

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 775 Session of
1989

INTRODUCED BY GREENLEAF, SHAFFER, REIBMAN, SHUMAKER, WILLIAMS,
LEWIS, LEMMOND, ROCKS, MADIGAN, O'PAKE, PECORA, AFFLERBACH
AND FISHER, APRIL 4, 1989

REFERRED TO JUDICIARY, APRIL 4, 1989

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, reducing the time for
3 advertisement of accounts to two weeks; adding a section
4 providing that documents submitted to the register of wills,
5 except for probate, may be attested to by an affidavit or by
6 a verified statement; broadening the class of property deemed
7 disclaimed when a spouse takes an elective share; avoiding
8 automatic modification of wills and inter vivos conveyances
9 that are made in contemplation of a marriage or divorce;
10 adding a rule of interpretation for wills and conveyances
11 regarding corporate fiduciaries; confirming existing law that
12 a gift to any unfunded trust is valid; permitting a parent to
13 appoint by will a guardian of the person of an adult
14 incompetent child; adding a chapter relating to contracts
15 concerning succession; authorizing personal representatives
16 to make certain temporary investments; allowing fiduciaries
17 to hold certain securities in book-entry form; further
18 providing for notice to parties in interest; further
19 providing for rights of claimants; authorizing the guardian
20 of the estate of a minor to distribute certain income without
21 court approval; adding the Pennsylvania Uniform Transfers to
22 Minors Act; clarifying the jurisdiction of the court to
23 appoint certain temporary guardians; authorizing the court to
24 exercise all rights and privileges under certain contracts
25 which provide for payments to an incompetent or others after
26 the incompetent's death; authorizing the court to modify the
27 estate plan of an incompetent to reflect changes in
28 applicable tax laws; permitting certain powers of attorney to
29 be executed by mark; ensuring the validity of durable powers
30 of attorney; authorizing the court to allow a shorter period
31 of notice to an absentee; providing that as a matter of law
32 divorce revokes any revocable beneficiary designation made in
33 favor of the former spouse; further providing for the

annexation of accounts; further authorizing the court to divide trusts; further authorizing the court to grant declaratory relief with respect to certain interests in real property; and making technical changes.

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

Section 1. Section 745(b) of Title 20 of the Pennsylvania Consolidated Statutes is amended to read:

§ 745. Advertisement of accounts.

* * *

(b) Manner of advertisement.--The notice shall be advertised at least once a week during the [four] two weeks immediately preceding the time for presentation of the accounts to the division:

(1) in the legal publication, if any, designated by rule of court for the publication of legal notices; and

(2) in at least one newspaper of general circulation published within the county, and if no such newspaper is published in that county, then in one such newspaper published nearest to that county.

Section 2. Title 20 is amended by adding a section to read:

§ 911. Attestation of certain applications and documents.

Except as provided otherwise in section 3154 (relating to affidavit and oath), applications and documents submitted to the register for which attestation is required may be attested either by an affidavit or by a verified statement. In case of the latter alternative, the statement shall set forth that it is subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Section 3. Sections 2204(a)(8) and (9) and 2507(2) and (3) of Title 20 are amended to read:

1 § 2204. Disclaimers, releases and charges against elective
2 share.

3 (a) Disclaimers.--Except as provided in subsections (b) and
4 (c), an election by a spouse to take his elective share shall be
5 deemed a disclaimer of any beneficial interest of the spouse in
6 the following, to the extent that such interest would otherwise
7 be payable to or enjoyed by the spouse after the decedent's
8 death:

9 * * *

10 (8) All intangible or tangible personal property and all
11 real property owned by the decedent and his spouse by the
12 entirety or jointly with right of survivorship, in the
13 proportion that such property represents contributions by the
14 decedent.

15 (9) All intangible or tangible personal property and all
16 real property given to his spouse by the decedent during his
17 lifetime which, or the proceeds of which, are still owned by
18 his spouse at the time of the decedent's death.

19 * * *

20 § 2507. Modification by circumstances.

21 Wills shall be modified upon the occurrence of any of the
22 following circumstances, among others:

23 * * *

24 (2) Divorce.--If the testator is divorced from the bonds
25 of matrimony after making a will, [all provisions] any
26 provision in the will in favor of or relating to his spouse
27 so divorced shall thereby become ineffective for all purposes
28 unless it appears from the will that the provision was
29 intended to survive the divorce.

30 (3) Marriage.--If the testator marries after making a

1 will, the surviving spouse shall receive the share of the
2 estate to which he would have been entitled had the testator
3 died intestate, unless the will shall give him a greater
4 share or unless it appears from the will that the will was
5 made in contemplation of marriage to the surviving spouse.

6 * * *

7 Section 4. Section 2514 of Title 20 is amended by adding a
8 paragraph to read:

9 § 2514. Rules of interpretation.

10 In the absence of a contrary intent appearing therein, wills
11 shall be construed as to real and personal estate in accordance
12 with the following rules:

13 * * *

14 (20) Corporate fiduciaries.--Provisions authorizing or
15 restricting investment in the securities or common trust
16 funds of a corporate fiduciary or the exercise of voting
17 rights in its securities shall also apply to the securities
18 or common trust funds of any corporation which is an
19 affiliate of the corporate fiduciary within the meaning of
20 section 1504 of the Internal Revenue Code.

21 Section 5. Sections 2515 and 2519(a) of Title 20 are amended
22 to read:

23 § 2515. Devise or bequest to trust.

24 A devise or bequest in a will may be made to the trustee of a
25 trust [(including an unfunded life insurance trust, although the
26 settlor has reserved any or all rights of ownership in the
27 insurance contracts) established, in writing], including any
28 unfunded trust, established in writing by the testator or any
29 other person before, concurrently with or after the execution of
30 the will. Such devise or bequest shall not be invalid because

1 the trust is amendable or revocable, or both, or because the
2 trust was amended after execution of the will. Unless the will
3 provides otherwise, the property so devised or bequeathed shall
4 not be deemed held under a testamentary trust of the testator
5 but shall become and be a part of the principal of the trust to
6 which it is given to be administered and disposed of in
7 accordance with the provisions of the instrument establishing
8 that trust and any amendment thereof. An entire revocation of
9 the trust prior to the testator's death shall invalidate the
10 devise or bequest unless the will directs otherwise.

11 § 2519. Testamentary guardian.

12 (a) Guardian of the person.--[A person competent to make a
13 will, being the] The sole surviving parent [or adopting parent
14 of any unmarried minor child, may] of an unmarried child may by
15 will appoint a [testamentary] guardian of the person of such
16 child during his minority, or [for any shorter period] during
17 such period as he is incompetent as defined in section 5501
18 (relating to meaning of incompetent), except that no parent who,
19 for one year or upwards previous to his death, shall have
20 willfully neglected or refused to provide for his child, or who,
21 for a like period, shall have deserted the child or willfully
22 failed to perform parental duties, shall have the right to
23 appoint a testamentary guardian of the person of such child.

24 * * *

25 Section 6. Title 20 is amended by adding a chapter to read:

26 CHAPTER 27

27 CONTRACTUAL ARRANGEMENTS RELATING TO SUCCESSION

28 Sec.

29 2701. Contracts concerning succession.

30 § 2701. Contracts concerning succession.

1 (a) Establishment of contract.--A contract to die intestate
2 or to make or not to revoke a will or testamentary provision, or
3 an obligation dischargeable only at or after death, can be
4 established in support of a claim against the estate of a
5 decedent only by:

6 (1) provisions of a will of the decedent stating
7 material provisions of the contract;

8 (2) an express reference in a will of the decedent to a
9 contract and extrinsic evidence proving the terms of the
10 contract; or

11 (3) a writing signed by the decedent evidencing the
12 contract.

13 (b) Joint will or mutual wills.--The execution of a joint
14 will or mutual wills does not create a presumption of a contract
15 not to revoke the will or wills.

16 Section 7. Sections 3316, 3321(e), 3503, 3532(a) and (b)(1),
17 3701, 3702(a), (b), (c) and (d), 3703, 3706(c) and 5164 of Title
18 20 are amended to read:

19 § 3316. Investment of funds.

20 Subject to his duty to liquidate the estate for prompt
21 distribution and to the provisions of the will, if any, the
22 personal representative may invest the funds of the estate but
23 shall have no duty to do so. Any such investment, except as the
24 court or the will may otherwise authorize or direct, shall be
25 restricted to obligations of the United States or the United
26 States Treasury, of the Commonwealth, or of any political
27 subdivision of the Commonwealth, and to interest bearing
28 deposits authorized by section 7313 (relating to interest-
29 bearing deposit) and to savings accounts in savings associations
30 authorized in section 7310(b) (relating to savings accounts

1 insured by Federal Savings and Loan Insurance Corporation). The
2 personal representative may also make temporary investments as
3 authorized by section 7315.1(b) (relating to retention of cash;
4 temporary investments) without regard to any investment
5 restrictions imposed by the will.

6 § 3321. Nominee registration; corporate fiduciary as attorney-
7 in-fact; deposit of securities in a
8 clearing corporation; book-entry securities.

9 * * *

10 (e) Accounting for book-entry securities.--With respect to
11 [United States Treasury securities and securities of agencies,
12 instrumentalities and establishments of the United States for
13 which] securities which are available in book-entry form [are
14 available] as an alternative to securities in definitive form
15 [under procedures in effect from time to time pursuant to
16 regulations, rules or operating circulars of the United States
17 Treasury, Federal Reserve banks and other agencies,
18 instrumentalities and establishments of the United States], the
19 receipt, holding or transfer of such securities in book-entry
20 form by a bank and trust company, trust company or National bank
21 acting as a sole or joint personal representative, or as an
22 attorney-in-fact for a personal representative, is for all
23 purposes equivalent to the receipt, holding or transfer of such
24 securities in definitive form and no segregation of such book-
25 entry securities shall be required other than by appropriate
26 accounting records to identify the accounts for which such
27 securities are held.

28 § 3503. Notice to parties in interest.

29 The personal representative shall give written notice of the
30 filing of his account and of its call for audit or confirmation

1 [to every unpaid claimant who has given written notice of his
2 claim to the personal representative or his attorney of record,
3 and] to every [other] person known to the [accountant] personal
4 representative to have or assert an interest in the estate as
5 beneficiary, heir, [or] next of kin or claimant, unless the
6 interest of such person has been satisfied.

7 § 3532. At risk of personal representative.

8 (a) Rights of claimants against personal representatives.--A
9 personal representative, at his own risk and without the filing,
10 audit or confirmation of his account, may distribute real or
11 personal property and such distribution shall be without
12 liability to any claimant against the decedent [who has not
13 given notice of his claim as provided by this title], unless the
14 claim of such claimant is known to the personal representative
15 within one year after the first complete advertisement of the
16 grant of letters to such personal representative or thereafter
17 but prior to such distribution.

18 (b) Rights of claimants against distributed property.--

19 (1) Personal property.--No claimant shall have any claim
20 against personal property distributed by a personal
21 representative at his own risk pursuant to subsection (a)
22 [hereof], unless the claim of such claimant [has given notice
23 of his claim to the personal representative as provided by
24 this title] is known to the personal representative within
25 one year after the first complete advertisement of the grant
26 of letters[,] or thereafter but prior to such distribution.

27 * * *

28 § 3701. Power of decedent.

29 A testator, settlor, donor or possessor of any appropriate
30 power of appointment may direct how the Federal estate tax or

1 the Federal generation-skipping tax due because of his death,
2 including interest and penalties, shall be apportioned or may
3 grant a discretionary power to another so to direct, but any
4 direction regarding apportionment of the Federal generation-
5 skipping tax must expressly refer to that tax. Any such
6 direction shall take precedence over the provisions of this
7 chapter insofar as the direction provides for the payment of the
8 tax or any part thereof from property the disposition of which
9 can be controlled by the instrument containing the direction or
10 delegating the power to another.

11 § 3702. Equitable apportionment of Federal estate tax.

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

18 (b) Pre-residuary.--

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

28 (2) No Federal estate tax shall be apportioned against a
29 beneficiary of any pre-residuary gift made by inter vivos
30 trust. Any Federal estate tax attributable thereto shall be

1 paid entirely from the residue of the trust and charged in
2 the same manner as a general administration expense of the
3 trust, except that when a portion of the residue of the trust
4 is allowable as a deduction for Federal estate tax purposes
5 the tax shall be paid to the extent possible from the portion
6 of the residue which is not so allowable.

7 (c) Deductions.--No Federal estate tax shall be apportioned
8 against an interest allowable as a Federal estate tax marital[,
9 orphan's] or charitable deduction (determined and valued without
10 regard to any Pennsylvania inheritance tax or other state or
11 foreign death taxes apportioned against such interest) except as
12 otherwise provided in subsections (b) and (g).

13 (d) Credits.--Any Federal estate tax credit for state or
14 foreign death taxes on property includable in the gross estate
15 for Federal estate tax purposes shall inure to the benefit of
16 the parties chargeable with the payment of the state or foreign
17 death taxes in proportion to the amount of the taxes paid by
18 each party, but any credit inuring to the benefit of a party
19 shall not exceed the Federal estate tax apportionable to that
20 party. Any unified credit against Federal estate tax, credit for
21 tax on prior transfers (sometimes called the credit for property
22 previously taxed) or credit for gift taxes paid by the decedent
23 or his estate with respect to gifts made by the decedent before
24 January 1, 1977, shall inure to the benefit of all parties
25 liable to apportionment in proportion to the amount of Federal
26 estate tax apportioned against each party under the other
27 provisions of this chapter. Any Federal estate tax credit for
28 gift taxes paid by the donee of a gift made before January 1,
29 1977, shall inure to the benefit of the donee.

30 * * *

1 § 3703. Apportionment of Pennsylvania inheritance tax.

2 The Pennsylvania inheritance tax shall be apportioned as
3 provided in [the act of June 15, 1961 (P.L.373, No.207), known
4 as the "Inheritance and Estate Tax Act of 1961."] 72 Pa.C.S. Ch.
5 17 (relating to Inheritance and Estate Tax Act).

6 § 3706. Enforcement of contribution or exoneration of Federal
7 estate tax.

8 * * *

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

17 * * *

18 § 5164. Distributions for support and education.

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

1 minor, his spouse or children, or for the reasonable funeral
2 expenses of the minor's spouse, child or indigent parent. In
3 proper cases, the court may order payment of amounts directly to
4 the ward for his maintenance or for incidental expenses and may
5 ratify payments made for these purposes.

6 Section 8. Chapter 53 of Title 20 is repealed and a chapter
7 is added to read:

8 CHAPTER 53

9 PENNSYLVANIA UNIFORM TRANSFERS TO

10 MINORS ACT

11 Sec.

12 5301. Short title of chapter.

13 5302. Definitions.

14 5303. Scope and jurisdiction.

15 5304. Nomination of custodian.

16 5305. Transfer by gift or exercise of power of appointment.

17 5306. Transfer authorized by will or trust.

18 5307. Other transfer by fiduciary.

19 5308. Transfer by obligor.

20 5309. Receipt for custodial property.

21 5310. Manner of creating custodial property and effecting
22 transfer.

23 5311. Single custodianship.

24 5312. Validity and effect of transfer.

25 5313. Care of custodial property.

26 5314. Powers of custodian.

27 5315. Use of custodial property.

28 5316. Expenses, compensation and bond of custodian.

29 5317. Exemption of third person from liability.

30 5318. Liability to third persons.

1 5319. Renunciation, resignation, death or removal of
2 custodian.

3 5320. Accounting by and determination of liability of
4 custodian.

5 5321. Termination of custodianship.

6 § 5301. Short title of chapter.

7 This chapter shall be known and may be cited as the
8 Pennsylvania Uniform Transfers to Minors Act.

9 § 5302. Definitions.

10 The following words and phrases when used in this chapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Benefit plan." An employer's plan for the benefit of an
14 employee or partner.

15 "Broker." A person lawfully engaged in the business of
16 effecting transactions in securities or commodities for the
17 person's own account or for the account of others.

18 "Custodial property." Any interest in property transferred
19 to a custodian under this chapter and the income from and
20 proceeds of that interest in property.

21 "Custodian." A person so designated under section 5310
22 (relating to manner of creating custodial property and effecting
23 transfer) or a successor or substitute custodian designated
24 under section 5319 (relating to renunciation, resignation, death
25 or removal of custodian).

26 "Financial institution." A bank, trust company, savings
27 institution or credit union chartered and supervised under state
28 or Federal law.

29 "Legal representative." An individual's personal
30 representative or guardian.

1 "Member of the minor's family." The minor's parent,
2 stepparent, spouse, grandparent, brother, sister, uncle or aunt,
3 whether of the whole or half blood or by adoption.

4 "Minor." An individual who has not attained 21 years of age.

5 "Transfer." A transaction that creates custodial property
6 under section 5310.

7 "Transferor." A person who makes a transfer under this
8 chapter.

9 "Trust company." A financial institution, corporation or
10 other legal entity authorized to exercise general trust powers.
11 § 5303. Scope and jurisdiction.

12 (a) Application of chapter.--This chapter applies to a
13 transfer that refers to this chapter in the designation under
14 section 5310(a) (relating to manner of creating custodial
15 property and effecting transfer) by which the transfer is made
16 if, at the time of the transfer, the transferor, the minor or
17 the custodian is a resident of this Commonwealth or the
18 custodial property is located in this Commonwealth. The
19 custodianship created remains subject to this chapter despite a
20 subsequent change in residence of a transferor, the minor or the
21 custodian or the removal of custodial property from this
22 Commonwealth.

23 (b) Jurisdiction over custodian.--A person designated as
24 custodian under this chapter is subject to personal jurisdiction
25 in this Commonwealth with respect to any matter relating to the
26 custodianship.

27 (c) Laws of other states.--A transfer that purports to be
28 made and which is valid under the Uniform Transfers to Minors
29 Act, the Uniform Gifts to Minors Act or a substantially similar
30 act of another state is governed by the law of the designated

1 state and may be executed and is enforceable in this
2 Commonwealth if, at the time of the transfer, the transferor,
3 the minor or the custodian is a resident of the designated state
4 or the custodial property is located in the designated state.

5 § 5304. Nomination of custodian.

6 (a) General rule.--A person having the right to designate
7 the recipient of property transferable upon the occurrence of a
8 future event may revocably nominate a custodian to receive the
9 property for a minor beneficiary upon the occurrence of the
10 event by naming the custodian followed in substance by the
11 words: "as custodian for (name of minor) under the Pennsylvania
12 Uniform Transfers to Minors Act." The nomination may name one or
13 more persons as substitute custodians to whom the property must
14 be transferred, in the order named, if the first nominated
15 custodian dies before the transfer or is unable, declines or is
16 ineligible to serve. The nomination may be made in a will, trust
17 or deed or in an instrument exercising a power of appointment or
18 in a writing designating a beneficiary of contractual rights and
19 registered with or delivered to the payor, issuer or other
20 obligor of the contractual rights.

21 (b) Qualification of custodian.--A custodian nominated under
22 this section must be a person to whom a transfer of property of
23 that kind may be made under section 5310(a) (relating to manner
24 of creating custodial property and effecting transfer).

25 (c) When effective.--The nomination of a custodian under
26 this section does not create custodial property until the
27 nominating instrument becomes irrevocable or a transfer to the
28 nominated custodian is completed under section 5310. Unless the
29 nomination of a custodian has been revoked, upon the occurrence
30 of the future event, the custodianship becomes effective and the

1 custodian shall enforce a transfer of the custodial property
2 pursuant to section 5310.

3 § 5305. Transfer by gift or exercise of power of appointment.

4 A person may make a transfer by irrevocable gift to, or the
5 irrevocable exercise of a power of appointment in favor of, a
6 custodian for the benefit of a minor pursuant to section 5310
7 (relating to manner of creating custodial property and effecting
8 transfer).

9 § 5306. Transfer authorized by will or trust.

10 (a) General rule.--A personal representative or trustee may
11 make an irrevocable transfer pursuant to section 5310 (relating
12 to manner of creating custodial property and effecting transfer)
13 to a custodian for the benefit of a minor as authorized in the
14 governing will or trust.

15 (b) Transfer to custodian.--If the testator or settlor has
16 nominated a custodian under section 5304 (relating to nomination
17 of custodian) to receive the custodial property, the transfer
18 must be made to that person.

19 (c) Designation of custodian.--If the testator or settlor
20 has not nominated a custodian under section 5304, or all persons
21 so nominated as custodian die before the transfer or are unable,
22 decline or are ineligible to serve, the personal representative
23 or the trustee, as the case may be, shall designate the
24 custodian from among those eligible to serve as custodian for
25 property of that kind under section 5310(a).

26 § 5307. Other transfer by fiduciary.

27 (a) Irrevocable transfer by personal representative or
28 trustee.--Subject to subsection (c), a personal representative
29 or trustee may make an irrevocable transfer to another adult or
30 trust company as custodian for the benefit of a minor pursuant

1 to section 5310 (relating to manner of creating custodial
2 property and effecting transfer) in the absence of a will or
3 under a will or trust that does not contain an authorization to
4 do so.

5 (b) Irrevocable transfer by guardian.--Subject to subsection
6 (c), a guardian may make an irrevocable transfer to another
7 adult or trust company as custodian for the benefit of the minor
8 pursuant to section 5310.

9 (c) Additional requirements for transfer.--A transfer under
10 subsection (a) or (b) may be made only if:

11 (1) the personal representative, trustee or guardian
12 considers the transfer to be in the best interest of the
13 minor;

14 (2) the transfer is not prohibited by or inconsistent
15 with provisions of the applicable will, trust agreement or
16 other governing instrument; and

17 (3) the transfer is authorized by the court if it
18 exceeds \$10,000 in value.

19 § 5308. Transfer by obligor.

20 (a) Irrevocable transfer for benefit of minor.--Subject to
21 subsections (b) and (c), a person not subject to section 5306
22 (relating to transfer authorized by will or trust) or 5307
23 (relating to other transfer by fiduciary) who holds property of
24 or owes a liquidated debt to a minor not having a guardian may
25 make an irrevocable transfer to a custodian for the benefit of
26 the minor pursuant to section 5310 (relating to manner of
27 creating custodial property and effecting transfer).

28 (b) Transfer to custodian.--If a person having the right to
29 do so under section 5304 (relating to nomination of custodian)
30 has nominated a custodian under that section to receive the

1 custodial property, the transfer must be made to that person.

2 (c) Transfer to minor's family or trust company.--If no
3 custodian has been nominated under section 5304 or all persons
4 so nominated as custodian die before the transfer or are unable,
5 decline or are ineligible to serve, a transfer under this
6 section may be made to an adult member of the minor's family or
7 to a trust company unless the property exceeds \$10,000 in value.
8 § 5309. Receipt for custodial property.

9 A written acknowledgment of delivery by a custodian
10 constitutes a sufficient receipt and discharge for custodial
11 property transferred to the custodian pursuant to this chapter.
12 § 5310. Manner of creating custodial property and effecting
13 transfer.

14 (a) Creation of custodial property.--Custodial property is
15 created and a transfer is made whenever:

16 (1) An uncertificated security or a certificated
17 security in registered form is either:
18 (i) registered in the name of the transferor, an
19 adult other than the transferor or a trust company,
20 followed in substance by the words: "as custodian for
21 (name of minor) under the Pennsylvania Uniform Transfers
22 to Minors Act"; or

23 (ii) delivered if in certificated form, or any
24 document necessary for the transfer of an uncertificated
25 security is delivered, together with any necessary
26 endorsement to an adult other than the transferor or to a
27 trust company as custodian, accompanied by an instrument
28 in substantially the form set forth in subsection (b).

29 (2) Money is paid or delivered to a broker or financial
30 institution for credit to an account in the name of the

1 transferor, an adult other than the transferor or a trust
2 company, followed in substance by the words: "as custodian
3 for (name of minor) under the Pennsylvania Uniform Transfers
4 to Minors Act."

5 (3) The ownership of a life or endowment insurance
6 policy or annuity contract is either:

7 (i) registered with the issuer in the name of the
8 transferor, an adult other than the transferor or a trust
9 company followed in substance by the words: "as custodian
10 for (name of minor) under the Pennsylvania Uniform
11 Transfers to Minors Act"; or

12 (ii) assigned in a writing delivered to an adult
13 other than the transferor or to a trust company whose
14 name in the assignment is followed in substance by the
15 words: "as custodian for (name of minor) under the
16 Pennsylvania Uniform Transfers to Minors Act."

17 (4) An irrevocable exercise of a power of appointment or
18 an irrevocable present right to future payment under a
19 contract is the subject of a written notification delivered
20 to the payor, issuer or other obligor that the right is
21 transferred to the transferor, an adult other than the
22 transferor or a trust company, whose name in the notification
23 is followed in substance by the words: "as custodian for
24 (name of minor) under the Pennsylvania Uniform Transfers to
25 Minors Act."

26 (5) An interest in real property is recorded in the name
27 of the transferor, an adult other than the transferor or a
28 trust company, followed in substance by the words: "as
29 custodian for (name of minor) under the Pennsylvania Uniform
30 Transfers to Minors Act."

1 (6) A certificate of title issued by a state or the
2 Federal Government which evidences title to tangible personal
3 property is either:

4 (i) issued in the name of the transferor, an adult
5 other than the transferor or a trust company, followed in
6 substance by the words: "as custodian for (name of minor)
7 under the Pennsylvania Uniform Transfers to Minors Act";
8 or

9 (ii) delivered to an adult other than the transferor
10 or to a trust company, endorsed to that person followed
11 in substance by the words: "as custodian for (name of
12 minor) under the Pennsylvania Uniform Transfers to Minors
13 Act."

14 (7) An interest in any property not described in
15 paragraphs (1) through (6) is transferred to an adult other
16 than the transferor or to a trust company by a written
17 instrument in substantially the form set forth in subsection
18 (b).

19 (b) Form.--An instrument in the following form satisfies the
20 requirements of subsection (a)(1)(ii) and (7):

21 "TRANSFER UNDER THE PENNSYLVANIA
22 UNIFORM TRANSFERS TO MINORS ACT

23 I, (name of transferor or name and representative capacity if
24 a fiduciary), hereby transfer to (name of custodian), as
25 custodian for (name of minor) under the Pennsylvania Uniform
26 Transfers to Minors Act, the following: (insert a description
27 of the custodial property sufficient to identify it).

28 Dated:_____

29 _____

30 (Signature)

(name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Pennsylvania Uniform Transfers to Minors Act.

Dated: _____

(Signature of custodian)"

(c) Control of custodial property.--A transferor shall place the custodian in control of the custodial property as soon as practicable.

§ 5311. Single custodianship.

A transfer may be made only for one minor, and only one person may be the custodian. All custodial property held under this chapter by the same custodian for the benefit of the same minor constitutes a single custodianship.

§ 5312. Validity and effect of transfer.

(a) Validity of transfer.--The validity of a transfer made in a manner prescribed in this chapter is not affected by:

(1) failure of the transferor to comply with section 5310(c) (relating to manner of creating custodial property and effecting transfer) concerning possession and control;

(2) designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian under section 5310(a); or

(3) death or incapacity of a person nominated under section 5304 (relating to nomination of custodian) or designated under section 5310 as custodian or the disclaimer of the office by that person.

(b) Irrevocability of transfer.--A transfer made pursuant to section 5310 is irrevocable, and the custodial property is

1 indefeasibly vested in the minor, but the custodian has all the
2 rights, powers, duties and authority provided in this chapter,
3 and neither the minor nor the minor's legal representative has
4 any right, power, duty or authority with respect to the
5 custodial property except as provided in this chapter.

6 (c) Incorporation of provisions of this chapter.--By making
7 a transfer, the transferor incorporates in the disposition all
8 the provisions of this chapter and grants to the custodian, and
9 to any third person dealing with a person designated as
10 custodian, the respective powers, rights and immunities provided
11 in this chapter.

12 § 5313. Care of custodial property.

13 (a) Duties of custodian.--A custodian shall:

14 (1) Take control of custodial property.

15 (2) Register or record title to custodial property if
16 appropriate.

17 (3) Collect, hold, manage, invest and reinvest custodial
18 property.

19 (b) Standard of care.--In dealing with custodial property, a
20 custodian shall observe the standard of care that would be
21 observed by a prudent person dealing with property of another
22 and is not limited by any other statute restricting investments
23 by fiduciaries. If a custodian has a special skill or expertise
24 or is named custodian on the basis of representations of a
25 special skill or expertise, the custodian shall use that skill
26 or expertise. However, a custodian, in the custodian's
27 discretion and without liability to the minor or the minor's
28 estate, may retain any custodial property received from a
29 transferor.

30 (c) Life insurance and endowment policies.--A custodian may

1 invest in or pay premiums on life insurance or endowment
2 policies on:

3 (1) the life of the minor only if the minor or the
4 minor's estate is the sole beneficiary; or

5 (2) the life of another person in whom the minor has an
6 insurable interest only to the extent that the minor, the
7 minor's estate or the custodian in the capacity of custodian
8 is the irrevocable beneficiary.

9 (d) Segregation of custodial property.--A custodian at all
10 times shall keep custodial property separate and distinct from
11 all other property in a manner sufficient to identify it clearly
12 as custodial property of the minor. Custodial property
13 consisting of an undivided interest is so identified if the
14 minor's interest is held as a tenant in common and is fixed.
15 Custodial property subject to recordation is so identified if it
16 is recorded, and custodial property subject to registration is
17 so identified if it is either registered or held in an account
18 designated in the name of the custodian, followed in substance
19 by the words: "as a custodian for (name of minor) under the
20 Pennsylvania Uniform Transfers to Minors Act."

21 (e) Records.--A custodian shall keep records of all
22 transactions with respect to custodial property, including
23 information necessary for the preparation of the minor's tax
24 returns, and shall make them available for inspection at
25 reasonable intervals by a parent or legal representative of the
26 minor or by the minor if the minor has attained 14 years of age.
27 § 5314. Powers of custodian.

28 (a) General rule.--A custodian, acting in a custodial
29 capacity, has all the rights, powers and authority over
30 custodial property that unmarried adult owners have over their

1 own property, but a custodian may exercise those rights, powers
2 and authority in that capacity only.

3 (b) Liability for breach of standard of care.--This section
4 does not relieve a custodian from liability for breach of
5 section 5313 (relating to care of custodial property).

6 § 5315. Use of custodial property.

7 (a) Without court order.--A custodian may deliver or pay to
8 the minor or expend for the minor's benefit so much of the
9 custodial property as the custodian considers advisable for the
10 use and benefit of the minor, without court order and without
11 regard to:

12 (1) the duty or ability of the custodian personally or
13 of any other person to support the minor; or

14 (2) any other income or property of the minor which may
15 be applicable or available for that purpose.

16 (b) With court order.--On petition of an interested person
17 or the minor if the minor has attained 14 years of age, the
18 court may order the custodian to deliver or pay to the minor or
19 expend for the minor's benefit so much of the custodial property
20 as the court considers advisable for the use and benefit of the
21 minor.

22 (c) Obligation of support not affected.--A delivery, payment
23 or expenditure under this section is in addition to, not in
24 substitution for, and does not affect any obligation of a person
25 to support the minor.

26 § 5316. Expenses, compensation and bond of custodian.

27 (a) Expenses.--A custodian is entitled to reimbursement from
28 custodial property for reasonable expenses incurred in the
29 performance of the custodian's duties.

30 (b) Compensation.--Except for one who is a transferor under

1 section 5305 (relating to transfer by gift or exercise of power
2 of appointment), a custodian has a noncumulative election during
3 each calendar year to charge reasonable compensation for
4 services performed during that year.

5 (c) Bond.--Except as provided in section 5319(f) (relating
6 to renunciation, resignation, death or removal of custodian), a
7 custodian need not give a bond.

8 § 5317. Exemption of third person from liability.

9 A third person in good faith and without court order may act
10 on the instructions of or otherwise deal with any person
11 purporting to make a transfer or purporting to act in the
12 capacity of a custodian and, in the absence of knowledge, is not
13 responsible for determining:

14 (1) the validity of the purported custodian's
15 designation;

16 (2) the propriety of, or the authority under this
17 chapter for, any act of the purported custodian;

18 (3) the validity or propriety under this chapter of any
19 instrument or instructions executed or given either by the
20 person purporting to make a transfer or by the purported
21 custodian; or

22 (4) the propriety of the application of any property of
23 the minor delivered to the purported custodian.

24 § 5318. Liability to third persons.

25 (a) Claim against custodial property.--Any claim based on
26 the following may be asserted against the custodial property by
27 proceeding against the custodian in the custodial capacity,
28 whether or not the custodian or the minor is personally liable:

29 (1) A contract entered into by a custodian acting in a
30 custodial capacity.

1 (2) An obligation arising from the ownership or control
2 of custodial property.

3 (3) A tort committed during the custodianship.

4 (b) Limitation on custodian's liability.--A custodian is not
5 personally liable:

6 (1) on a contract properly entered into in the custodial
7 capacity unless the custodian fails to reveal that capacity
8 and to identify the custodianship in the contract; or

9 (2) for an obligation arising from control of custodial
10 property or for a tort committed during the custodianship
11 unless the custodian is personally at fault.

12 (c) Limitation on minor's personal liability.--A minor is
13 not personally liable for an obligation arising from ownership
14 of custodial property or for a tort committed during the
15 custodianship unless the minor is personally at fault.

16 § 5319. Renunciation, resignation, death or removal of
17 custodian.

18 (a) Renunciation.--A person nominated under section 5304
19 (relating to nomination of custodian) or designated under
20 section 5310 (relating to manner of creating custodial property
21 and effecting transfer) as custodian may decline to serve by
22 delivering a valid disclaimer under Chapter 62 (relating to
23 disclaimers) to the person who made the nomination or to the
24 transferor or the transferor's legal representative. If the
25 event giving rise to a transfer has not occurred and no
26 substitute custodian able, willing and eligible to serve was
27 nominated under section 5304, the person who made the nomination
28 may nominate a substitute custodian under section 5304.
29 Otherwise, the transferor or the transferor's legal
30 representative shall designate a substitute custodian at the

1 time of the transfer. In either case, the substitute custodian
2 shall be from among the persons eligible to serve as custodian
3 for that kind of property under section 5310(a). The custodian
4 so designated has the rights of a successor custodian.

5 (b) Designation of trust company or adult as successor
6 custodian.--A custodian at any time may designate a trust
7 company or an adult other than a transferor under section 5305
8 (relating to transfer by gift or exercise of power of
9 appointment) as successor custodian by executing and dating an
10 instrument of designation before a subscribing witness other
11 than the successor. If the instrument of designation does not
12 contain or is not accompanied by the resignation of the
13 custodian, the designation of the successor does not take effect
14 until the custodian resigns, dies, becomes incapacitated or is
15 removed.

16 (c) Resignation.--A custodian may resign at any time by
17 delivering written notice to the minor if the minor has attained
18 14 years of age and to the successor custodian and by delivering
19 the custodial property to the successor custodian.

20 (d) Ineligibility, death or incapacitation.--If a custodian
21 is ineligible, dies or becomes incapacitated without having
22 effectively designated a successor and the minor has attained 14
23 years of age, the minor may designate as successor custodian, in
24 the manner prescribed in subsection (b), an adult member of the
25 minor's family, a guardian of the minor or a trust company. If
26 the minor has not attained 14 years of age or fails to act
27 within 60 days after the ineligibility, death or incapacity, the
28 guardian of the minor becomes successor custodian. If the minor
29 has no guardian or the guardian declines to act, the transferor,
30 the legal representative of the transferor or of the custodian,

1 an adult member of the minor's family or any other interested
2 person may petition the court to designate a successor
3 custodian.

4 (e) Transfer of custodial property and records to successor
5 custodian.--A custodian who declines to serve under subsection
6 (a) or resigns under subsection (c), or the legal representative
7 of a deceased or incapacitated custodian, as soon as
8 practicable, shall put the custodial property and records in the
9 possession and control of the successor custodian. The successor
10 custodian by action may enforce the obligation to deliver
11 custodial property and records and becomes responsible for each
12 item as received.

13 (f) Removal for cause.--A transferor, the legal
14 representative of a transferor, an adult member of the minor's
15 family, a guardian of the person of the minor, the guardian of
16 the minor or the minor if the minor has attained 14 years of age
17 may petition the court to remove the custodian for cause and to
18 designate a successor custodian other than a transferor under
19 section 5305 or to require the custodian to give appropriate
20 bond.

21 § 5320. Accounting by and determination of liability of
22 custodian.

23 (a) Petition.--A minor who has attained 14 years of age, the
24 minor's guardian of the person or legal representative, an adult
25 member of the minor's family, a transferor or a transferor's
26 legal representative may petition the court for:

27 (1) an accounting by the custodian or the custodian's
28 legal representative; or

29 (2) a determination of responsibility, as between the
30 custodial property and the custodian personally, for claims

1 against the custodial property unless the responsibility has
2 been adjudicated in an action under section 5318 (relating to
3 liability to third persons) to which the minor or the minor's
4 legal representative was a party.

5 (b) Petition by successor custodian for accounting by
6 predecessor.--A successor custodian may petition the court for
7 an accounting by the predecessor custodian.

8 (c) Court order to account.--The court, in a proceeding
9 under this chapter or in any other proceeding, may require or
10 permit the custodian or the custodian's legal representative to
11 account.

12 (d) Court order when custodian removed.--If a custodian is
13 removed under section 5319(f) (relating to removal for cause),
14 the court shall require an accounting and order delivery of the
15 custodial property and records to the successor custodian and
16 the execution of all instruments required for transfer of the
17 custodial property.

18 § 5321. Termination of custodianship.

19 The custodian shall transfer in an appropriate manner the
20 custodial property to the minor or the minor's estate upon the
21 earlier of:

22 (1) the minor's attainment of 21 years of age with
23 respect to custodial property transferred under section 5305
24 (relating to transfer by gift or exercise of power of
25 appointment) or 5306 (relating to transfer authorized by will
26 or trust);

27 (2) the minor's attainment of majority under the laws of
28 this Commonwealth other than this chapter with respect to
29 custodial property transferred under section 5307 (relating
30 to other transfer by fiduciary) or 5308 (relating to transfer

1 by obligor); or

2 (3) the minor's death.

3 Section 9. Sections 5513, 5536(b), 5601, 5603(a), 5604(b),
4 5704 and 6111.1 of Title 20 are amended to read:

5 § 5513. Temporary guardian.

6 Notwithstanding the provisions of section 5511 (relating to
7 petition and hearing), the court, upon petition and a hearing at
8 which good cause is shown, may appoint a temporary guardian or
9 guardians of the person or estate of a person alleged to be
10 incompetent, when it appears that a failure to make such
11 appointment will result in irreparable harm to the person or
12 estate of the alleged incompetent. The provisions of section
13 5511 shall be applicable to such proceedings, except that only
14 such notice of the petition and hearing shall be required as
15 shall appear to the court to be feasible in the circumstances,
16 and need not be given at such times or to such persons as would
17 be required by the provisions of section 5511 in a proceeding
18 for the appointment of a guardian. A temporary guardian so
19 appointed for the person or estate of an alleged incompetent
20 shall only have and be subject to such powers, duties and
21 liabilities and serve for such time as the court shall direct in
22 its decree. The court may also appoint a temporary guardian of
23 the person pursuant to this section for an alleged incompetent
24 who is present in this Commonwealth but is domiciled outside of
25 this Commonwealth, regardless of whether the alleged incompetent
26 has property in this Commonwealth.

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

29 * * *

30 (b) Estate plan.--The court, upon petition and with notice

1 to all parties in interest, shall have the power to substitute
2 its judgment for that of the incompetent with respect to the
3 estate and affairs of the incompetent for the benefit of the
4 incompetent, his family, members of his household, his friends
5 and charities in which he was interested. This power shall
6 include, but is not limited to, the power to:

7 (1) Make gifts, outright or in trust.

8 (2) Convey, release or disclaim his contingent and
9 expectant interests in property, including marital property
10 rights and any right of survivorship incident to joint
11 tenancy or tenancy by the entirety.

12 (3) Release or disclaim his powers as trustee, personal
13 representative, custodian for minors, or guardian.

14 (4) Exercise, release or disclaim his powers as donee of
15 a power of appointment.

16 (5) Enter into contracts.

17 (6) Create for the benefit of the incompetent or others,
18 revocable or irrevocable trusts of his property which may
19 extend beyond his disability or life.

20 (7) Exercise options of the incompetent to purchase or
21 exchange securities or other property.

22 (8) Exercise [his rights to elect options and change
23 beneficiaries under insurance and annuity policies or
24 surrender the policies for their cash value] all rights and
25 privileges under life insurance policies, annuity contracts
26 or other plans or contractual arrangements providing for
27 payments to the incompetent or to others after his death.

28 (9) Exercise his right to claim or disclaim an elective
29 share in the estate of his deceased spouse and renounce any
30 interest by testate or intestate succession or by inter vivos

1 transfer.

2 (10) Change the incompetent's residence or domicile.

3 (11) Modify by means of codicil or trust amendment, as
4 the case may be, the terms of the incompetent's will or of
5 any revocable trust created by the incompetent, as the court
6 may deem advisable in light of changes in applicable tax
7 laws.

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

17 § 5601. General provision.

18 In addition to all other powers that may be delegated to an
19 attorney-in-fact, any or all of the powers referred to in
20 section 5602(a) (relating to form of power of attorney) may
21 lawfully be granted in writing and, unless the power of attorney
22 expressly directs to the contrary, shall be construed in
23 accordance with the provisions of this chapter. All powers of
24 attorney shall be signed by the principal in his own
25 handwriting, but, if for any physical reason he is unable to
26 sign his name, the principal may make his mark to which his name
27 shall be subscribed in his presence before or after he makes his
28 mark. The principal shall make his mark in the presence of two
29 witnesses who shall sign their names to the power of attorney in
30 his presence.

1 § 5603. Implementation of power of attorney.

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

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

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

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

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

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

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

1 trust or in accordance with Chapter 53 (relating to
2 Pennsylvania Uniform [Gifts] Transfers to Minors Act) or
3 section 5155 (relating to order of court). In the case of a
4 gift made in trust, the attorney-in-fact may execute a deed
5 of trust for such purpose, designating one or more persons
6 (including the attorney-in-fact) as original or successor
7 trustees, or may make additions to an existing trust. In
8 making any gifts, the attorney-in-fact need not treat the
9 donees equally or proportionately and may entirely exclude
10 one or more permissible donees, and the pattern followed on
11 the occasion of any gift or gifts need not be followed on the
12 occasion of any other gift or gifts.

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

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

23 * * *

24 § 5604. Durable powers of attorney.

25 * * *

26 (b) Durable power of attorney not affected by disability or
27 lapse of time.--All acts done by an attorney-in-fact pursuant to
28 a durable power of attorney during any period of disability or
29 incapacity of the principal have the same effect and inure to
30 the benefit of and bind the principal and his successors in

1 interest as if the principal were competent and not disabled.

2 Unless the power of attorney states a time of termination, it is
3 valid notwithstanding the lapse of time since its execution.

4 * * *

5 § 5704. Notice to absentee.

6 The court, if satisfied concerning the interest of the
7 petitioner, shall cause to be advertised in a newspaper of
8 general circulation in the county of the absentee's last known
9 residence and in the legal journal, if any, designated by rule
10 of court for publication of legal notices, once a week for four
11 successive weeks or for such shorter period as the court may
12 deem appropriate, and to be otherwise advertised as the court
13 according to the circumstances of the case shall deem advisable,
14 the fact of such application, together with notice that on a
15 specified day, which shall be at least two weeks after the last
16 appearance of any such advertisement, the court, or a master
17 appointed by the court for that purpose, will hear evidence
18 concerning the alleged absence, including the circumstances and
19 duration thereof.

20 § 6111.1. Modification by divorce.

21 If the conveyor is divorced from the bonds of matrimony after
22 making a conveyance, [all provisions] any provision in the
23 conveyance which [were] was revocable by him at the time of his
24 death and which [were] was to take effect at or after his death
25 in favor of or relating to his spouse so divorced shall thereby
26 become ineffective for all purposes unless it appears in the
27 governing instrument that the provision was intended to survive
28 the divorce.

29 Section 10. Title 20 is amended by adding a section to read:

30 § 6111.2. Effect of divorce on designation of beneficiaries.

1 If a person domiciled in this Commonwealth at the time of his
2 death is divorced from the bonds of matrimony after designating
3 his spouse as beneficiary of a life insurance policy, annuity
4 contract, pension or profit-sharing plan or other contractual
5 arrangement providing for payments to his spouse, any
6 designation in favor of his former spouse which was revocable by
7 him after the divorce shall become ineffective for all purposes
8 unless it appears from the wording of the designation or from
9 either a court order or a written contract between the person
10 and his spouse that the designation was intended to survive the
11 divorce. Unless restrained by court order, no insurance company,
12 pension or profit-sharing plan trustee or other obligor shall be
13 liable for making payments to a former spouse which would have
14 been proper in the absence of this section. Any former spouse to
15 whom payment is made shall be answerable to anyone prejudiced by
16 the payment.

17 Section 11. Section 6114 of Title 20 is amended by adding a
18 paragraph to read:

19 § 6114. Rules of interpretation.

20 In the absence of a contrary intent appearing therein,
21 conveyances shall be construed, as to real and personal estate,
22 in accordance with the following rules:

23 * * *

24 (8) Corporate fiduciaries.--Provisions authorizing or
25 restricting investment in the securities or common trust
26 funds of a corporate fiduciary or the exercise of voting
27 rights in its securities shall also apply to the securities
28 or common trust funds of any corporation which is an
29 affiliate of the corporate fiduciary within the meaning of
30 section 1504 of the Internal Revenue Code.

1 Section 12. Sections 7188 and 7191 of Title 20 are amended
2 to read:

3 § 7188. Annexation of account of distributed estate or trust.

4 A trustee who has received property from a personal
5 representative or from another trustee in distribution of an
6 estate or another trust, may annex a copy of an account of the
7 administration of such estate or other trust to an account filed
8 by the trustee covering the administration of the trust under
9 his management. If notice of the annexation of the account of
10 the estate or other trust is given to the persons required to be
11 notified of the filing of the trustee's account of the principal
12 trust, confirmation of the principal account shall relieve both
13 the trustee of the principal trust and the personal
14 representative or trustee of the distributed estate or other
15 trust of all liability to beneficiaries of the principal trust
16 for transactions shown in the account so annexed to the same
17 extent as if the annexed account had been separately filed and
18 confirmed. When the fund covered by the annexed account has
19 itself received property from another source under circumstances
20 that would have permitted annexation of an account under this
21 section or under section 3501.2 (relating to annexation of
22 account of terminated trust, guardianship or agency), accounts
23 for both funds may be annexed.

24 § 7191. Separate trusts.

25 The court, for cause shown [and with the consent of all
26 parties in interest, may divide], may authorize the division of
27 a trust into two or more separate trusts upon such terms and
28 conditions and with such notice as the court shall direct.

29 Section 13. Sections 7315.1(b) and 8301 of Title 20 are
30 amended to read:

1 § 7315.1. Retention of cash; temporary investments.

2 * * *

3 (b) Temporary investments.--A fiduciary may make temporary
4 investment of funds which he is entitled to hold uninvested
5 [under subsection (a)] or which he wishes to hold in liquid form
6 in short-term interest-bearing obligations or deposits, or other
7 short-term liquid investments, selected in each case in
8 compliance with the standards of section 7302(b) (relating to
9 authorized investments; in general), but without regard to any
10 investment restrictions imposed by the governing instrument and
11 may make a reasonable charge, in addition to all other
12 compensation to which he is entitled, for services rendered in
13 making the temporary investment.

14 § 8301. Powers of court to authorize sale, etc. of real
15 property.

16 The court of common pleas, operating through its appropriate
17 division, may authorize the sale, mortgage, lease or exchange of
18 real property or grant declaratory relief with respect to real
19 property:

20 (1) Where the legal title is held:

21 (i) by a person whose spouse is an incompetent, or
22 has abandoned him or her for one year, or has been absent
23 in circumstances from which the law would presume his or
24 her decease;

25 (ii) by a tenant of an estate by entireties, when
26 the other tenant of such estate has been absent in
27 circumstances from which the law would presume his or her
28 decease;

29 (iii) by corporations of any kind having no capacity
30 to convey, or by any unincorporated association; [or]

1 (iv) by any religious, beneficial, or charitable
2 society or association, incorporated or unincorporated,
3 whose title is subject to forfeiture if real property is
4 held in excess of the amount authorized by law[.]; or

5 (v) by any religious, beneficial or charitable
6 society or association, incorporated or unincorporated,
7 whose title is subject to reversion, possibility of
8 reverter, or right of reentry for condition broken if the
9 real property ceases to be used for a purpose specified
10 in a deed, subject to the following:

11 (A) A petition to declare the real property free
12 from reversion, possibility of reverter, or right of
13 reentry shall contain an affidavit of an officer of
14 the religious, beneficial or charitable society or
15 association, stating in detail what reasonable
16 efforts have been made to locate or contact the
17 grantor or the grantor's heirs, successors or assigns
18 to obtain a conveyance of the reversion, possibility
19 of reverter, or right of reentry, why the real
20 property should be declared free of the reversion,
21 possibility of reverter, or right of reentry, and the
22 use of the funds, if any, to be derived from sale of
23 the real property.

24 (B) The court shall have the power to consider
25 all of the circumstances and to grant such equitable
26 relief as shall be just and proper, and impose such
27 restrictions upon the use of the funds to be derived
28 from the sale of real property as the court shall
29 deem to be appropriate to further the religious,
30 beneficial or charitable purpose reflected in the

1 deed containing the reversion, possibility of
2 reverter, or right of reentry for condition broken.

3 (2) Where the legal title is an estate tail, or is
4 subject to contingent remainders, executory interests, or
5 remainders to a class some or all of whom may not be in being
6 or ascertained at the time of the entry of the decree.

7 (3) Where the legal title is otherwise inalienable.

8 Section 14. (a) The provisions of 20 Pa.C.S. Ch. 53
9 (relating to Pennsylvania Uniform Transfers to Minors Act),
10 added by this amendatory act, shall apply to a transfer within
11 the scope of 20 Pa.C.S. § 5303 (relating to scope and
12 jurisdiction) made after the effective date of this act if:

13 (1) the transfer purports to have been made under the
14 Pennsylvania Uniform Gifts to Minors Act repealed by this
15 act; or

16 (2) the instrument by which the transfer purports to
17 have been made uses in substance the designation "as
18 custodian under the Pennsylvania Uniform Gifts to Minors Act"
19 or "as custodian under the Uniform Transfers to Minors Act"
20 of any other state, and the application of 20 Pa.C.S. Ch. 53
21 is necessary to validate the transfer.

22 (b) Any transfer of custodial property now defined in 20
23 Pa.C.S. § 5302 (relating to definitions) made before the
24 effective date of this act shall be validated notwithstanding
25 that there was no specific authority in the Pennsylvania Uniform
26 Gifts to Minors Act for the coverage of custodial property of
27 that kind or for a transfer from that source at the time the
28 transfer was made.

29 (c) The provisions of 20 Pa.C.S. Ch. 53, added by this
30 amendatory act, shall apply to all transfers made before the

1 effective date of this act in a manner and form prescribed in
2 the Pennsylvania Uniform Gifts to Minors Act, except insofar as
3 the application impairs constitutionally vested rights or
4 extends the duration of custodianships in existence on the
5 effective date of this act.

6 Section 15. (a) The provisions of 20 Pa.C.S. Ch. 27
7 (relating to contractual arrangements relating to succession)
8 shall apply to contracts made on or after January 1 of the
9 calendar year following the year of enactment.

10 (b) The amendments to 20 Pa.C.S. §§ 2514 (relating to rules
11 of interpretation), 3316 (relating to investment of funds),
12 5604(b) (relating to durable powers of attorney), 6114 (relating
13 to rules of interpretation), 7315.1 (relating to retention of
14 cash; temporary investments) and 8301 (relating to powers of
15 court to authorize sale, etc. of real property) shall apply to
16 instruments, trusts and the estates of decedents whether the
17 instrument was executed, the trust was created or the decedent
18 died before, on or after the effective date of this act.

19 (c) The remainder of this act shall apply to the estates of
20 all decedents dying on or after its effective date.

21 Section 16. This act shall take effect immediately.