 apportioning the Federal estate tax. The court may direct a
23 fiduciary to collect the apportioned amounts from the property
24 or interests in his possession of any parties against whom
25 apportionment has been made and may direct all other parties
26 against whom the Federal estate tax has been or may be
27 apportioned or from whom any part of the Federal estate tax may
28 be recovered to make payment of the apportioned amounts to the
29 fiduciary. When a fiduciary holds property of a party liable to
30 apportionment insufficient to satisfy the apportioned Federal

1 estate tax, the court may direct that the balance of the
2 apportioned amount of Federal estate tax shall be paid to the
3 fiduciary by the party liable. Should an overpayment of the
4 Federal estate tax be made by any party or on his behalf, the
5 court may direct an appropriate reimbursement for the
6 overpayment. If the court apportions any part of the Federal
7 estate tax against any party interested in nontestamentary
8 property or among the respective interests created by any
9 nontestamentary instrument, the court, in its discretion, may
10 assess against those properties or interests an equitable share
11 of the expenses incurred in connection with the determination
12 and apportionment of the Federal estate tax. If the fiduciary
13 cannot recover the Federal estate tax apportioned against a
14 party benefited, the unrecovered amount shall be charged in such
15 manner as the court may determine.

16 Section 6. Section 4102(b) of Title 20 is amended to read:
17 § 4102. Powers with respect to securities and bank accounts.

18 * * *

19 (b) Bank accounts.--When there is no administration in [the]
20 this Commonwealth, a foreign fiduciary[, upon submission to the
21 financial institution of:] shall have all the powers of a
22 similar local fiduciary with respect to money deposited or
23 invested in a financial institution located in this Commonwealth
24 and shall not be required to comply with the conditions and
25 limitations of section 4101 if he has submitted to the financial
26 institution

27 [(i)] a certificate of his appointment[;] and
28 [(ii)] an affidavit stating that after diligent
29 search and inquiry the estate of which he is fiduciary is
30 not, to his knowledge[,] or so far as he has been able to

discover, indebted to any person in [the] this
Commonwealth and that any taxes owing by such estate to
the Commonwealth or any subdivision thereof have been
paid or provided for [shall have all the powers of a
similar local fiduciary with respect to money deposited
or invested in a financial institution located in
Pennsylvania and shall not be required to comply with the
conditions and limitations of section 4101].

* * *

Section 7. Sections 5144, 5147(2) and 5153 of Title 20 are
amended to read:

§ 5144. Powers, duties and liabilities identical with
personal representatives.

The provisions concerning the powers, duties and liabilities
of a guardian appointed by the court shall be the same as those
set forth in the following provisions of this title for the
administration of a decedent's estate: [with regard to the
following:

(1) Liability insurance, as in section 3313 (relating to
liability insurance).

(2) Continuation of business, as in section 3314
(relating to continuation of business).

(3) Incorporation of business, as in section 3315
(relating to incorporation of estate's business).

(4) Claims against co-guardian, as in section 3317
(relating to claims against co-fiduciary).

(5) Revival of judgment against guardian, as in section
3318 (relating to revival of judgments against personal
representative).

(6) Power of attorney and delegation of power over

1 subscription rights and fractional shares, as in section 3319
2 (relating to power of attorney; delegation of power over
3 subscription rights and fractional shares; authorized
4 delegations).

5 (7) Voting stock by proxy, as in section 3320 (relating
6 to voting stock by proxy).

7 (8) Nominee registration; corporate fiduciary as
8 attorney-in-fact, as in section 3321 (relating to nominee
9 registration; corporate fiduciary as attorney-in-fact;
10 deposit of securities in a clearing corporation; book-entry
11 securities).

12 (9) Acceptance of deed in lieu of foreclosure, as in
13 section 3322 (relating to acceptance of deed in lieu of
14 foreclosure).

15 (10) Compromise of controversies, as in section 3323
16 (relating to compromise of controversies).

17 (11) When guardian dies or becomes incompetent, as in
18 section 3324 (relating to death or incompetency of
19 fiduciary).

20 (12) Surviving or remaining guardian, as in section 3327
21 (relating to surviving or remaining personal
22 representatives).

23 (13) Disagreement of guardians, as in section 3328
24 (relating to disagreement of personal representatives).

25 (14) Liability of guardian on contracts, as in section
26 3331 (relating to liability of personal representative on
27 contracts).

28 (15) Inherent powers and duties, as in section 3332
29 (relating to inherent powers and duties).]

30 Section 3313 (relating to liability insurance).

1 Section 3314 (relating to continuation of business).

2 Section 3315 (relating to incorporation of estate's
3 business).

4 Section 3317 (relating to claims against co-fiduciary).

5 Section 3318 (relating to revival of judgments against
6 personal representative).

7 Section 3319 (relating to power of attorney; delegation
8 of power over subscription rights and fractional shares;
9 authorized delegations).

10 Section 3320 (relating to voting stock by proxy).

11 Section 3321 (relating to nominee registration; corporate
12 fiduciary as attorney-in-fact; deposit of securities in a
13 clearing corporation; book-entry securities).

14 Section 3322 (relating to acceptance of deed in lieu of
15 foreclosure).

16 Section 3323 (relating to compromise of controversies).

17 Section 3324 (relating to death or incompetency of
18 fiduciary).

19 Section 3327 (relating to surviving or remaining personal
20 representatives).

21 Section 3328 (relating to disagreement of personal
22 representatives).

23 Section 3331 (relating to liability of personal
24 representatives on contracts).

25 Section 3332 (relating to inherent powers and duties).

26 § 5147. Proceedings against guardian.

27 Any proceeding may be brought against a guardian or the
28 surety on his bond in the court having jurisdiction of the
29 estate, and if he does not reside in the county, process may be
30 served on him personally, or as follows:

1 * * *

2 (2) When a nonresident of the Commonwealth.--By the
3 sheriff of the county of the court having jurisdiction of the
4 estate [sending, by registered mail, return receipt
5 requested, a true and attested copy of the process to the
6 Department of State, accompanied by the fee prescribed by
7 law, and to the guardian or surety at his last known address,
8 with an endorsement thereon showing that service has been so
9 made upon the Department of State].

10 § 5153. Provisions identical to other estates.

11 The provisions concerning guardians and minors' estates shall
12 be the same as those set forth in the following provisions of
13 this title for personal representatives and for the
14 administration of decedents' estates: [with regard to the
15 following:

16 (1) (Repealed).

17 (2) Restraint of sale, as in section 3355 (relating to
18 restraint of sale).

19 (3) Purchase by guardian, as in section 3356 (relating
20 to purchase by personal representative).

21 (4) Collateral attack, as in section 3358 (relating to
22 collateral attack).

23 (5) Record of proceedings; county where real estate
24 lies, as in section 3359 (relating to record of proceedings;
25 county where real estate lies).

26 (6) Contracts, inadequacy of consideration or better
27 offer; brokers' commissions, as in section 3360 (relating to
28 contracts, inadequacy of consideration or better offer;
29 brokers' commissions).]

30 Section 3355 (relating to restraint of sale).

1 Section 3356 (relating to purchase by personal
2 representative).

3 Section 3358 (relating to collateral attack).

4 Section 3359 (relating to record of proceedings; county
5 where real estate lies).

6 Section 3360 (relating to contracts, inadequacy of
7 consideration or better offer; brokers' commissions).

8 Section 8. Sections 5302, 5303, 5305(e), (f) and (g),
9 5308(a), (b), (d) and (e) and 5309 of Title 20 are amended to
10 read:

11 § 5302. Definitions.

12 The following words[, terms] and phrases when used in this
13 chapter shall have the meaning [ascribed] given to them in this
14 section[, except where the context clearly indicates a different
15 meaning] unless the context clearly indicates otherwise:

16 [An "adult" is a person who has attained the age of 21
17 years.]

18 [A "bank" is a] "Bank." A bank, bank and trust company,
19 trust company, savings and loan association, building and loan
20 association, national banking association or institution,
21 savings bank, or credit union incorporated under the laws of the
22 United States or under the laws of this Commonwealth.

23 [A "broker" is a] "Broker." A person engaged in the business
24 of effecting transactions in securities for the account of
25 others. The term includes a bank which effects such
26 transactions. The term also includes a person lawfully engaged
27 in buying and selling securities, for his own account, through a
28 broker or otherwise as a part of a regular business.

29 ["Court" means the] "Court." The orphans' court division
30 having jurisdiction over the minor or the property.

1 ["The custodial property" includes:

2 (i) all securities, money, life or endowment
3 insurance policies and annuity contracts under the
4 supervision of the same custodian for the same minor as a
5 consequence of a gift or gifts made to the minor in a
6 manner prescribed in this chapter;

7 (ii) the income from the custodial property; and

8 (iii) the proceeds, immediate and remote, from the
9 sale, exchange, conversion, investment, reinvestment or
10 other disposition of such securities, money, life or
11 endowment insurance policies and annuity contracts and
12 income.]

13 "Custodial property." Includes:

14 (1) Personal property in any form including, without
15 limitation, securities, interests in partnerships, money,
16 life or endowment insurance policies, annuity contracts and
17 tangible personal property, and interests in real property
18 located in this Commonwealth, under the supervision of the
19 same custodian for the same minor as a consequence of a gift
20 or gifts made to the minor in a manner prescribed in this
21 chapter.

22 (2) The income from the custodial property.

23 (3) The proceeds, immediate and remote, from the sale,
24 exchange, conversion, investment, reinvestment, surrender or
25 other disposition of custodial property.

26 [A "custodian" is a] "Custodian." A person so designated in
27 a manner prescribed in this chapter; the term includes a
28 successor custodian.

29 [A "guardian"] "Guardian." A guardian of a minor includes
30 the general guardian, guardian, tutor or curator of his

1 property, estate or person.

2 [An "issuer" is a] "Issuer." A person who places or
3 authorizes the placing of his name on a security (other than as
4 a transfer agent) to evidence that it represents a share,
5 participation or other interest in his property or in an
6 enterprise, or to evidence his duty or undertaking to perform an
7 obligation evidenced by the security, or who becomes responsible
8 for or in place of any such person.

9 [A "legal representative"] "Legal representative." A legal
10 representative of a person is his executor or the administrator,
11 general guardian, guardian, committee, conservator, tutor or
12 curator of his property or estate.

13 "Life or endowment insurance policies and annuity contracts."
14 Includes only life or endowment insurance policies and annuity
15 contracts on the life of an individual in whose life the minor
16 has an insurable interest.

17 [A "member" of a "minor's family" means any] "Member of a
18 minor's family." Any of the minor's parents, grandparents,
19 brothers, sisters, uncles and aunts, whether of the whole blood
20 or the half blood, or by or through legal adoption.

21 [A "minor" is a] "Minor." A person who has not attained the
22 age of 21 years.

23 [A "security" includes] "Security." Includes any note,
24 stock, treasury stock, bond, debenture, evidence of
25 indebtedness, certificate of interest or participation in an
26 oil, gas or mining title or lease, or in payments out of
27 production under such title or lease, collateral trust
28 certificate, transferable share, voting trust certificate, or,
29 in general, any interest or instrument commonly known as a
30 security, or any certificate of interest or participation in any

1 temporary or interim certificate, receipt or certificate of
2 deposit for or any warrant or right to subscribe to or purchase
3 any of the foregoing. The term does not include a security of
4 which the donor is the issuer. A security is in "registered
5 form" when it specifies a person entitled to it, or to the
6 rights it evidences, and its transfer may be registered upon
7 books maintained for that purpose by or on behalf of the issuer.

8 [A "transfer agent" is a] "Transfer agent." A person who
9 acts as authenticating trustee, transfer agent, registrar or
10 other agent for an issuer in the registration of transfers of
11 its securities or in the issue of new securities or in the
12 cancellation of surrendered securities.

13 [A "trust company" is any] "Trust company." Any corporation
14 authorized under the laws of this Commonwealth to act as a
15 fiduciary.

16 ["Life or endowment insurance policies and annuity contracts"
17 means only life or endowment insurance policies and annuity
18 contracts on the life of an individual in whose life the minor
19 has an insurable interest.]

20 § 5303. Manner of making gift.

21 (a) [General rule] Lifetime gifts.--[An adult] A person who
22 has attained the age of 18 years may, during his lifetime, make
23 a gift of [a security, money, a life or endowment insurance
24 policy or an annuity contract] custodial property to a person
25 who is a minor on the date of the gift:

26 (1) If the subject of the gift is a security in
27 registered form, by registering it in the name of the donor,
28 another [adult] person[,] who has attained the age of 18
29 years or a trust company, followed in substance by the words
30 "as custodian for [.....] (name of minor)

1 [(name of minor)]

2 under the Pennsylvania Uniform Gifts to Minors Act."

(2) If the subject of the gift is a security not in registered form, or is any other asset (except cash) where title can pass by delivery, by delivering it to [a guardian of the minor] another person who has attained the age of 18 years or a trust company, accompanied by a statement of gift in the following form in substance, signed by the donor and the person designated as custodian.

10 "Gift under the Pennsylvania

11 Uniform Gifts to Minors Act

12 I [.....] (name of donor) hereby

13 [(name of donor)]

```
14 deliver to [.....] (name of custodian)
```

15 [(name of custodian)]

16 as custodian for [.....] (name of minor) under the

17 [(name of minor)]

18 Pennsylvania Uniform Gifts to Minors Act, the following

```
19 security(ies) or asset(s): (insert an appropriate
```

20 description of the security or securities or other assets

21 delivered sufficient to identify it or them).

22

23 (signature of donor)

24 I [.....] (name of custodian) hereby

25 [(name of custodian)]

26 [acknowledges] acknowledge receipt of the above described

27 security(ies) or asset(s) as custodian for the above minor

28 under the Pennsylvania Uniform Gifts to Minors Act.

29 Dated.....

30

(signature of custodian)."

(2.1) If the subject of the gift is an interest in a limited partnership, the donor shall cause the ownership of the interest to be recorded on the books of the limited partnership in the name of the donor, another person who has attained the age of 18 years or a trust company, followed in substance by the words "as custodian for (name of minor) under the Pennsylvania Uniform Gifts to Minors Act" and shall obtain an acknowledgment of the recordation from the limited partnership a copy of which shall be delivered to the person in whose name it is thus recorded as custodian.

(3) If the subject of the gift is money, by paying or delivering it to a broker or a bank, for credit to an account in the name of the donor, another [adult] person[, an adult member of the minor's family, a guardian of the minor,] who has attained the age of 18 years or a [bank with trust powers] trust company, followed in substance by the words "as custodian for [.....]"

[(name of minor)]

(name of minor) under the Pennsylvania Uniform Gifts to Minors Act."

(4) If the subject of the gift is a life or endowment insurance policy or an annuity contract the donor shall cause the ownership of such policy or contract to be recorded on a form satisfactory to the insurance company or fraternal benefit society, in the name of the donor, another [adult] person[, a guardian of the minor,] who has attained the age of 18 years or a [bank with trust powers] trust company followed in substance by the words[,] "as custodian for [.....] (name of minor) under the

1 [(name of minor)]

2 Pennsylvania Uniform Gifts to Minors Act," and such policy or
3 contract shall be delivered to the person in whose name it is
4 thus registered as custodian.

5 (5) If the subject of the gift is an interest in real
6 property, by executing, in a form suitable for recording, a
7 conveyance of the interest to the donor, another person who
8 has attained the age of 18 years or a trust company, followed
9 in substance by the words "as custodian for (name of minor)
10 under the Pennsylvania Uniform Gifts to Minors Act," and
11 delivering the conveyance to the custodian and, where the
12 donor is the custodian, recording the conveyance.

13 (a.1) Gifts by will or trust.--A person who has attained the
14 age of 18 years may, by will or trust, provide that a gift under
15 the will or trust to a minor shall be paid to a custodian for
16 the minor under this chapter and may name the custodian or may
17 authorize the executor or trustee as the case may be to select
18 and appoint any person or trust company including the executor
19 or trustee as custodian to receive payment of such gift. In such
20 event the executor or trustee shall make distribution by
21 transferring the subject of the gift to the custodian in the
22 form and manner provided in subsection (a). If the testator or
23 settlor directs or authorizes payment to a custodian but fails
24 to designate a custodian or to authorize the executor or trustee
25 to select and appoint a custodian or if the custodian designated
26 by the testator or settlor fails to qualify or ceases to act,
27 the executor or trustee may select and appoint the custodian
28 from among those persons, including the executor or trustee,
29 eligible to become successor custodian for the minor under this
30 chapter. The receipt of the custodian shall constitute a

1 sufficient release or discharge for the custodial property
2 distributed to the custodian.

3 (b) Limitations.--Any gift made in a manner prescribed in
4 [subsection (a) of this section] subsection (a) or (a.1) may be
5 made to only one minor and only one person may be the custodian.

6 (c) Duty of donor.--A donor who makes a gift to a minor in a
7 manner prescribed in subsection (a) [of this section] shall
8 promptly do all things within his power to put the subject of
9 the gift in the possession and control of the custodian, but
10 neither the donor's failure to comply with this subsection nor
11 his designation of an ineligible person as custodian, nor
12 renunciation by the person designated as custodian [affects]
13 shall affect the consummation of the gift.

14 § 5305. Duties and powers of custodian.

15 * * *

16 (e) Investment and retention of property.--The custodian,
17 notwithstanding statutes restricting investments by fiduciaries,
18 shall invest and reinvest the custodial property as would a
19 prudent man of discretion and intelligence who is seeking a
20 reasonable income and the preservation of his capital, except
21 that he may, in his discretion and without liability to the
22 minor or his estate, retain [a security] custodial property
23 given to the minor in a manner prescribed in this chapter [or
24 hold money so given in an account in the financial institution
25 to which it was paid or delivered by the donor].

26 (f) Disposal of property and voting securities.--The
27 custodian may sell, exchange, convert, surrender or otherwise
28 dispose of custodial property, in the manner, at the time or
29 times, for the price or prices, and upon the terms he deems
30 advisable. He may borrow money and mortgage or pledge custodial

1 property as security. He may grant options for the sale or lease
2 of custodial property. He may vote in person, or by general or
3 limited proxy, a security which is custodial property. He may
4 consent, directly or through a committee or other agent, to the
5 reorganization, consolidation, merger, dissolution or
6 liquidation of an issuer, a security which is custodial
7 property, and to the sale, lease, pledge or mortgage of any
8 property by or to such an issuer, and to any other action by
9 such an issuer. He may execute and deliver any and all
10 instruments in writing, which he deems advisable to carry out
11 any of his powers as custodian.

12 (g) Registration, deposit and separation of property.--The
13 custodian shall register each security which is custodial
14 property[,] and in [the] registered form in the name of the
15 custodian followed in substance by the words "as custodian for
16 [.....] (name of minor) under the
17 [(name of minor)]

18 Pennsylvania Uniform Gifts to Minors Act," provided that a
19 corporate custodian may register securities which are custodial
20 property in the name of its nominee. The custodian shall hold
21 all money which is custodial property in an account with a
22 broker or in a bank in the name of the custodian, followed in
23 substance by the words "as custodian for [.....]
24 (name of minor)

25 [(name of minor)]
26 under the Pennsylvania Uniform Gifts to Minors Act."
27 The custodian shall keep all other custodial property separate
28 and distinct from his own property in a manner to identify it
29 clearly as custodial property.

30 * * *

1 § 5308. Resignation, death or removal of custodian; bond;
2 designation of successor custodian.

3 (a) Eligibility and designation of successor.--Only [an
4 adult] a member of the minor's family who has attained the age
5 of 18 years, a guardian of the minor or a trust company is
6 eligible to become successor custodian. A custodian may
7 designate his successor by executing and dating an instrument of
8 designation before a subscribing witness other than the
9 successor; the instrument of designation may but need not
10 contain the resignation of the custodian. If the custodian does
11 not so designate his successor before he dies or becomes legally
12 incapacitated, and the minor has no guardian and has attained
13 the age of 14 years, the minor may designate a successor
14 custodian by executing an instrument of designation before a
15 subscribing witness other than the successor. A successor
16 custodian has all the rights, powers, duties and immunities of a
17 custodian designated in a manner prescribed by this chapter.

18 (b) When designation of successor takes effect.--The
19 designation of a successor custodian as provided in subsection
20 (a) [of this section] takes effect as to each item of the
21 custodial property when the custodian resigns, dies or becomes
22 legally incapacitated and the custodian or his legal
23 representative:

24 (1) causes the item, if it is a security in
25 registered form or a life or endowment insurance policy
26 or annuity contract, to be registered, with the issuing
27 insurance company in the case of a life or endowment
28 insurance policy or annuity contract, in the name of the
29 successor custodian followed, in substance by the words "as
30 custodian for[.....] (name of minor) under the

1 [(name of minor)]

2 Pennsylvania Uniform Gifts to Minors Act"; [and]

3 (1.1) if the custodial property is an interest in real
4 property, executes a conveyance of the interest to the
5 successor custodian in the form provided in section
6 5303(a)(5) (relating to manner of making gift); or

7 (2) delivers or causes to be delivered to the successor
8 custodian any other item of the custodial property, together
9 with the instrument of designation of the successor custodian
10 or a true copy thereof and any additional instruments
11 required for the transfer thereof to the successor custodian.

12 * * *

13 (d) Ineligibility, death or incapacity of custodian.--If a
14 person designated as custodian or as successor custodian by the
15 custodian as provided by subsection (a) [of this section] is not
16 eligible, dies or becomes legally incapacitated before the minor
17 attains the age of 21 years and if the minor has a guardian, the
18 guardian of the minor shall be successor custodian. If the minor
19 has no guardian and if no successor custodian who is eligible
20 and has not died or not become legally incapacitated has been
21 designated as provided in subsection (a) [of this section], a
22 donor, his legal representative, the legal representative of the
23 custodian, or [an adult] a member of the minor's family, who has
24 attained the age of 18 years, may petition the court for the
25 designation of a successor custodian.

26 (e) Petition for removal or requiring bond.--A donor, the
27 legal representative of a donor, a successor custodian, [an
28 adult] a member of the minor's family who has attained the age
29 of 18 years, a guardian of the minor or the minor if he has
30 attained the age of 14 years, may petition the court that, for

1 cause shown in the petition, the custodian be removed and a
2 successor custodian be designated, or, in the alternative, that
3 the custodian be required to give bond for the performance of
4 his duties.

5 * * *

6 § 5309. Accounting by custodian.

7 (a) Petition for accounting.--The minor if he has attained
8 the age of 14 years, or the legal representative of the minor,
9 [an adult] a member of the minor's family who has attained the
10 age of 18 years or a donor or his legal representative, may
11 petition the court for an accounting by the custodian or his
12 legal representative.

13 (b) Order for accounting or delivery of property.--The court
14 in a proceeding under this chapter or otherwise may require or
15 permit the custodian or his legal representative to account and
16 if the custodian is removed, shall so require and order,
17 delivery of all custodial property to the successor custodian
18 and the execution of all instruments required for the transfer
19 thereof.

20 Section 9. Sections 5505, 5515, 5521, 5536 and 5537(a) of
21 Title 20 are amended to read:

22 § 5505. Provisions similar to small estates of minors.

23 The provisions concerning small estates of incompetents shall
24 be the same as are set forth in the following provisions of this
25 title relating to minors' estates[, with regard to the
26 following]:

27 [(1) When guardian unnecessary, as in section 5101
28 (relating to when guardian unnecessary).

29 (2) Power of natural guardian, as in section 5102
30 (relating to power of natural guardian).

(3) Sequestered deposit, as in section 5103 (relating to sequestered deposit).]

Section 5101 (relating to when guardian unnecessary).

Section 5102 (relating to power of natural guardian).

Section 5103 (relating to sequestered deposit).

§ 5515. Provisions similar to other estates.

The provisions relating to a guardian of an incompetent and his surety shall be the same as are set forth in the following provisions of this title relating to a personal representative or a guardian of a minor and their sureties [with regard to the following]:

[(1) Service of process on nonresident guardian, as in section 5114 (relating to service of process on nonresident guardian).

(2) Appointment of guardian in conveyance, as in section 5115 (relating to appointment of guardian in conveyance).

(3) Necessity of bond; form and amount, as in section 5121 (relating to necessity, form and amount).

(4) When bond not required, as in section 5122 (relating to when bond not required).

(5) Requiring or changing amount of bond, as in section 5123 (relating to requiring or changing amount of bond).

(6) Grounds for removal, as in section 3182 (relating to grounds for removal).

(7) Procedure for and effect of removal, as in section 3183 (relating to procedure for and effect of removal), for which purpose the incompetent shall be deemed a party in interest).

(8) Discharge of guardian and surety, as in section 3184 (relating to discharge of personal representative and

surety).]

Section 3182 (relating to grounds for removal).

Section 3183 (relating to procedure for and effect of removal).

Section 3184 (relating to discharge of personal representative and surety).

Section 5115 (relating to appointment of guardian in conveyance).

Section 5121 (relating to necessity, form and amount).

Section 5122 (relating to when bond not required).

Section 5123 (relating to requiring or changing amount of bond).

§ 5521. Provisions concerning powers, duties and liabilities.

The provisions concerning the powers, duties and liabilities of guardians of incompetents' estates shall be the same as those set forth in the following provisions of this title relating to personal representatives of decedents' estates and guardians of minors' estates [with regard to the following]:

[(1) Possession of real and personal property, as in section 5141 (relating to possession of real and personal property).

(2) Inventory, as in section 5142 (relating to inventory).

(3) Abandonment of property, as in section 5143 (relating to abandonment of property).

(4) Liability insurance, as in section 3313 (relating to liability insurance).

(5) Continuation of business, as in section 3314 (relating to continuation of business).

(6) Incorporation of business, as in section 3315

(relating to incorporation of estate's business).

(7) Claims against co-guardian, as in section 3317 (relating to claims against co-fiduciary).

(8) Proceedings against guardian, as in section 5147 (relating to proceedings against guardian).

(9) Revival of judgment against guardian, as in section 3318 (relating to revival of judgments against personal representative).

(10) Liability of guardian on contracts, as in section 3331 (relating to liability of personal representative on contracts).

(11) Investments, as in section 5145 (relating to investments).

(12) Power of attorney and delegation of power over subscription rights and fractional shares, as in section 3319 (relating to power of attorney; delegation of power over subscription rights and fractional shares; authorized delegations).

(13) Voting stock by proxy, as in section 3320 (relating to voting stock by proxy).

(14) Nominee registration; corporate fiduciary as attorney-in-fact, as in section 3321 (relating to nominee registration; corporate fiduciary as attorney-in-fact; deposit of securities in a clearing corporation; book-entry securities).

(15) Acceptance of deed in lieu of foreclosure, as in section 3322 (relating to acceptance of deed in lieu of foreclosure).

(16) Compromise of controversies, as in section 3323 (relating to compromise of controversies).

1 (17) When guardian dies or becomes incompetent, as in
2 section 3324 (relating to death or incompetency of
3 fiduciary).

4 (18) Surviving or remaining guardian, as in section 3327
5 (relating to surviving or remaining personal
6 representatives).

7 (19) Disagreement of guardians, as in section 3328
8 (relating to disagreement of personal representatives).

9 (20) Inherent powers and duties, as in section 3332
10 (relating to inherent powers and duties).

11 (21) Guardian named in conveyance, as in section 5146
12 (relating to guardian named in conveyance).

13 (22) Power to sell personal property, as in section 5151
14 (relating to power to sell personal property).

15 (23) Order of court, as in section 5155 (relating to
16 order of court).

17 (24) Restraint of sale, as in section 3355 (relating to
18 restraint of sale).

19 (25) Purchase by guardian, as in section 3356 (relating
20 to purchase by personal representative).

21 (26) Title of purchaser, as in section 5154 (relating to
22 title of purchaser).

23 (27) Record of proceedings; county where real estate
24 lies, as in section 3359 (relating to record of proceedings;
25 county where real estate lies).

26 (28) Substitution of guardian in pending action or
27 proceedings, as in section 3372 (relating to substitution of
28 personal representative in pending action or proceedings).

29 (29) Death or removal of guardian, as in section 3374
30 (relating to death or removal of fiduciary).

1 (30) Specific performance of contracts, as in section
2 3390 (relating to specific performance of contracts).

3 (31) Contracts, inadequacy of consideration or better
4 offer; brokers' commissions, as in section 3360 (relating to
5 contracts, inadequacy of consideration or better offer;
6 brokers' commissions).]

7 Section 3313 (relating to liability insurance).

8 Section 3314 (relating to continuation of business).

9 Section 3315 (relating to incorporation of estate's
10 business).

11 Section 3317 (relating to claims against co-fiduciary).

12 Section 3318 (relating to revival of judgments against
13 personal representative).

14 Section 3319 (relating to power of attorney; delegation
15 of power over subscription rights and fractional shares;
16 authorized delegations).

17 Section 3320 (relating to voting stock by proxy).

18 Section 3321 (relating to nominee registration; corporate
19 fiduciary as attorney-in-fact; deposit of securities in a
20 clearing corporation; book-entry securities).

21 Section 3322 (relating to acceptance of deed in lieu of
22 foreclosure).

23 Section 3323 (relating to compromise of controversies).

24 Section 3324 (relating to death or incompetency of
25 fiduciary).

26 Section 3327 (relating to surviving or remaining personal
27 representatives).

28 Section 3328 (relating to disagreement of personal
29 representatives).

30 Section 3331 (relating to liability of personal

1 representative on contracts).

2 Section 3332 (relating to inherent powers and duties).

3 Section 3355 (relating to restraint of sale).

4 Section 3356 (relating to purchase by personal
5 representative).

6 Section 3359 (relating to record of proceedings; county
7 where real estate lies).

8 Section 3360 (relating to contracts, inadequacy of
9 consideration or better offer; brokers' commissions).

10 Section 3372 (relating to substitution of personal
11 representative in pending action or proceedings).

12 Section 3374 (relating to death or removal of fiduciary).

13 Section 3390 (relating to specific performance of
14 contracts).

15 Section 5141 (relating to possession of real and personal
16 property).

17 Section 5142 (relating to inventory).

18 Section 5143 (relating to abandonment of property).

19 Section 5145 (relating to investments).

20 Section 5146 (relating to guardian named in conveyance).

21 Section 5147 (relating to proceedings against guardian).

22 Section 5151 (relating to power to sell personal
23 property).

24 Section 5154 (relating to title of purchaser).

25 Section 5155 (relating to order of court).

26 § 5536. Distributions of income and principal during
27 incompetency.

28 (a) In general.--All income received by a guardian of the
29 estate of an incompetent, including (subject to the requirements
30 of Federal law relating thereto) all funds received from the

1 Veterans' Administration, Social Security Administration and
2 other periodic retirement or disability payments under private
3 or governmental plans, in the exercise of a reasonable
4 discretion, may be expended in the care and maintenance of the
5 incompetent, without the necessity of court approval. The court,
6 for cause shown and with only such notice as it considers
7 appropriate in the circumstances, may authorize or direct the
8 payment or application of any or all of the income or principal
9 of the estate of an incompetent for the care, maintenance or
10 education of the incompetent, his spouse, children or those for
11 whom he was making such provision before his incompetency, or
12 for the reasonable funeral expenses of the incompetent's spouse,
13 child or indigent parent. In proper cases, the court may order
14 payment of amounts directly to the incompetent for his
15 maintenance or for incidental expenses and may ratify payments
16 made for these purposes.

17 (b) Estate plan.--The court, upon petition and with notice
18 to all parties in interest, shall have the power to substitute
19 its judgment for that of the incompetent with respect to the
20 estate and affairs of the incompetent for the benefit of the
21 incompetent, his family, members of his household, his friends
22 and charities in which he was interested. This power shall
23 include, but is not limited to, the power to:

24 (1) [make] Make gifts, outright or in trust[;] .

25 (2) [convey or] Convey, release or disclaim his
26 contingent and expectant interests in property, including
27 marital property rights and any right of survivorship
28 incident to joint tenancy or tenancy by the entirety[;].

29 (3) [release] Release or disclaim his powers as trustee,
30 personal representative, custodian for minors, or

1 guardian[;]_.

2 (4) [exercise or] Exercise, release or disclaim his
3 powers as donee of a power of appointment[;]_.

4 (5) [enter] Enter into contracts[;]_.

5 (6) [create] Create for the benefit of the incompetent
6 or others, revocable or irrevocable trusts of his property
7 which may extend beyond his disability or life[;]_.

8 (7) [exercise] Exercise options of the incompetent to
9 purchase or exchange securities or other property[;]_.

10 (8) [exercise] Exercise his rights to elect options and
11 change beneficiaries under insurance and annuity policies or
12 surrender the policies for their cash value[;]_.

13 (9) [exercise] Exercise his right to claim or disclaim
14 an elective share in the estate of his deceased spouse and
15 renounce any interest by testate or intestate succession or
16 by inter vivos transfer[; and]_.

17 (10) [change] Change the incompetent's residence or
18 domicile.

19 In the exercise of its judgment for that of the incompetent, the
20 court first being satisfied that assets exist which are not
21 required for the maintenance, support and well-being of the
22 incompetent, may adopt a plan of gifts which [result] results in
23 minimizing current or prospective income, estate or inheritance
24 taxes, or which carries out a lifetime giving pattern. The court
25 in exercising its judgment may consider the testamentary and
26 inter vivos intentions of the incompetent insofar as they can be
27 ascertained.

28 § 5537. Reserve for funeral.

29 (a) In general.--The court may authorize the guardian to
30 retain such assets not exceeding [\$600] \$1,200 in value as are

1 deemed appropriate for the anticipated expense of the
2 incompetent's funeral, including the cost of a burial lot or
3 other resting place, which shall be exempt from all claims
4 including claims of the Commonwealth. The court with notice
5 thereof to the institution or person having custody of the
6 incompetent may also authorize the guardian or another person to
7 set aside such assets in the form of a savings account in a
8 financial institution which account shall not be subject to
9 escheat during the lifetime of the incompetent. Such assets may
10 be disbursed by the guardian or person who set aside such assets
11 or by the financial institution for such funeral expenses
12 without further authorization or accounting. Any part of such
13 assets not so disbursed shall constitute a part of the deceased
14 incompetent's estate. Should the incompetent become competent or
15 should such assets become excessive, the court, upon petition of
16 any party in interest, may make such order as the circumstances
17 shall require.

18 * * *

19 Section 10. Chapter 56 of Title 20 is repealed and a chapter
20 is added to read:

21 CHAPTER 56
22 POWERS OF ATTORNEY

23 Sec.

24 5601. General provision.

25 5602. Form of power of attorney.

26 5603. Implementation of power of attorney.

27 5604. Durable powers of attorney.

28 5605. Power of attorney not revoked until notice.

29 5606. Proof of continuance of durable or other powers of
30 attorney by affidavit.

1 5607. Corporate attorney-in-fact.

2 § 5601. General provision.

3 In addition to all other powers that may be delegated to an
4 attorney-in-fact, any or all of the powers referred to in
5 section 5602(a) (relating to form of power of attorney) may
6 lawfully be granted in writing and, unless the power of attorney
7 expressly directs to the contrary, shall be construed in
8 accordance with the provisions of this chapter.

9 § 5602. Form of power of attorney.

10 (a) Specification of powers.--A principal may, by inclusion
11 of the language quoted in any of the following paragraphs or by
12 inclusion of other language showing a similar intent on the part
13 of the principal, empower his attorney-in-fact to do any or all
14 of the following, each of which is defined in section 5603
15 (relating to implementation of power of attorney):

16 (1) Either:

17 (i) "To make gifts"; or

18 (ii) "To make limited gifts."

19 (2) "To create a trust for my benefit."

20 (3) "To make additions to an existing trust for my
21 benefit."

22 (4) "To claim an elective share of the estate of my
23 deceased spouse."

24 (5) "To disclaim any interest in property."

25 (6) "To renounce fiduciary positions."

26 (7) "To withdraw and receive the income or corpus of a
27 trust."

28 (8) "To authorize my admission to a medical, nursing,
29 residential or similar facility and to enter into agreements
30 for my care."

1 (9) "To authorize medical and surgical procedures."

2 (b) Appointment of attorney-in-fact and successor

3 attorney.--A principal may provide for:

4 (1) The appointment of more than one attorney-in-fact,
5 who shall act jointly, severally or in any other combination
6 that the principal may designate, but if there is no such
7 designation, such attorneys-in-fact shall only act jointly.

8 (2) The appointment of one or more successor attorneys-
9 in-fact who shall serve in the order named in the power of
10 attorney, unless the principal expressly directs to the
11 contrary.

12 (3) The delegation to an original or successor attorney-
13 in-fact of the power to appoint his successor or successors.

14 (c) Filing of power of attorney.--An executed copy of the
15 power of attorney may be filed with the clerk of the orphans'
16 court division of the court of common pleas in the county in
17 which the principal resides, and if it is acknowledged, it may
18 be recorded in the office for the recording of deeds of the
19 county of the principal's residence and of each county in which
20 real property to be affected by an exercise of the power is
21 located. The clerk of the orphans' court division or any office
22 for the recording of deeds with whom the power has been filed,
23 may, upon request, issue certified copies of the power of
24 attorney. Each such certified copy shall have the same validity
25 and the same force and effect as if it were the original, and it
26 may be filed of record in any other office of this Commonwealth
27 (including, without limitation, the clerk of the orphans' court
28 division or the office for the recording of deeds) as if it were
29 the original.

30 § 5603. Implementation of power of attorney.

1 (a) Power to make gifts and power to make limited gifts.--

2 (1) A power "to make gifts" shall mean that the
3 attorney-in-fact may make gifts for and on behalf of the
4 principal to any donees (including the attorney-in-fact) and
5 in such amounts as the attorney-in-fact may decide.

6 (2) A power "to make limited gifts" shall mean that the
7 attorney-in-fact may make only gifts for or on behalf of the
8 principal which are limited as follows:

9 (i) The class of permissible donees shall consist
10 solely of the principal's spouse and issue (including the
11 attorney-in-fact if he is a member of such class), or
12 any of them.

13 (ii) During each calendar year, the gifts made to
14 each donee, pursuant to such power, shall have an
15 aggregate value not in excess of, and shall be made in
16 such manner as to qualify in their entirety for, the
17 principal's annual exclusion from the Federal gift tax
18 permitted under section 2503(b) of the Internal Revenue
19 Code, determined without regard to section 2513(a)
20 thereof (or any successor provision to the code).

21 (iii) The attorney-in-fact shall be answerable as
22 equity and justice may require to the extent that any
23 gift made pursuant to a power "to make limited gifts"
24 exceeds the limitations imposed by subparagraph (i) or
25 (ii).

26 (3) A power to make gifts, whether or not limited as
27 aforesaid, shall be construed to empower the attorney-in-fact
28 to make gifts to each donee either outright or in trust; in
29 the case of a gift to a minor, such gifts may be made in
30 trust or in accordance with Chapter 53 (relating to

Pennsylvania Uniform Gifts to Minors Act) or section 5155 (relating to order of court). In the case of a gift made in trust, the attorney-in-fact may execute a deed of trust for such purpose, designating one or more persons (including the attorney-in-fact) as original or successor trustees, or may make additions to an existing trust. In making any gifts, the attorney-in-fact need not treat the donees equally or proportionately and may entirely exclude one or more permissible donees, and the pattern followed on the occasion of any gift or gifts need not be followed on the occasion of any other gift or gifts.

(4) An attorney-in-fact and the donee of a gift shall be answerable as equity and justice may require to the extent that a gift made by the attorney-in-fact is inconsistent with prudent estate planning or financial management for the principal or with the known or probable intent of the principal with respect to disposition of his estate.

(5) No transfer agent, depository or other third party acting in good faith shall have any responsibility to see to the proper discharge by the attorney-in-fact of his duties hereunder.

(b) Power to create a trust.--A power "to create a trust for my benefit" shall mean that the attorney-in-fact may execute a deed of trust, designating one or more persons (including the attorney-in-fact) as original or successor trustees and transfer to the trust any or all property owned by the principal as the attorney-in-fact may decide, subject to the following conditions:

(1) The income and corpus of such trust shall either be distributable to the principal or to the guardian of his

1 estate, or be applied for such principal's benefit, and upon
2 such principal's death, any remaining balance of corpus and
3 unexpended income of the trust shall be distributed to such
4 deceased principal's estate.

5 (2) The deed of trust may be amended or revoked at any
6 time and from time to time, in whole or in part, by the
7 principal or the attorney-in-fact, provided that any such
8 amendment by the attorney-in-fact shall not include any
9 provision which could not be included in the original deed.

10 (c) Power to make additions to an existing trust.--A power
11 "to make additions to an existing trust for my benefit" shall
12 mean that the attorney-in-fact, at any time or times, may add
13 any or all of the property owned by the principal to any trust
14 in existence when the power is created, provided that the terms
15 of such trust relating to the disposition of the income and
16 corpus during the lifetime of the principal are the same as
17 those set forth in subsection (b). The attorney-in-fact and the
18 trust and its beneficiaries shall be answerable as equity and
19 justice may require to the extent that an addition to a trust is
20 inconsistent with prudent estate planning or financial
21 management for the principal or with the known or probable
22 intent of the principal with respect to disposition of his
23 estate.

24 (d) Power to claim an elective share.--A power "to claim an
25 elective share of the estate of my deceased spouse" shall mean
26 that the attorney-in-fact may elect to take against the will and
27 conveyances of the principal's deceased spouse, disclaim any
28 interest in property which the principal is required to disclaim
29 as a result of such election, retain any property which the
30 principal has the right to elect to retain, file petitions

1 pertaining to the election, including petitions to extend the
2 time for electing and petitions for orders, decrees and
3 judgments in accordance with section 2211(c) and (d) (relating
4 to determination of effect of election; enforcement), and take
5 all other actions which the attorney-in-fact deems appropriate
6 in order to effectuate such election: Provided, however, That
7 the election shall be made only upon the approval of the court
8 having jurisdiction of such principal's estate in accordance
9 with section 2206 (relating to right of election personal to
10 surviving spouse) in the case of a principal who has been
11 adjudicated an incompetent, or upon the approval of the court
12 having jurisdiction of the deceased spouse's estate in the case
13 of a principal who has not been adjudicated an incompetent.

14 (e) Power to disclaim any interest in property.--A power "to
15 disclaim any interest in property" shall mean that the attorney-
16 in-fact may release or disclaim any interest in property on
17 behalf of the principal in accordance with Chapter 62 (relating
18 to disclaimers) or section 6103 (relating to release or
19 disclaimer of powers or interests), provided that any disclaimer
20 under Chapter 62 shall be in accordance with the provisions of
21 section 6202 (relating to disclaimers by fiduciaries) in the
22 case of a principal who shall have been adjudicated an
23 incompetent at the time of the execution of the disclaimer.

24 (f) Power to renounce fiduciary position.--

25 (1) A power "to renounce fiduciary positions" shall mean
26 that the attorney-in-fact may:

27 (i) renounce any fiduciary positions to which the
28 principal has been appointed; and

29 (ii) resign any fiduciary positions in which the
30 principal is then serving, and either file an accounting

1 with a court of competent jurisdiction or settle on
2 receipt and release or other informal method as the
3 attorney-in-fact deems advisable.

4 (2) The term "fiduciary" shall be deemed to include,
5 without limitation, executor, administrator, trustee,
6 guardian, attorney-in-fact, or officer or director of a
7 corporation.

8 (g) Power to withdraw and receive.--A power "to withdraw and
9 receive the income or corpus of a trust" shall mean that the
10 attorney-in-fact may:

11 (1) demand, withdraw and receive the income or corpus of
12 any trust over which the principal has the power to make
13 withdrawals;

14 (2) request and receive the income or corpus of any
15 trust with respect to which the trustee thereof has the
16 discretionary power to make distribution to or on behalf of
17 the principal; and

18 (3) execute a receipt and release or similar document
19 for the property received under paragraphs (1) and (2).

20 (h) Power to authorize admission to medical facility and
21 power to authorize medical procedures.--

22 (1) A power "to authorize my admission to a medical,
23 nursing, residential or similar facility, and to enter into
24 agreements for my care" shall mean that the attorney-in-fact
25 may apply for the admission of the principal to a medical,
26 nursing, residential or other similar facility, execute any
27 consent or admission forms required by such facility which
28 are consistent with this paragraph, and enter into agreements
29 for the care of the principal by such facility or elsewhere
30 during his lifetime or for such lesser period of time as the

1 attorney-in-fact may designate, including the retention of
2 nurses for the principal.

3 (2) A power "to authorize medical and surgical
4 procedures" shall mean that the attorney-in-fact may arrange
5 for and consent to medical, therapeutical and surgical
6 procedures for the principal, including the administration of
7 drugs.

8 § 5604. Durable powers of attorney.

9 (a) Definition.--A durable power of attorney is a power of
10 attorney by which a principal designates another his attorney-
11 in-fact in writing and the writing contains the words "this
12 power of attorney shall not be affected by my subsequent
13 disability or incapacity" or "this power of attorney shall
14 become effective upon my disability or incapacity" or similar
15 words showing the intent of the principal that the authority
16 conferred shall be exercisable notwithstanding the principal's
17 subsequent disability or incapacity.

18 (b) Durable power of attorney not affected by disability.--
19 All acts done by an attorney-in-fact pursuant to a durable power
20 of attorney during any period of disability or incapacity of the
21 principal have the same effect and inure to the benefit of and
22 bind the principal and his successors in interest as if the
23 principal were competent and not disabled.

24 (c) Relation of attorney-in-fact to court-appointed
25 guardian.--

26 (1) If, following execution of a durable power of
27 attorney, the principal is adjudicated an incompetent person
28 and a guardian is appointed for his estate, the attorney-in-
29 fact is accountable to the guardian as well as to the
30 principal. The guardian shall have the same power to revoke

1 or amend the power of attorney that the principal would have
2 had if he were not incompetent.

3 (2) A principal may nominate, by a durable power of
4 attorney, the guardian of his estate or of his person for
5 consideration by the court if incompetency proceedings for
6 the principal's estate or person are thereafter commenced.
7 The court shall make its appointment in accordance with the
8 principal's most recent nomination in a durable power of
9 attorney except for good cause or disqualification.

10 § 5605. Power of attorney not revoked until notice.

11 (a) Death of principal.--The death of a principal who has
12 executed a written power of attorney, durable or otherwise,
13 shall not revoke or terminate the agency as to the attorney-in-
14 fact or other person, who, without actual knowledge of the death
15 of the principal, acts in good faith under the power. Any action
16 so taken, unless otherwise invalid or unenforceable, shall bind
17 successors in interest of the principal.

18 (b) Disability or incapacity of principal.--The disability
19 or incapacity of a principal who has previously executed a
20 written power of attorney which is not a durable power shall not
21 revoke or terminate the agency as to the attorney-in-fact or
22 other person, who, without actual knowledge of the disability or
23 incapacity of the principal, acts in good faith under the power.
24 Any action so taken, unless otherwise invalid or unenforceable,
25 shall bind the principal and his successors in interest.

26 § 5606. Proof of continuance of durable or other powers of
27 attorney by affidavit.

28 As to acts undertaken in good faith reliance thereon, an
29 affidavit executed by the attorney-in-fact under a power of
30 attorney, durable or otherwise, stating that he did not have at

1 the time of exercise of the power actual knowledge of the
2 termination of the power by revocation or of the principal's
3 death, disability or incapacity is conclusive proof of the
4 nonrevocation or nontermination of the power at that time. If
5 the exercise of the power of attorney requires execution and
6 delivery of any instrument which is recordable, the affidavit
7 when authenticated for record is likewise recordable. This
8 section does not affect any provision in a power of attorney for
9 its termination by expiration of time or occurrence of an event
10 other than express revocation or a change in the principal's
11 capacity.

12 § 5607. Corporate attorney-in-fact.

13 A bank and trust company or a trust company incorporated in
14 this Commonwealth, or a National bank with trust powers having
15 its principal office in this Commonwealth, acting as an
16 attorney-in-fact pursuant to a power of attorney, or appointed
17 by another who possesses such a power, shall have the powers,
18 duties and liabilities set forth in section 3321 (relating to
19 nominee registration; corporate fiduciary as attorney-in-fact;
20 deposit of securities in a clearing corporation; book-entry
21 securities).

22 Section 11. Sections 6102(a), 6110 and 6202 of Title 20,
23 section 6102(a) amended July 11, 1980 (No.118), are amended to
24 read:

25 § 6102. Termination of trusts.

26 (a) Failure of original purpose.--The court having
27 jurisdiction of a trust heretofore or hereafter created,
28 regardless of any spendthrift or similar provision therein, in
29 its discretion may terminate such trust in whole or in part, or
30 make an allowance from principal to [a conveyer, his spouse,

1 issue, parents, or any of them, who is an income beneficiary,]
2 one or more beneficiaries provided the court after hearing is
3 satisfied that the original purpose of the conveyer cannot be
4 carried out or is impractical of fulfillment and that the
5 termination, partial termination, or allowance more nearly
6 approximates the intention of the conveyer, and notice is given
7 to all parties in interest or to their duly appointed
8 fiduciaries. [But, distributions of principal under this
9 section, whether by termination, partial termination, or
10 allowance, shall not exceed an aggregate value of \$100,000 from
11 all trusts created by the same conveyer.]

12 * * *

13 § 6110. Administration of charitable estates.

14 (a) General rule.--Except as otherwise provided by the
15 conveyer, if the charitable purpose for which an interest shall
16 be conveyed shall be or become indefinite or impossible or
17 impractical of fulfillment, or if it shall not have been carried
18 out for want of a trustee or because of the failure of a trustee
19 to designate such purpose, the court may, on application of the
20 trustee or of any interested person or of the Attorney General
21 [of the Commonwealth], after proof of notice to the Attorney
22 General [of the Commonwealth] when he is not the petitioner,
23 order an administration or distribution of the estate for a
24 charitable purpose in a manner as nearly as possible to fulfill
25 the intention of the conveyer, whether his charitable intent be
26 general or specific.

27 (b) Administrative termination of small charitable trusts.--
28 A trust held solely for charitable purposes with assets not
29 exceeding \$10,000, whether heretofore or hereafter created, may
30 be terminated by the trustee at its inception or at any time

1 thereafter with the consent of the Attorney General and all
2 charitable organizations which are designated by name in the
3 conveyance as beneficiaries. Upon such termination the assets,
4 subject to the approval of the Attorney General, shall be
5 delivered to the organizations, if any, designated in the trust
6 instrument or, if none, to organizations selected by the
7 trustee, in either case to be held and applied for such general
8 or specific charitable purposes and on such terms as will, in
9 the trustee's discretion, fulfill as nearly as possible the
10 conveyor's intention.

11 (c) Judicial termination of charitable trusts.--If the
12 separate existence of a trust solely for charitable purposes,
13 whether heretofore or hereafter created, results or will result
14 in administrative expense or other burdens unreasonably out of
15 proportion to the charitable benefits, the court may, upon
16 application of the trustee or any interested person and after
17 notice to the Attorney General, terminate the trust, either at
18 its inception or at any time thereafter, and award the assets
19 outright, free of the trust, to the charitable organizations, if
20 any, designated in the conveyance or, if none, to charitable
21 organizations selected by the court, in either case for such
22 purposes and on such terms as the court may direct to fulfill as
23 nearly as possible the conveyor's intentions other than any
24 intent to continue the trust, if the court is satisfied that the
25 charitable organizations will properly use or administer the
26 assets.

27 § 6202. Disclaimers by fiduciaries or attorneys-in-fact.

28 A disclaimer on behalf of a decedent, a minor or an
29 incompetent may be made by his personal representative, [or] the
30 guardian of his estate [if] or in the case of an incompetent who

1 executed a power of attorney which confers the authority to
2 disclaim upon his attorney-in-fact and which qualifies as a
3 durable power of attorney under section 5604 (relating to
4 durable powers of attorney) by such attorney-in-fact, if, in
5 each case, the court having jurisdiction of the estate
6 authorizes the disclaimer after finding that it is advisable and
7 will not materially prejudice the rights of creditors, heirs or
8 beneficiaries of the decedent, the minor or his creditors, or
9 the incompetent or his creditors, as the case may be.

10 Section 12. Sections 7121, 7133, 7143, 7183, 7185(b) and
11 7186 of Title 20, section 7183 amended July 11, 1980 (No.118),
12 are amended to read:

13 § 7121. Grounds and procedure.

14 The grounds and the procedure for the removal or discharge of
15 a trustee and his surety and the effect of such removal or
16 discharge shall be the same as are set forth in the following
17 provisions of this title relating to the removal and discharge
18 of a personal representative and his surety[, with regard to the
19 following]:

20 [(1) Grounds for removal, as in section 3182 (relating
21 to grounds for removal).

22 (2) Procedure for and effect of removal, as in section
23 3183 (relating to procedure for and effect of removal).

24 (3) Discharge of trustee and surety, as in section 3184
25 (relating to discharge of personal representative and
26 surety).]

27 Section 3182 (relating to grounds for removal).

28 Section 3183 (relating to procedure for and effect of
29 removal).

30 Section 3184 (relating to discharge of personal

1 representative and surety).

2 § 7133. Powers, duties and liabilities identical with
3 personal representatives.

4 The provisions concerning the powers, duties and liabilities
5 of a trustee shall be the same as those set forth in the
6 following provisions of this title for the administration of a
7 decedent's or a minor's estate [with regard to the following]:

8 [(1) Liability insurance, as in section 3313 (relating
9 to liability insurance).

10 (2) Continuation of business, as in section 3314
11 (relating to continuation of business).

12 (3) Incorporation of business, as in section 3315
13 (relating to incorporation of estate's business).

14 (4) Claims against co-trustee, as in section 3317
15 (relating to claims against co-fiduciary).

16 (5) Revival of judgments against trustee, as in section
17 3318 (relating to revival of judgments against personal
18 representative).

19 (6) Power of attorney, as in section 3319 (relating to
20 power of attorney; delegation of power over subscription
21 rights and fractional shares; authorized delegations).

22 (7) Voting stock by proxy, as in section 3320 (relating
23 to voting stock by proxy).

24 (8) Nominee registration, deposit of securities in a
25 clearing corporation and holding of securities in book-entry
26 form, as in section 3321 (relating to nominee registration;
27 corporate fiduciary as attorney-in-fact; deposit of
28 securities in a clearing corporation; book-entry securities).

29 (9) Acceptance of deed in lieu of foreclosure, as in
30 section 3322 (relating to acceptance of deed in lieu of

1 foreclosure).

2 (10) Compromise of controversies, as in section 3323
3 (relating to compromise of controversies).

4 (11) Death or incompetency of trustee, as in section
5 3324 (relating to death or incompetency of fiduciary).

6 (12) Surviving or remaining trustee, as in section 3327
7 (relating to surviving or remaining personal
8 representatives).

9 (13) Disagreement of trustees, as in section 3328
10 (relating to disagreement of personal representatives).

11 (14) Liability of trustee on contracts, as in section
12 3331 (relating to liability of personal representative on
13 contracts).

14 (15) Inherent powers and duties, as in section 3332
15 (relating to inherent powers and duties).

16 (16) Order of court, as in section 3353 (relating to
17 order of court).

18 (17) Power given in the trust instrument, as in section
19 3354 (relating to power given in governing instrument).

20 (18) Restraint of sale, as in section 3355 (relating to
21 restraint of sale).

22 (19) Purchase by trustee, as in section 3356 (relating
23 to purchase by personal representative).

24 (20) Collateral attack, as in section 3358 (relating to
25 collateral attack).

26 (21) Record of proceedings; county where real estate
27 lies, as in section 3359 (relating to record of proceedings;
28 county where real estate lies).

29 (21.1) Contracts, inadequacy of consideration or better
30 offer; brokers' commissions, as in section 3360 (relating to

1 contracts, inadequacy of consideration or better offer;
2 brokers' commissions).

3 (22) Proceedings against trustee, as in section 5147
4 (relating to proceedings against guardian).]

5 Section 3313 (relating to liability insurance).

6 Section 3314 (relating to continuation of business).

7 Section 3315 (relating to incorporation of estate's
8 business).

9 Section 3317 (relating to claims against co-fiduciary).

10 Section 3318 (relating to revival of judgments against
11 personal representative).

12 Section 3319 (relating to power of attorney; delegation
13 of power over subscription rights and fractional shares;
14 authorized delegations).

15 Section 3320 (relating to voting stock by proxy).

16 Section 3321 (relating to nominee registration; corporate
17 fiduciary as attorney-in-fact; deposit of securities in a
18 clearing corporation; book-entry securities).

19 Section 3322 (relating to acceptance of deed in lieu of
20 foreclosure).

21 Section 3323 (relating to compromise of controversies).

22 Section 3324 (relating to death or incompetency of
23 fiduciary).

24 Section 3327 (relating to surviving or remaining personal
25 representatives).

26 Section 3328 (relating to disagreement of personal
27 representatives).

28 Section 3331 (relating to liability of personal
29 representative on contracts).

30 Section 3332 (relating to inherent powers and duties).

1 Section 3353 (relating to order of court).

2 Section 3354 (relating to power given in governing
3 instrument).

4 Section 3355 (relating to restraint of sale).

5 Section 3356 (relating to purchase by personal
6 representative).

7 Section 3358 (relating to collateral attack).

8 Section 3359 (relating to record of proceedings; county
9 where real estate lies).

10 Section 3360 (relating to contracts, inadequacy of
11 consideration or better offer; brokers' commissions).

12 Section 5147 (relating to proceedings against guardian).

13 § 7143. Title of purchaser.

14 If the trustee has given such bond, if any, as shall be
15 required in accordance with this title, any sale, pledge,
16 mortgage, or exchange by a trustee, whether pursuant to a decree
17 or to the exercise of a power conferred by the trust instrument
18 or of a power under this title, shall pass the full title of the
19 trust therein, unless otherwise specified. Persons dealing with
20 the trustee shall have no obligation to see to the proper
21 application of the cash or other assets given in exchange for
22 the property of the trust. Any sale or exchange by a trustee
23 pursuant to a decree under section [7133(16)] 3353 (relating to
24 order of court) shall have the effect of a judicial sale as to
25 the discharge of liens, but the court may decree a sale or
26 exchange freed and discharged from the lien of any mortgage
27 otherwise preserved from discharge by existing law, if the
28 holder of such mortgage shall consent by writing filed in the
29 proceeding. No such sale, mortgage, exchange, or conveyance
30 shall be prejudiced by the subsequent dismissal of the trustee

1 nor shall any such sale, mortgage, exchange, or conveyance by a
2 testamentary trustee be prejudiced by the terms of any will or
3 codicil thereafter probated, if the person dealing with the
4 trustee did so in good faith.

5 § 7183. Notice, audits, reviews, and distribution.

6 The provisions concerning accounts, audits, reviews,
7 distributions and rights of distributees in trust estates shall
8 be the same as those set forth in the following provisions of
9 this title for the administration of a decedent's estate[, with
10 regard to the following]:

11 [(1) Notice to parties in interest, as in section 3503
12 (relating to notice to parties in interest).

13 (2) Representation of parties in interest, as in section
14 3504 (relating to representation of parties in interest).

15 (3) Audits in counties having a separate orphans' court
16 division, as in section 3511 (relating to audits in counties
17 having separate orphans' court division).

18 (4) Audits in counties having no separate orphans' court
19 division, as in section 3512 (relating to audits in counties
20 having no separate orphans' court division).

21 (5) Statement of proposed distribution, as in section
22 3513 (relating to statement of proposed distribution).

23 (6) Confirmation of accounts and approval of proposed
24 distribution, as in section 3514 (relating to confirmation of
25 account and approval of proposed distribution).

26 (7) Rehearing; relief granted, as in section 3521
27 (relating to rehearing; relief granted).

28 (8) Award upon final confirmation of account, as in
29 section 3533 (relating to award upon final confirmation of
30 account).

1 (9) Distribution in kind, as in section 3534 (relating
2 to distribution in kind).

3 (10) Recording and registering decrees awarding real
4 estate, as in section 3536 (relating to recording and
5 registering decrees awarding real estate).

6 (11) Liability for interest, as in section 3544
7 (relating to liability of personal representative for
8 interest).

9 (12) Transcripts of balances due, as in section 3545
10 (relating to transcripts of balances due by personal
11 representative).

12 (13) Record of risk distributions as provided in section
13 3532(c) (relating to at risk of personal representative).

14 (14) Distributions involving persons born out of
15 wedlock, as in section 3538 (relating to distributions
16 involving persons born out of wedlock).

17 (15) Absentee and additional distributees as in section
18 3540 (relating to absentee and additional distributees).]

19 Section 3503 (relating to notice to parties in interest).

20 Section 3504 (relating to representation of parties in
21 interest).

22 Section 3511 (relating to audits in counties having
23 separate orphans' court division).

24 Section 3512 (relating to audits in counties having no
25 separate orphans' court division).

26 Section 3513 (relating to statement of proposed
27 distribution).

28 Section 3514 (relating to confirmation of account and
29 approval of proposed distribution).

30 Section 3521 (relating to rehearing; relief granted).

1 Section 3532(c) (relating to at risk of personal
2 representative).

3 Section 3533 (relating to award upon final confirmation
4 of account).

5 Section 3534 (relating to distribution in kind).

6 Section 3536 (relating to recording and registering
7 decrees awarding real estate).

8 Section 3538 (relating to distributions involving persons
9 born out of wedlock).

10 Section 3539 (relating to information services).

11 Section 3540 (relating to absentee and additional
12 distributees).

13 Section 3544 (relating to liability of personal
14 representative for interest).

15 Section 3545 (relating to transcripts of balances due by
16 personal representative).

17 § 7185. Compensation.

18 * * *

19 (b) Allowed out of principal or income.--[Neither the] The
20 fact that a fiduciary's service has not ended [nor] or the fact
21 that the trust has not ended or the fact that the trust is
22 perpetual shall not be a bar to the fiduciary's receiving
23 compensation for his services out of the principal of the trust.
24 Whenever it shall appear either during the continuance of a
25 trust or at its end, that a fiduciary has rendered services for
26 which he has not been fully compensated, the court having
27 jurisdiction over his accounts, shall allow him such original or
28 additional compensation out of the trust income or the trust
29 principal or both, as may be necessary to compensate him for the
30 services theretofore rendered by him. The provisions of this

1 section shall apply to ordinary and extraordinary services
2 alike.

3 * * *

4 § 7186. Failure to present claim at audit.

5 (a) General rule.--Any person who at the audit of a
6 trustee's account has a claim which arose out of the
7 administration of trust property, or arises out of the
8 distribution of such property upon any interim or final
9 accounting of the trust, and which is not reported to the court
10 as an admitted claim, and who shall fail to present his claim at
11 the call for audit or confirmation, shall be forever barred,
12 against:

13 (1) any trust property distributed pursuant to such
14 audit or confirmation;

15 (2) any distributee of trust property distributed
16 pursuant to such audit or confirmation; and

17 (3) except as otherwise provided in section [7183(7)]
18 3521 (relating to rehearing; relief granted), any trust
19 property awarded back upon further trust pursuant to such
20 audit or confirmation.

21 (b) Liens and charges unimpaired.--Nothing in this section
22 shall be construed as impairing any lien or charge on real or
23 personal estate of the trust existing at the time of the audit.

24 Section 13. This act shall take effect immediately and shall
25 apply to the estates of all decedents dying on or after the
26 effective date and, as to the termination of trusts under 20 Pa.
27 C.S. § 6110 (relating to administration of charitable estates),
28 it shall apply to all trusts regardless of the date the trust
29 was created and as to 20 Pa.C.S. § 2209 (relating to surviving
30 spouse as witness), it shall be effective as of June 17, 1978

1 and shall apply to the estates of all decedents dying on or
2 after that date; and, as to powers of attorney, it shall apply
3 to all powers of attorney executed on or after the date of
4 enactment of this act, provided nothing in this act shall be
5 construed to limit the effectiveness of powers of attorney in
6 effect prior to the date of enactment of this act, and provided
7 further that all such powers of attorney which qualified under
8 the provisions of 20 Pa.C.S. § 5601 (relating to when power of
9 attorney not affected by disability) prior to its repeal shall
10 continue to be governed by the provisions of the said section as
11 if no repeal occurred.