

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 635

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

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 21, 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; providing for
4 payment from a patient's care account to decedent's family;
5 authorizing the payment of proceeds from insurance policies
6 to decedent's family; ~~adding a provision concerning~~ <—
7 ~~information services~~; providing for the apportionment of
8 death taxes; changing certain provisions relating to gifts to
9 minors; clarifying provisions relating to distributions of
10 income and principal made during incompetency; adding
11 provisions concerning powers of attorney; authorizing the
12 termination of certain trusts; clarifying certain provisions
13 relating to compensation to a fiduciary; making technical and
14 editorial changes; and making a repeal.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

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

20 § 2206. Right of election personal to surviving spouse.

21 The right of election of the surviving spouse may be
22 exercised in whole or in part only during his lifetime by him or
23 by his attorney-in-fact in accordance with section 5603(d)

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

13 § 2209. Surviving spouse as witness.

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

18 § 2210. Procedure for election; time limit.

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

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

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

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

8 Section 2. Section 3101(c) of Title 20, added July 11, 1980
9 (P.L.565, No.118), is amended and a subsection is added to read:
10 § 3101. Payments to family and funeral directors.

11 * * *

12 (c) [Payments to funeral directors] Patient's care
13 account.--When the decedent was a qualified recipient of medical
14 assistance from the Department of Public Welfare, the facility
15 in which he was a patient may make payment of funds, if any,
16 remaining in the patient's care account, for the decedent's
17 burial expenses to a licensed funeral director in an amount not
18 exceeding \$1,000 whether or not a personal representative has
19 been appointed. After the payment of decedent's burial expenses,
20 the facility may pay the balance of decedent's patient's care
21 account, as long as the payments including the payment for
22 burial expenses does not exceed \$1,500, to the spouse, any
23 child, the father or mother or any sister or brother (preference
24 being given in the order named) of the deceased patient. Any
25 facility making such a payment shall be released to the same
26 extent as if payment had been made to a duly appointed personal
27 representative of the decedent and it shall not be required to
28 see to the application thereof. Any licensed funeral director or
29 other person to whom payment is made shall be answerable
30 therefor to anyone prejudiced by an improper distribution.

1 (d) Life insurance payable to estate.--Any insurance company
2 which upon the death of an individual residing in this
3 Commonwealth owes his estate a total amount of \$11,000 or less
4 under any policy of life, endowment, accident or health
5 insurance, or under any annuity or pure endowment contract, may
6 at any time after 60 days following his death pay all or any
7 part of that amount to the spouse, any child, the father or
8 mother or any sister or brother of the decedent (preference
9 being given in the order named) provided that at the time of the
10 payment no written claim for that money has been received at the
11 office of the company specified in the policy or contract for
12 the receipt of claims from any duly appointed personal
13 representative of the decedent. Any insurance company making any
14 payment in accordance with this section to an adult may rely on
15 the affidavit of any of the persons named in this subsection
16 concerning the existence and relationship of these persons and
17 shall be released to the same extent as if payment had been made
18 to a duly appointed personal representative of the decedent and
19 the insurance company shall not be required to see to the
20 application thereof. Any person to whom payment is made shall be
21 answerable therefor to anyone prejudiced by an improper
22 distribution.

23 Section 3. Section 3132.1(b) of Title 20 is amended to read:
24 § 3132.1. Self-proved wills.

25 * * *

26 (b) Acknowledgment and affidavits.--An attested will may at
27 the time of its execution or at any subsequent date be made
28 self-proved by the acknowledgment thereof by the testator and
29 the affidavits of the witnesses, each made before an officer
30 authorized to administer oaths under the laws of this

1 Commonwealth, or under the laws of the state where execution
2 occurs, and evidenced by the officer's certificate, under
3 official seal, attached or annexed to the will. A separate
4 affidavit may be used for each witness whose affidavit is not
5 taken at the same time as the testator's acknowledgment. The
6 acknowledgment and affidavits shall in form and content be
7 substantially as set forth in the Uniform Probate Code or as
8 follows:

9 Acknowledgment

10 Commonwealth of Pennsylvania (or state of)

11 County of

12 I, _____, testat--_____,
13 whose name is signed to the attached or foregoing instrument,
14 having been duly qualified according to law, do hereby acknow-
15 ledge that I signed and executed the instrument as my Last Will;
16 that I signed it willingly; and that I signed it as my free and
17 voluntary act for the purposes therein expressed.

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

21 _____
22 (SEAL) _____

23 (Official capacity of officer)

24 Affidavit

25 Commonwealth of Pennsylvania (or state of)

26 County of

27 We, [_____,] _____ and _____,
28 the witnesses whose names are signed to the attached or fore-
29 going instrument, being duly qualified according to law, do

1 depose and say that we were present and saw testat--_____sign
2 and execute the instrument as his Last Will; that _____ signed
3 willingly and that _____ executed it as _____ free and
4 voluntary act for the purposes therein expressed; that each of
5 us in the hearing and sight of the testat--_____ signed the
6 will as witnesses; and that to the best of our knowledge the
7 testat--_____ was at that time 18 or more years of age, of
8 sound mind and under no constraint or undue influence.

9 Sworn or affirmed to and subscribed to before me by [_____
10 _____,] _____ and _____,
11 witnesses, this _____ day of _____, 19 _____.
12

13 _____
14 Witness

15 _____
16 Witness

17 [_____
18 _____
19 Witness]

20 (SEAL)

21 _____
22 (Official capacity of officer)

23 ~~Section 4. Title 20 is amended by adding a section to read:~~ <—

24 ~~§ 3539. Information services.~~

25 ~~An agreement between a distributee and a person or~~
26 ~~corporation that has informed the distributee of his interest in~~
27 ~~an estate which provides for compensation to the informant,~~
28 ~~shall be subject to review and adjustment by the court if a~~
29 ~~distributee can show that the agreement is unconscionable or is~~
30 ~~a result of fraud or duress perpetrated by the informant.~~

31 Section 5 4. Chapter 37 of Title 20 is repealed and a <—
32 chapter is added to read:

CHAPTER 37

APPORTIONMENT OF DEATH TAXES

Sec.

3701. Power of decedent.

3702. Equitable apportionment of Federal estate tax.

3703. Apportionment of Pennsylvania inheritance tax.

3704. Apportionment of Pennsylvania estate tax.

3705. Apportionment of Federal generation-skipping tax.

3706. Enforcement of contribution or exoneration of Federal estate tax.

§ 3701. Power of decedent.

A testator, settlor, donor or possessor of any appropriate power of appointment may direct how the Federal estate tax or the Federal generation-skipping tax due because of his death, including interest and penalties, shall be apportioned or may grant a discretionary power to another so to direct but any direction regarding apportionment of the Federal generation-skipping tax must expressly refer to that tax. Any such direction shall take precedence over the provisions of this chapter insofar as the direction provides for the payment of the tax or any part thereof from property the disposition of which can be controlled by the instrument containing the direction or delegating the power to another.

§ 3702. Equitable apportionment of Federal estate tax.

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

1 (b) Pre-residuary.--

2 (1) No Federal estate tax shall be apportioned against a
3 beneficiary of any pre-residuary gift made by will. Any
4 Federal estate tax attributable thereto shall be paid
5 entirely from the residue of the estate and charged in the
6 same manner as a general administration expense of the estate
7 except that when a portion of the residue of the estate is
8 allowable as a deduction for Federal estate tax purposes the
9 tax shall be paid to the extent possible from the portion of
10 the residue which is not so allowable.

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

20 (c) Deductions.--No Federal estate tax shall be apportioned
21 against an interest allowable as a Federal estate tax marital,
22 orphan's or charitable deduction (determined and valued without
23 regard to any Pennsylvania inheritance tax or other state or
24 foreign death taxes apportioned against such interest) except as
25 otherwise provided in subsections (b) and (g).

26 (d) Credits.--Any Federal estate tax credit for state or
27 foreign death taxes on property includible in the gross estate
28 for Federal estate tax purposes shall inure to the benefit of
29 the parties chargeable with the payment of the state or foreign
30 death taxes in proportion to the amount of the taxes paid by

1 each party but any credit inuring to the benefit of a party
2 shall not exceed the Federal estate tax apportionable to that
3 party. Any unified credit against Federal estate tax, credit for
4 tax on prior transfers (sometimes called the credit for property
5 previously taxed) or credit for gift taxes paid by the decedent
6 or his estate with respect to gifts made by the decedent before
7 January 1, 1977 shall inure to the benefit of all parties liable
8 to apportionment in proportion to the amount of Federal estate
9 tax apportioned against each party under the other provisions of
10 this chapter. Any Federal estate tax credit for gift taxes paid
11 by the donee of a gift made before January 1, 1977 shall inure
12 to the benefit of the donee.

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

18 (f) Additional Federal estate tax.--Any additional Federal
19 estate tax due because a qualified heir disposes of qualified
20 real property or ceases to use it for the qualified use shall be
21 apportioned against the qualified heir notwithstanding the
22 provisions of subsection (b).

23 (g) Present and future interests.--When both a present and a
24 future interest are involved, the Federal estate tax
25 apportioned, including interest and penalties, shall be paid
26 entirely from principal, except as otherwise provided in
27 subsection (h), even if the future interest qualifies for a
28 Federal estate tax charitable deduction or the holder of the
29 present interest also has rights in the principal or the
30 principal is otherwise exempt from apportionment.

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

6 (i) Values.--The values used in determining the amount of
7 Federal estate tax liability shall be used for Federal estate
8 tax apportionment purposes.

9 § 3703. Apportionment of Pennsylvania inheritance tax.

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

13 § 3704. Apportionment of Pennsylvania estate tax.

14 The Pennsylvania estate tax shall be apportioned in the same
15 manner as the Federal estate tax.

16 § 3705. Apportionment of Federal generation-skipping tax.

17 Subject to the provisions of section 3701 (relating to power
18 of decedent), the Federal generation-skipping tax shall be
19 apportioned as provided by Federal law and, to the extent not
20 provided by Federal law, shall be apportioned by analogy to the
21 rules specified in section 3702 (relating to equitable
22 apportionment of Federal estate tax).

23 § 3706. Enforcement of contribution or exoneration of Federal
24 estate tax.

25 (a) Duty to pay.--Parties liable for apportionment of the
26 Federal estate tax, whether residents or nonresidents of this
27 Commonwealth, shall pay the amounts apportioned against them
28 respectively.

29 (b) Duty of fiduciary.--The fiduciary charged with the duty
30 to pay the Federal estate tax may recover from parties liable to

1 apportionment the amounts of Federal estate tax apportionable to
2 them respectively.

3 (c) Suspending distribution.--Distribution of property to
4 any party, other than a fiduciary charged with a duty to pay the
5 Federal estate tax, shall not be required of any fiduciary until
6 the Federal estate tax apportionable with respect thereto is
7 paid or, if the Federal estate tax has not been determined and
8 apportionment made, until adequate security for payment is
9 furnished to the fiduciary making the distribution.

10 (d) Court decrees.--The court, upon petition or at an
11 accounting or in any appropriate action or proceeding, shall
12 make such decrees or orders as it shall deem advisable
13 apportioning the Federal estate tax. The court may direct a
14 fiduciary to collect the apportioned amounts from the property
15 or interests in his possession of any parties against whom
16 apportionment has been made and may direct all other parties
17 against whom the Federal estate tax has been or may be
18 apportioned or from whom any part of the Federal estate tax may
19 be recovered to make payment of the apportioned amounts to the
20 fiduciary. When a fiduciary holds property of a party liable to
21 apportionment insufficient to satisfy the apportioned Federal
22 estate tax, the court may direct that the balance of the
23 apportioned amount of Federal estate tax shall be paid to the
24 fiduciary by the party liable. Should an overpayment of the
25 Federal estate tax be made by any party or on his behalf, the
26 court may direct an appropriate reimbursement for the
27 overpayment. If the court apportions any part of the Federal
28 estate tax against any party interested in nontestamentary
29 property or among the respective interests created by any
30 nontestamentary instrument, the court, in its discretion, may

1 assess against those properties or interests an equitable share
2 of the expenses incurred in connection with the determination
3 and apportionment of the Federal estate tax. If the fiduciary
4 cannot recover the Federal estate tax apportioned against a
5 party benefited, the unrecovered amount shall be charged in such
6 manner as the court may determine.

7 Section ~~6~~ 5. Section 4102(b) of Title 20 is amended to read: <—
8 § 4102. Powers with respect to securities and bank accounts.

9 * * *

10 (b) Bank accounts.--When there is no administration in [the]
11 this Commonwealth, a foreign fiduciary[, upon submission to the
12 financial institution of:] shall have all the powers of a
13 similar local fiduciary with respect to money deposited or
14 invested in a financial institution located in this Commonwealth
15 and shall not be required to comply with the conditions and
16 limitations of section 4101 if he has submitted to the financial
17 institution

18 [(i)] a certificate of his appointment[;] and
19 [(ii)] an affidavit stating that after diligent
20 search and inquiry the estate of which he is fiduciary is
21 not, to his knowledge[,] or so far as he has been able to
22 discover, indebted to any person in [the] this
23 Commonwealth and that any taxes owing by such estate to
24 the Commonwealth or any subdivision thereof have been
25 paid or provided for [shall have all the powers of a
26 similar local fiduciary with respect to money deposited
27 or invested in a financial institution located in
28 Pennsylvania and shall not be required to comply with the
29 conditions and limitations of section 4101].

30 * * *

1 Section 7 6. Sections 5144, 5147(2) and 5153 of Title 20 are <—
2 amended to read:

3 § 5144. Powers, duties and liabilities identical with
4 personal representatives.

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

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

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

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

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

18 (5) Revival of judgment against guardian, as in section
19 3318 (relating to revival of judgments against personal
20 representative).

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

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

28 (8) Nominee registration; corporate fiduciary as
29 attorney-in-fact, as in section 3321 (relating to nominee
30 registration; corporate fiduciary as attorney-in-fact;

1 deposit of securities in a clearing corporation; book-entry
2 securities).

3 (9) Acceptance of deed in lieu of foreclosure, as in
4 section 3322 (relating to acceptance of deed in lieu of
5 foreclosure).

6 (10) Compromise of controversies, as in section 3323
7 (relating to compromise of controversies).

8 (11) When guardian dies or becomes incompetent, as in
9 section 3324 (relating to death or incompetency of
10 fiduciary).

11 (12) Surviving or remaining guardian, as in section 3327
12 (relating to surviving or remaining personal
13 representatives).

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

16 (14) Liability of guardian on contracts, as in section
17 3331 (relating to liability of personal representative on
18 contracts).

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

21 Section 3313 (relating to liability insurance).

22 Section 3314 (relating to continuation of business).

23 Section 3315 (relating to incorporation of estate's
24 business).

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

26 Section 3318 (relating to revival of judgments against
27 personal representative).

28 Section 3319 (relating to power of attorney; delegation
29 of power over subscription rights and fractional shares;
30 authorized delegations).

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

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

5 Section 3322 (relating to acceptance of deed in lieu of
6 foreclosure).

7 Section 3323 (relating to compromise of controversies).

8 Section 3324 (relating to death or incompetency of
9 fiduciary).

10 Section 3327 (relating to surviving or remaining personal
11 representatives).

12 Section 3328 (relating to disagreement of personal
13 representatives).

14 Section 3331 (relating to liability of personal
15 representatives on contracts).

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

17 § 5147. Proceedings against guardian.

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

22 * * *

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

1 § 5153. Provisions identical to other estates.

2 The provisions concerning guardians and minors' estates shall
3 be the same as those set forth in the following provisions of
4 this title for personal representatives and for the
5 administration of decedents' estates: [with regard to the
6 following:

7 (1) (Repealed).

8 (2) Restraint of sale, as in section 3355 (relating to
9 restraint of sale).

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

12 (4) Collateral attack, as in section 3358 (relating to
13 collateral attack).

14 (5) Record of proceedings; county where real estate
15 lies, as in section 3359 (relating to record of proceedings;
16 county where real estate lies).

17 (6) Contracts, inadequacy of consideration or better
18 offer; brokers' commissions, as in section 3360 (relating to
19 contracts, inadequacy of consideration or better offer;
20 brokers' commissions).]

21 Section 3355 (relating to restraint of sale).

22 Section 3356 (relating to purchase by personal
23 representative).

24 Section 3358 (relating to collateral attack).

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

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

29 Section & 7. Sections 5302, 5303, 5305(e), (f) and (g),
30 5308(a), (b), (d) and (e) and 5309 of Title 20 are amended to

<—

1 read:

2 § 5302. Definitions.

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

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

9 [A "bank" is a] "Bank." A bank, bank and trust company,
10 trust company, savings and loan association, building and loan
11 association, national banking association or institution,
12 savings bank, or credit union incorporated under the laws of the
13 United States or under the laws of this Commonwealth.

14 [A "broker" is a] "Broker." A person engaged in the business
15 of effecting transactions in securities for the account of
16 others. The term includes a bank which effects such
17 transactions. The term also includes a person lawfully engaged
18 in buying and selling securities, for his own account, through a
19 broker or otherwise as a part of a regular business.

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

22 ["The custodial property" includes:

23 (i) all securities, money, life or endowment
24 insurance policies and annuity contracts under the
25 supervision of the same custodian for the same minor as a
26 consequence of a gift or gifts made to the minor in a
27 manner prescribed in this chapter;

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

29 (iii) the proceeds, immediate and remote, from the
30 sale, exchange, conversion, investment, reinvestment or

1 other disposition of such securities, money, life or
2 endowment insurance policies and annuity contracts and
3 income.]

4 "Custodial property." Includes:

5 (1) Personal property in any form including, without
6 limitation, securities, interests in partnerships, money,
7 life or endowment insurance policies, annuity contracts and
8 tangible personal property, and interests in real property
9 located in this Commonwealth, under the supervision of the
10 same custodian for the same minor as a consequence of a gift
11 or gifts made to the minor in a manner prescribed in this
12 chapter.

13 (2) The income from the custodial property.

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

17 [A "custodian" is a] "Custodian." A person so designated in
18 a manner prescribed in this chapter; the term includes a
19 successor custodian.

20 [A "guardian"] "Guardian." A guardian of a minor includes
21 the general guardian, guardian, tutor or curator of his
22 property, estate or person.

23 [An "issuer" is a] "Issuer." A person who places or
24 authorizes the placing of his name on a security (other than as
25 a transfer agent) to evidence that it represents a share,
26 participation or other interest in his property or in an
27 enterprise, or to evidence his duty or undertaking to perform an
28 obligation evidenced by the security, or who becomes responsible
29 for or in place of any such person.

30 [A "legal representative"] "Legal representative." A legal

1 representative of a person is his executor or the administrator,
2 general guardian, guardian, committee, conservator, tutor or
3 curator of his property or estate.

4 "Life or endowment insurance policies and annuity contracts."
5 Includes only life or endowment insurance policies and annuity
6 contracts on the life of an individual in whose life the minor
7 has an insurable interest.

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

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

14 [A "security" includes] "Security." Includes any note,
15 stock, treasury stock, bond, debenture, evidence of
16 indebtedness, certificate of interest or participation in an
17 oil, gas or mining title or lease, or in payments out of
18 production under such title or lease, collateral trust
19 certificate, transferable share, voting trust certificate, or,
20 in general, any interest or instrument commonly known as a
21 security, or any certificate of interest or participation in any
22 temporary or interim certificate, receipt or certificate of
23 deposit for or any warrant or right to subscribe to or purchase
24 any of the foregoing. The term does not include a security of
25 which the donor is the issuer. A security is in "registered
26 form" when it specifies a person entitled to it, or to the
27 rights it evidences, and its transfer may be registered upon
28 books maintained for that purpose by or on behalf of the issuer.

29 [A "transfer agent" is a] "Transfer agent." A person who
30 acts as authenticating trustee, transfer agent, registrar or

1 other agent for an issuer in the registration of transfers of
2 its securities or in the issue of new securities or in the
3 cancellation of surrendered securities.

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

7 ["Life or endowment insurance policies and annuity contracts"
8 means only life or endowment insurance policies and annuity
9 contracts on the life of an individual in whose life the minor
10 has an insurable interest.]

11 § 5303. Manner of making gift.

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

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

23 under the Pennsylvania Uniform Gifts to Minors Act."

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

"Gift under the Pennsylvania
Uniform Gifts to Minors Act

I [.....] (name of donor) hereby
[(name of donor)]
deliver to [.....] (name of custodian)
[(name of custodian)]
as custodian for [.....] (name of minor) under the
[(name of minor)]
Pennsylvania Uniform Gifts to Minors Act, the following
security(ies) or asset(s): (insert an appropriate
description of the security or securities or other assets
delivered sufficient to identify it or them).

.....

(signature of donor)

I [.....] (name of custodian) hereby
[(name of custodian)]
[acknowledges] acknowledge receipt of the above described
security(ies) or asset(s) as custodian for the above minor
under the Pennsylvania Uniform Gifts to Minors Act.

Dated.....

.....

(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

1 partnership a copy of which shall be delivered to the person
2 in whose name it is thus recorded as custodian.

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

10 [(name of minor)]

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

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

22 [(name of minor)]

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

26 (5) If the subject of the gift is an interest in real
27 property, by executing, in a form suitable for recording, a
28 conveyance of the interest to the donor, another person who
29 has attained the age of 18 years or a trust company, followed
30 in substance by the words "as custodian for (name of minor)

1 under the Pennsylvania Uniform Gifts to Minors Act," and
2 delivering the conveyance to the custodian and, where the
3 donor is the custodian, recording the conveyance.

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

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

27 (c) Duty of donor.--A donor who makes a gift to a minor in a
28 manner prescribed in subsection (a) [of this section] shall
29 promptly do all things within his power to put the subject of
30 the gift in the possession and control of the custodian, but

1 neither the donor's failure to comply with this subsection nor
2 his designation of an ineligible person as custodian, nor
3 renunciation by the person designated as custodian [affects]
4 shall affect the consummation of the gift.

5 § 5305. Duties and powers of custodian.

6 * * *

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

17 (f) Disposal of property and voting securities.--The
18 custodian may sell, exchange, convert, surrender or otherwise
19 dispose of custodial property, in the manner, at the time or
20 times, for the price or prices, and upon the terms he deems
21 advisable. He may borrow money and mortgage or pledge custodial
22 property as security. He may grant options for the sale or lease
23 of custodial property. He may vote in person, or by general or
24 limited proxy, a security which is custodial property. He may
25 consent, directly or through a committee or other agent, to the
26 reorganization, consolidation, merger, dissolution or
27 liquidation of an issuer, a security which is custodial
28 property, and to the sale, lease, pledge or mortgage of any
29 property by or to such an issuer, and to any other action by
30 such an issuer. He may execute and deliver any and all

1 instruments in writing, which he deems advisable to carry out
2 any of his powers as custodian.

3 (g) Registration, deposit and separation of property.--The
4 custodian shall register each security which is custodial
5 property[,] and in [the] registered form in the name of the
6 custodian followed in substance by the words "as custodian for
7 [.....] (name of minor) under the
8 [(name of minor)]

9 Pennsylvania Uniform Gifts to Minors Act," provided that a
10 corporate custodian may register securities which are custodial
11 property in the name of its nominee. The custodian shall hold
12 all money which is custodial property in an account with a
13 broker or in a bank in the name of the custodian, followed in
14 substance by the words "as custodian for [.....]
15 (name of minor)

16 [(name of minor)]

17 under the Pennsylvania Uniform Gifts to Minors Act."

18 The custodian shall keep all other custodial property separate
19 and distinct from his own property in a manner to identify it
20 clearly as custodial property.

21 * * *

22 § 5308. Resignation, death or removal of custodian; bond;
23 designation of successor custodian.

24 (a) Eligibility and designation of successor.--Only [an
25 adult] a member of the minor's family who has attained the age
26 of 18 years, a guardian of the minor or a trust company is
27 eligible to become successor custodian. A custodian may
28 designate his successor by executing and dating an instrument of
29 designation before a subscribing witness other than the
30 successor; the instrument of designation may but need not

1 contain the resignation of the custodian. If the custodian does
2 not so designate his successor before he dies or becomes legally
3 incapacitated, and the minor has no guardian and has attained
4 the age of 14 years, the minor may designate a successor
5 custodian by executing an instrument of designation before a
6 subscribing witness other than the successor. A successor
7 custodian has all the rights, powers, duties and immunities of a
8 custodian designated in a manner prescribed by this chapter.

9 (b) When designation of successor takes effect.--The
10 designation of a successor custodian as provided in subsection
11 (a) [of this section] takes effect as to each item of the
12 custodial property when the custodian resigns, dies or becomes
13 legally incapacitated and the custodian or his legal
14 representative:

15 (1) causes the item, if it is a security in
16 registered form or a life or endowment insurance policy
17 or annuity contract, to be registered, with the issuing
18 insurance company in the case of a life or endowment
19 insurance policy or annuity contract, in the name of the
20 successor custodian followed, in substance by the words "as
21 custodian for[.....] (name of minor) under the
22 [(name of minor)]
23 Pennsylvania Uniform Gifts to Minors Act"; [and]

24 (1.1) if the custodial property is an interest in real
25 property, executes a conveyance of the interest to the
26 successor custodian in the form provided in section
27 5303(a)(5) (relating to manner of making gift); or

28 (2) delivers or causes to be delivered to the successor
29 custodian any other item of the custodial property, together
30 with the instrument of designation of the successor custodian

1 or a true copy thereof and any additional instruments
2 required for the transfer thereof to the successor custodian.

3 * * *

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

17 (e) Petition for removal or requiring bond.--A donor, the
18 legal representative of a donor, a successor custodian, [an
19 adult] a member of the minor's family who has attained the age
20 of 18 years, a guardian of the minor or the minor if he has
21 attained the age of 14 years, may petition the court that, for
22 cause shown in the petition, the custodian be removed and a
23 successor custodian be designated, or, in the alternative, that
24 the custodian be required to give bond for the performance of
25 his duties.

26 * * *

27 § 5309. Accounting by custodian.

28 (a) Petition for accounting.--The minor if he has attained
29 the age of 14 years, or the legal representative of the minor,
30 [an adult] a member of the minor's family who has attained the

1 age of 18 years or a donor or his legal representative, may
2 petition the court for an accounting by the custodian or his
3 legal representative.

4 (b) Order for accounting or delivery of property.--The court
5 in a proceeding under this chapter or otherwise may require or
6 permit the custodian or his legal representative to account and
7 if the custodian is removed, shall so require and order,
8 delivery of all custodial property to the successor custodian
9 and the execution of all instruments required for the transfer
10 thereof.

11 Section ~~9~~ 8. Sections 5505, 5515, 5521, 5536 and 5537(a) of <—
12 Title 20 are amended to read:

13 § 5505. Provisions similar to small estates of minors.

14 The provisions concerning small estates of incompetents shall
15 be the same as are set forth in the following provisions of this
16 title relating to minors' estates[, with regard to the
17 following]:

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

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

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

24 Section 5101 (relating to when guardian unnecessary).

25 Section 5102 (relating to power of natural guardian).

26 Section 5103 (relating to sequestered deposit).

27 § 5515. Provisions similar to other estates.

28 The provisions relating to a guardian of an incompetent and
29 his surety shall be the same as are set forth in the following
30 provisions of this title relating to a personal representative

1 or a guardian of a minor and their sureties[, with regard to the
2 following]:

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

6 (2) Appointment of guardian in conveyance, as in section
7 5115 (relating to appointment of guardian in conveyance).

8 (3) Necessity of bond; form and amount, as in section
9 5121 (relating to necessity, form and amount).

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

12 (5) Requiring or changing amount of bond, as in section
13 5123 (relating to requiring or changing amount of bond).

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

16 (7) Procedure for and effect of removal, as in section
17 3183 (relating to procedure for and effect of removal), for
18 which purpose the incompetent shall be deemed a party in
19 interest).

20 (8) Discharge of guardian and surety, as in section 3184
21 (relating to discharge of personal representative and
22 surety).]

23 Section 3182 (relating to grounds for removal).

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

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

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

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

1 Section 5122 (relating to when bond not required).

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

4 § 5521. Provisions concerning powers, duties and liabilities.

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

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

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

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

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

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

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

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

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

27 (9) Revival of judgment against guardian, as in section
28 3318 (relating to revival of judgments against personal
29 representative).

30 (10) Liability of guardian on contracts, as in section

1 3331 (relating to liability of personal representative on
2 contracts).

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

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

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

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

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

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

22 (17) When guardian dies or becomes incompetent, as in
23 section 3324 (relating to death or incompetency of
24 fiduciary).

25 (18) Surviving or remaining guardian, as in section 3327
26 (relating to surviving or remaining personal
27 representatives).

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

30 (20) Inherent powers and duties, as in section 3332

(relating to inherent powers and duties).

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

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

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

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

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

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

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

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

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

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

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

Section 3313 (relating to liability insurance).

Section 3314 (relating to continuation of business).

Section 3315 (relating to incorporation of estate's

1 business).

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

3 Section 3318 (relating to revival of judgments against
4 personal representative).

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

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

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

12 Section 3322 (relating to acceptance of deed in lieu of
13 foreclosure).

14 Section 3323 (relating to compromise of controversies).

15 Section 3324 (relating to death or incompetency of
16 fiduciary).

17 Section 3327 (relating to surviving or remaining personal
18 representatives).

19 Section 3328 (relating to disagreement of personal
20 representatives).

21 Section 3331 (relating to liability of personal
22 representative on contracts).

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

24 Section 3355 (relating to restraint of sale).

25 Section 3356 (relating to purchase by personal
26 representative).

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

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

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

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

4 Section 3390 (relating to specific performance of
5 contracts).

6 Section 5141 (relating to possession of real and personal
7 property).

8 Section 5142 (relating to inventory).

9 Section 5143 (relating to abandonment of property).

10 Section 5145 (relating to investments).

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

12 Section 5147 (relating to proceedings against guardian).

13 Section 5151 (relating to power to sell personal
14 property).

15 Section 5154 (relating to title of purchaser).

16 Section 5155 (relating to order of court).

17 § 5536. Distributions of income and principal during
18 incompetency.

19 (a) In general.--All income received by a guardian of the
20 estate of an incompetent, including (subject to the requirements
21 of Federal law relating thereto) all funds received from the
22 Veterans' Administration, Social Security Administration and
23 other periodic retirement or disability payments under private
24 or governmental plans, in the exercise of a reasonable
25 discretion, may be expended in the care and maintenance of the
26 incompetent, without the necessity of court approval. The court,
27 for cause shown and with only such notice as it considers
28 appropriate in the circumstances, may authorize or direct the
29 payment or application of any or all of the income or principal
30 of the estate of an incompetent for the care, maintenance or

1 education of the incompetent, his spouse, children or those for
2 whom he was making such provision before his incompetency, or
3 for the reasonable funeral expenses of the incompetent's spouse,
4 child or indigent parent. In proper cases, the court may order
5 payment of amounts directly to the incompetent for his
6 maintenance or for incidental expenses and may ratify payments
7 made for these purposes.

8 (b) Estate plan.--The court, upon petition and with notice
9 to all parties in interest, shall have the power to substitute
10 its judgment for that of the incompetent with respect to the
11 estate and affairs of the incompetent for the benefit of the
12 incompetent, his family, members of his household, his friends
13 and charities in which he was interested. This power shall
14 include, but is not limited to, the power to:

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

16 (2) [convey or] Convey, release or disclaim his
17 contingent and expectant interests in property, including
18 marital property rights and any right of survivorship
19 incident to joint tenancy or tenancy by the entirety[;]_.

20 (3) [release] Release or disclaim his powers as trustee,
21 personal representative, custodian for minors, or
22 guardian[;]_.

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

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

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

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

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

4 (9) [exercise] Exercise his right to claim or disclaim
5 an elective share in the estate of his deceased spouse and
6 renounce any interest by testate or intestate succession or
7 by inter vivos transfer[; and].

8 (10) [change] Change the incompetent's residence or
9 domicile.

10 In the exercise of its judgment for that of the incompetent, the
11 court first being satisfied that assets exist which are not
12 required for the maintenance, support and well-being of the
13 incompetent, may adopt a plan of gifts which [result] results in
14 minimizing current or prospective income, estate or inheritance
15 taxes, or which carries out a lifetime giving pattern. The court
16 in exercising its judgment may consider the testamentary and
17 inter vivos intentions of the incompetent insofar as they can be
18 ascertained.

19 § 5537. Reserve for funeral.

20 (a) In general.--The court may authorize the guardian to
21 retain such assets not exceeding [\$600] \$1,200 in value as are
22 deemed appropriate for the anticipated expense of the
23 incompetent's funeral, including the cost of a burial lot or
24 other resting place, which shall be exempt from all claims
25 including claims of the Commonwealth. The court with notice
26 thereof to the institution or person having custody of the
27 incompetent may also authorize the guardian or another person to
28 set aside such assets in the form of a savings account in a
29 financial institution which account shall not be subject to
30 escheat during the lifetime of the incompetent. Such assets may

1 be disbursed by the guardian or person who set aside such assets
2 or by the financial institution for such funeral expenses
3 without further authorization or accounting. Any part of such
4 assets not so disbursed shall constitute a part of the deceased
5 incompetent's estate. Should the incompetent become competent or
6 should such assets become excessive, the court, upon petition of
7 any party in interest, may make such order as the circumstances
8 shall require.

9 * * *

10 Section ~~49~~ 9. Chapter 56 of Title 20 is repealed and a
11 chapter is added to read:

<—

12 CHAPTER 56

13 POWERS OF ATTORNEY

14 Sec.

15 5601. General provision.

16 5602. Form of power of attorney.

17 5603. Implementation of power of attorney.

18 5604. Durable powers of attorney.

19 5605. Power of attorney not revoked until notice.

20 5606. Proof of continuance of durable or other powers of
21 attorney by affidavit.

22 5607. Corporate attorney-in-fact.

23 § 5601. General provision.

24 In addition to all other powers that may be delegated to an
25 attorney-in-fact, any or all of the powers referred to in
26 section 5602(a) (relating to form of power of attorney) may
27 lawfully be granted in writing and, unless the power of attorney
28 expressly directs to the contrary, shall be construed in
29 accordance with the provisions of this chapter.

30 § 5602. Form of power of attorney.

1 (a) Specification of powers.--A principal may, by inclusion
2 of the language quoted in any of the following paragraphs or by
3 inclusion of other language showing a similar intent on the part
4 of the principal, empower his attorney-in-fact to do any or all
5 of the following, each of which is defined in section 5603
6 (relating to implementation of power of attorney):

7 (1) Either:

8 (i) "To make gifts"; or

9 (ii) "To make limited gifts."

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

11 (3) "To make additions to an existing trust for my
12 benefit."

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

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

16 (6) "To renounce fiduciary positions."

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

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

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

23 (b) Appointment of attorney-in-fact and successor
24 attorney.--A principal may provide for:

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

29 (2) The appointment of one or more successor attorneys-
30 in-fact who shall serve in the order named in the power of

1 attorney, unless the principal expressly directs to the
2 contrary.

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

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

21 § 5603. Implementation of power of attorney.

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

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

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

30 (i) The class of permissible donees shall consist

1 solely of the principal's spouse and issue (including the
2 attorney-in-fact if he is a member of such class), or
3 any of them.

4 (ii) During each calendar year, the gifts made to
5 each donee, pursuant to such power, shall have an
6 aggregate value not in excess of, and shall be made in
7 such manner as to qualify in their entirety for, the
8 principal's annual exclusion from the Federal gift tax
9 permitted under section 2503(b) of the Internal Revenue
10 Code, determined without regard to section 2513(a)
11 thereof (or any successor provision to the code).

12 (iii) The attorney-in-fact shall be responsible as
13 equity and justice may require to the extent that any
14 gift made pursuant to a power "to make limited gifts"
15 exceeds the limitations imposed by subparagraph (i) or
16 (ii).

17 (3) A power to make gifts, whether or not limited as
18 aforesaid, shall be construed to empower the attorney-in-fact
19 to make gifts to each donee either outright or in trust; in
20 the case of a gift to a minor, such gifts may be made in
21 trust or in accordance with Chapter 53 (relating to
22 Pennsylvania Uniform Gifts to Minors Act) or section 5155
23 (relating to order of court). In the case of a gift made in
24 trust, the attorney-in-fact may execute a deed of trust for
25 such purpose, designating one or more persons (including the
26 attorney-in-fact) as original or successor trustees, or may
27 make additions to an existing trust. In making any gifts, the
28 attorney-in-fact need not treat the donees equally or
29 proportionately and may entirely exclude one or more
30 permissible donees, and the pattern followed on the occasion

1 of any gift or gifts need not be followed on the occasion of
2 any other gift or gifts.

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

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

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

20 (1) The income and corpus of the trust shall either be
21 distributable to the principal or to the guardian of his
22 estate, or be applied for the principal's benefit, and upon
23 the principal's death, any remaining balance of corpus and
24 unexpended income of the trust shall be distributed to the
25 deceased principal's estate.

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

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

15 (d) Power to claim an elective share.--A power "to claim an
16 elective share of the estate of my deceased spouse" shall mean
17 that the attorney-in-fact may elect to take against the will and
18 conveyances of the principal's deceased spouse, disclaim any
19 interest in property which the principal is required to disclaim
20 as a result of such election, retain any property which the
21 principal has the right to elect to retain, file petitions
22 pertaining to the election, including petitions to extend the
23 time for electing and petitions for orders, decrees and
24 judgments in accordance with section 2211(c) and (d) (relating
25 to determination of effect of election; enforcement), and take
26 all other actions which the attorney-in-fact deems appropriate
27 in order to effectuate the election: Provided, however, That the
28 election shall be made only upon the approval of the court
29 having jurisdiction of the principal's estate in accordance with
30 section 2206 (relating to right of election personal to

1 surviving spouse) in the case of a principal who has been
2 adjudicated an incompetent, or upon the approval of the court
3 having jurisdiction of the deceased spouse's estate in the case
4 of a principal who has not been adjudicated an incompetent.

5 (e) Power to disclaim any interest in property.--A power "to
6 disclaim any interest in property" shall mean that the attorney-
7 in-fact may release or disclaim any interest in property on
8 behalf of the principal in accordance with Chapter 62 (relating
9 to disclaimers) or section 6103 (relating to release or
10 disclaimer of powers or interests), provided that any disclaimer
11 under Chapter 62 shall be in accordance with the provisions of
12 section 6202 (relating to disclaimers by fiduciaries) in the
13 case of a principal who shall have been adjudicated an
14 incompetent at the time of the execution of the disclaimer.

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

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

18 (i) renounce any fiduciary position to which the
19 principal has been appointed; and

20 (ii) resign any fiduciary position in which the
21 principal is then serving, and either file an accounting
22 with a court of competent jurisdiction or settle on
23 receipt and release or other informal method as the
24 attorney-in-fact deems advisable.

25 (2) The term "fiduciary" shall be deemed to include,
26 without limitation, an executor, administrator, trustee,
27 guardian, attorney-in-fact, or officer or director of a
28 corporation.

29 (g) Power to withdraw and receive.--A power "to withdraw and
30 receive the income or corpus of a trust" shall mean that the

1 attorney-in-fact may:

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

5 (2) request and receive the income or corpus of any
6 trust with respect to which the trustee thereof has the
7 discretionary power to make distribution to or on behalf of
8 the principal; and

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

11 (h) Power to authorize admission to medical facility and
12 power to authorize medical procedures.--

13 (1) A power "to authorize my admission to a medical,
14 nursing, residential or similar facility, and to enter into
15 agreements for my care" shall mean that the attorney-in-fact
16 may apply for the admission of the principal to a medical,
17 nursing, residential or other similar facility, execute any
18 consent or admission forms required by such facility which
19 are consistent with this paragraph, and enter into agreements
20 for the care of the principal by such facility or elsewhere
21 during his lifetime or for such lesser period of time as the
22 attorney-in-fact may designate, including the retention of
23 nurses for the principal.

24 (2) A power "to authorize medical and surgical
25 procedures" shall mean that the attorney-in-fact may arrange
26 for and consent to medical, therapeutical and surgical
27 procedures for the principal, including the administration of
28 drugs.

29 § 5604. Durable powers of attorney.

30 (a) Definition.--A durable power of attorney is a power of

1 attorney by which a principal designates another his attorney-
2 in-fact in writing and the writing contains the words "this
3 power of attorney shall not be affected by my subsequent
4 disability or incapacity" or "this power of attorney shall
5 become effective upon my disability or incapacity" or similar
6 words showing the intent of the principal that the authority
7 conferred shall be exercisable notwithstanding the principal's
8 subsequent disability or incapacity.

9 (b) Durable power of attorney not affected by disability.--
10 All acts done by an attorney-in-fact pursuant to a durable power
11 of attorney during any period of disability or incapacity of the
12 principal have the same effect and inure to the benefit of and
13 bind the principal and his successors in interest as if the
14 principal were competent and not disabled.

15 (c) Relation of attorney-in-fact to court-appointed
16 guardian.--

17 (1) If, following execution of a durable power of
18 attorney, the principal is adjudicated an incompetent person
19 and a guardian is appointed for his estate, the attorney-in-
20 fact is accountable to the guardian as well as to the
21 principal. The guardian shall have the same power to revoke
22 or amend the power of attorney that the principal would have
23 had if he were not incompetent.

24 (2) A principal may nominate, by a durable power of
25 attorney, the guardian of his estate or of his person for
26 consideration by the court if incompetency proceedings for
27 the principal's estate or person are thereafter commenced.
28 The court shall make its appointment in accordance with the
29 principal's most recent nomination in a durable power of
30 attorney except for good cause or disqualification.

1 § 5605. Power of attorney not revoked until notice.

2 (a) Death of principal.--The death of a principal who has
3 executed a written power of attorney, durable or otherwise,
4 shall not revoke or terminate the agency as to the attorney-in-
5 fact or other person, who, without actual knowledge of the death
6 of the principal, acts in good faith under the power. Any action
7 so taken, unless otherwise invalid or unenforceable, shall bind
8 successors in interest of the principal.

9 (b) Disability or incapacity of principal.--The disability
10 or incapacity of a principal who has previously executed a
11 written power of attorney which is not a durable power shall not
12 revoke or terminate the agency as to the attorney-in-fact or
13 other person, who, without actual knowledge of the disability or
14 incapacity of the principal, acts in good faith under the power.
15 Any action so taken, unless otherwise invalid or unenforceable,
16 shall bind the principal and his successors in interest.

17 § 5606. Proof of continuance of durable or other powers of
18 attorney by affidavit.

19 As to acts undertaken in good faith reliance thereon, an
20 affidavit executed by the attorney-in-fact under a power of
21 attorney, durable or otherwise, stating that he did not have at
22 the time of exercise of the power actual knowledge of the
23 termination of the power by revocation or of the principal's
24 death, disability or incapacity is conclusive proof of the
25 nonrevocation or nontermination of the power at that time. If
26 the exercise of the power of attorney requires execution and
27 delivery of any instrument which is recordable, the affidavit
28 when authenticated for record is likewise recordable. This
29 section does not affect any provision in a power of attorney for
30 its termination by expiration of time or occurrence of an event

1 other than express revocation or a change in the principal's
2 capacity.

3 § 5607. Corporate attorney-in-fact.

4 A bank and trust company or a trust company incorporated in
5 this Commonwealth, or a National bank with trust powers having
6 its principal office in this Commonwealth, acting as an
7 attorney-in-fact pursuant to a power of attorney, or appointed
8 by another who possesses such a power, shall have the powers,
9 duties and liabilities set forth in section 3321 (relating to
10 nominee registration; corporate fiduciary as attorney-in-fact;
11 deposit of securities in a clearing corporation; book-entry
12 securities).

13 Section ~~11~~ 10. Sections 6102(a), 6110 and 6202 of Title 20, <—
14 section 6102(a) amended July 11, 1980 (P.L.565, No.118), are
15 amended to read:

16 § 6102. Termination of trusts.

17 (a) Failure of original purpose.--The court having
18 jurisdiction of a trust heretofore or hereafter created,
19 regardless of any spendthrift or similar provision therein, in
20 its discretion may terminate such trust in whole or in part, or
21 make an allowance from principal to [a conveyor, his spouse,
22 issue, parents, or any of them, who is an income beneficiary,]
23 one or more beneficiaries provided the court after hearing is
24 satisfied that the original purpose of the conveyor cannot be
25 carried out or is impractical of fulfillment and that the
26 termination, partial termination, or allowance more nearly
27 approximates the intention of the conveyor, and notice is given
28 to all parties in interest or to their duly appointed
29 fiduciaries. [But, distributions of principal under this
30 section, whether by termination, partial termination, or

allowance, shall not exceed an aggregate value of \$100,000 from all trusts created by the same conveyer.]

* * *

§ 6110. Administration of charitable estates.

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

(b) Administrative termination of small charitable trusts.--
A trust held solely for charitable purposes with assets not exceeding \$10,000, whether heretofore or hereafter created, may be terminated by the trustee at its inception or at any time thereafter with the consent of the Attorney General and all charitable organizations which are designated by name in the conveyance as beneficiaries. Upon such termination the assets, subject to the approval of the Attorney General, shall be delivered to the organizations, if any, designated in the trust instrument or, if none, to organizations selected by the trustee, in either case to be held and applied for such general or specific charitable purposes and on such terms as will, in the trustee's discretion, fulfill as nearly as possible the

1 conveyor's intention.

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

18 § 6202. Disclaimers by fiduciaries or attorneys-in-fact.

19 A disclaimer on behalf of a decedent, a minor or an
20 incompetent may be made by his personal representative, [or] the
21 guardian of his estate [if] or in the case of an incompetent who
22 executed a power of attorney which confers the authority to
23 disclaim upon his attorney-in-fact and which qualifies as a
24 durable power of attorney under section 5604 (relating to
25 durable powers of attorney) by such attorney-in-fact, if, in
26 each case, the court having jurisdiction of the estate
27 authorizes the disclaimer after finding that it is advisable and
28 will not materially prejudice the rights of creditors, heirs or
29 beneficiaries of the decedent, the minor or his creditors, or
30 the incompetent or his creditors, as the case may be.

1 Section ~~12~~ 11. Sections 7121, 7133, 7143, 7183, 7185(b) and <—
2 7186 of Title 20, section 7183 amended July 11, 1980 (P.L.565,
3 No.118), are amended to read:

4 § 7121. Grounds and procedure.

5 The grounds and the procedure for the removal or discharge of
6 a trustee and his surety and the effect of such removal or
7 discharge shall be the same as are set forth in the following
8 provisions of this title relating to the removal and discharge
9 of a personal representative and his surety[, with regard to the
10 following]:

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

13 (2) Procedure for and effect of removal, as in section
14 3183 (relating to procedure for and effect of removal).

15 (3) Discharge of trustee and surety, as in section 3184
16 (relating to discharge of personal representative and
17 surety).]

18 Section 3182 (relating to grounds for removal).

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

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

23 § 7133. Powers, duties and liabilities identical with
24 personal representatives.

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

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

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

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

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

7 (5) Revival of judgments against trustee, as in section
8 3318 (relating to revival of judgments against personal
9 representative).

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

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

15 (8) Nominee registration, deposit of securities in a
16 clearing corporation and holding of securities in book-entry
17 form, as in section 3321 (relating to nominee registration;
18 corporate fiduciary as attorney-in-fact; deposit of
19 securities in a clearing corporation; book-entry securities).

20 (9) Acceptance of deed in lieu of foreclosure, as in
21 section 3322 (relating to acceptance of deed in lieu of
22 foreclosure).

23 (10) Compromise of controversies, as in section 3323
24 (relating to compromise of controversies).

25 (11) Death or incompetency of trustee, as in section
26 3324 (relating to death or incompetency of fiduciary).

27 (12) Surviving or remaining trustee, as in section 3327
28 (relating to surviving or remaining personal
29 representatives).

30 (13) Disagreement of trustees, as in section 3328

1 (relating to disagreement of personal representatives).

2 (14) Liability of trustee on contracts, as in section
3 3331 (relating to liability of personal representative on
4 contracts).

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

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

9 (17) Power given in the trust instrument, as in section
10 3354 (relating to power given in governing instrument).

11 (18) Restraint of sale, as in section 3355 (relating to
12 restraint of sale).

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

15 (20) Collateral attack, as in section 3358 (relating to
16 collateral attack).

17 (21) Record of proceedings; county where real estate
18 lies, as in section 3359 (relating to record of proceedings;
19 county where real estate lies).

20 (21.1) Contracts, inadequacy of consideration or better
21 offer; brokers' commissions, as in section 3360 (relating to
22 contracts, inadequacy of consideration or better offer;
23 brokers' commissions).

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

26 Section 3313 (relating to liability insurance).

27 Section 3314 (relating to continuation of business).

28 Section 3315 (relating to incorporation of estate's
29 business).

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

1 Section 3318 (relating to revival of judgments against
2 personal representative).

3 Section 3319 (relating to power of attorney; delegation
4 of power over subscription rights and fractional shares;
5 authorized delegations).

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

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

10 Section 3322 (relating to acceptance of deed in lieu of
11 foreclosure).

12 Section 3323 (relating to compromise of controversies).

13 Section 3324 (relating to death or incompetency of
14 fiduciary).

15 Section 3327 (relating to surviving or remaining personal
16 representatives).

17 Section 3328 (relating to disagreement of personal
18 representatives).

19 Section 3331 (relating to liability of personal
20 representative on contracts).

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

22 Section 3353 (relating to order of court).

23 Section 3354 (relating to power given in governing
24 instrument).

25 Section 3355 (relating to restraint of sale).

26 Section 3356 (relating to purchase by personal
27 representative).

28 Section 3358 (relating to collateral attack).

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

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

3 Section 5147 (relating to proceedings against guardian).

4 § 7143. Title of purchaser.

5 If the trustee has given such bond, if any, as shall be
6 required in accordance with this title, any sale, pledge,
7 mortgage, or exchange by a trustee, whether pursuant to a decree
8 or to the exercise of a power conferred by the trust instrument
9 or of a power under this title, shall pass the full title of the
10 trust therein, unless otherwise specified. Persons dealing with
11 the trustee shall have no obligation to see to the proper
12 application of the cash or other assets given in exchange for
13 the property of the trust. Any sale or exchange by a trustee
14 pursuant to a decree under section [7133(16)] 3353 (relating to
15 order of court) shall have the effect of a judicial sale as to
16 the discharge of liens, but the court may decree a sale or
17 exchange freed and discharged from the lien of any mortgage
18 otherwise preserved from discharge by existing law, if the
19 holder of such mortgage shall consent by writing filed in the
20 proceeding. No such sale, mortgage, exchange, or conveyance
21 shall be prejudiced by the subsequent dismissal of the trustee
22 nor shall any such sale, mortgage, exchange, or conveyance by a
23 testamentary trustee be prejudiced by the terms of any will or
24 codicil thereafter probated, if the person dealing with the
25 trustee did so in good faith.

26 § 7183. Notice, audits, reviews, and distribution.

27 The provisions concerning accounts, audits, reviews,
28 distributions and rights of distributees in trust estates shall
29 be the same as those set forth in the following provisions of
30 this title for the administration of a decedent's estate[, with

1 regard to the following]:

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

4 (2) Representation of parties in interest, as in section
5 3504 (relating to representation of parties in interest).

6 (3) Audits in counties having a separate orphans' court
7 division, as in section 3511 (relating to audits in counties
8 having separate orphans' court division).

9 (4) Audits in counties having no separate orphans' court
10 division, as in section 3512 (relating to audits in counties
11 having no separate orphans' court division).

12 (5) Statement of proposed distribution, as in section
13 3513 (relating to statement of proposed distribution).

14 (6) Confirmation of accounts and approval of proposed
15 distribution, as in section 3514 (relating to confirmation of
16 account and approval of proposed distribution).

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

19 (8) Award upon final confirmation of account, as in
20 section 3533 (relating to award upon final confirmation of
21 account).

22 (9) Distribution in kind, as in section 3534 (relating
23 to distribution in kind).

24 (10) Recording and registering decrees awarding real
25 estate, as in section 3536 (relating to recording and
26 registering decrees awarding real estate).

27 (11) Liability for interest, as in section 3544
28 (relating to liability of personal representative for
29 interest).

30 (12) Transcripts of balances due, as in section 3545

1 (relating to transcripts of balances due by personal
2 representative).

3 (13) Record of risk distributions as provided in section
4 3532(c) (relating to at risk of personal representative).

5 (14) Distributions involving persons born out of
6 wedlock, as in section 3538 (relating to distributions
7 involving persons born out of wedlock).

8 (15) Absentee and additional distributees as in section
9 3540 (relating to absentee and additional distributees).]

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

11 Section 3504 (relating to representation of parties in
12 interest).

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

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

17 Section 3513 (relating to statement of proposed
18 distribution).

19 Section 3514 (relating to confirmation of account and
20 approval of proposed distribution).

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

22 Section 3532(c) (relating to at risk of personal
23 representative).

24 Section 3533 (relating to award upon final confirmation
25 of account).

26 Section 3534 (relating to distribution in kind).

27 Section 3536 (relating to recording and registering
28 decrees awarding real estate).

29 Section 3538 (relating to distributions involving persons
30 born out of wedlock).

~~Section 3539 (relating to information services).~~

Section 3540 (relating to absentee and additional distributees).

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

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

§ 7185. Compensation.

* * *

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

* * *

§ 7186. Failure to present claim at audit.

(a) General rule.--Any person who at the audit of a trustee's account has a claim which arose out of the administration of trust property, or arises out of the distribution of such property upon any interim or final accounting of the trust, and which is not reported to the court

1 as an admitted claim, and who shall fail to present his claim at
2 the call for audit or confirmation, shall be forever barred,
3 against:

4 (1) any trust property distributed pursuant to such
5 audit or confirmation;

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

8 (3) except as otherwise provided in section [7183(7)]
9 3521 (relating to rehearing; relief granted), any trust
10 property awarded back upon further trust pursuant to such
11 audit or confirmation.

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

15 Section ~~13~~ 12. The act of March 14, 1777 (1Sm.L.443,
16 Ch.737), entitled "An act for establishing in the city of
17 Philadelphia, and in each county of this state, an office for
18 the probate and registering of wills, and granting letters of
19 administration, and an office for the recording of deeds," is
20 repealed.

21 Section ~~14~~ 13. This act shall take effect immediately and
22 shall apply to the estates of all decedents dying on or after
23 the effective date and, as to the termination of trusts under 20
24 Pa. C.S. § 6110 (relating to administration of charitable
25 estates), it shall apply to all trusts regardless of the date
26 the trust was created and as to 20 Pa.C.S. § 2209 (relating to
27 surviving spouse as witness), it shall be effective as of June
28 17, 1978 and shall apply to the estates of all decedents dying
29 on or after that date; and, as to powers of attorney, it shall
30 apply to all powers of attorney executed on or after the date of

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