Probate, Trust & Real Property Section
Indiana State Bar Association

Bylaws

ARTICLE 1

Name and Purpose

Section 1.1. The Section shall be known as the "Probate, Trust & Real Property Section" ("Section") of the Indiana State Bar Association ("Association").

Section 1.2. The purpose of the Section shall be to bring together for furtherance of their mutual interests members of the Indiana State Bar Association interested in Probate Law, Estate Planning, Estate and Guardianship Administration, Trusts, Real Estate Law, Death Taxes and other related branches of law; and also:

(a) To provide a forum for mutual help in the practice of law in such areas of interest and to discuss and formulate solutions to problems occurring in such practice;

(b) To uphold the dignity and standing of lawyers and the honor and reputation of the members of this Association engaging in these practices;

(c) To promote the administration of justice by simplifying and expediting related forms and procedures;

(d) To aid and encourage the holding of seminars, institutes, and legal panels connected with the Section's objectives;

(e) To encourage cordiality among the members;

(f) To protect the rights and interests of the members;

(g) To promote the members' general welfare; and

(h) To assemble and disseminate information for the better understanding of the public in matters relating to the legal areas of interest to the Section.

ARTICLE 2

Membership

Section 2.1. Any member in good standing of the Association shall be eligible for membership in the Section.

Section 2.2. Admission to membership shall be:

(a) By application upon forms provided by the principal office of the Association; and

(b) Upon payment of annual dues as hereinafter provided in these Bylaws.

Section 2.3. The Secretary/Treasurer of the Section shall establish and maintain at the principal office of the Association a roster of all members, which shall include the name and address of each member.

ARTICLE 3

Meetings

Section 3.1. The Section shall have one Regular Annual meeting each year.

Section 3.2. The Annual Meeting of this Section shall be held at the same general location and at the same approximate time as the Annual Meeting of the Association, the exact time and place to be designated by the Section Chairman, with the approval of the Association's Board of Governors.

Section 3.3. Special meetings may be held pursuant to call by majority vote of the Council.

Section 3.4. Notice of the time and place of all Regular and Special Meetings shall be given by the Secretary/Treasurer, or under supervision of the Secretary/Treasurer, at least 15 days prior to the meeting. Notice of the Annual and Spring Meetings circulated by the Association to its membership shall suffice to notify Section members of the Section's meetings but shall not preclude separate notification by the Section of its members in the Section Newsletter or otherwise. The notice of a Special Meeting shall specify the purpose of the meeting.

Section 3.5. The members of the Section present at any Regular or Special Meeting shall constitute a quorum for the transaction of business.

Section 3.6. All binding action of the Section shall be by a majority vote of the Section members present and voting.

Section 3.7. All meetings of the Council and Committees of the Section may be attended by any Section member.

ARTICLE 4

Officers, Council and Terms of Office

Section 4.1. The Officers of the Section shall be the Chairman, Chairman-Elect, Vice Chairman, and Secretary/Treasurer, to be selected in accordance with Article 5 hereof. Each officer shall serve for a one-year term beginning at the close of the Annual Meeting.

Section 4.2. There shall be a Council consisting of one member of the Section from each Indiana State Bar Association District. Such member shall be a resident of the District which he represents and shall be selected in accordance with Article 5 hereof. Additionally, no more than seven (7) and no less than three (3) at-large Council members shall be selected by the Chairman, Chairman-Elect, and Vice Chairman in order to achieve a balance of representative Council members among lawyers who concentrate in probate or real estate. The Indiana State Bar Association Young Lawyers Section and the Indiana Judicial Conference Probate Committee may each appoint a member to the Council for a term and with privileges identical to Council Members provided that such member is or will become a member of the Probate, Trust and Real Property Section. The Officers of the Section, the Immediate Past Chairman of the Section and the Chairman of each of the Standing Committees of the Section also shall be members of the Council. District Council Members shall serve for a two-year term.

Section 4.3. Past Chairmen of the Section, who are not otherwise members of the Council, shall become honorary members of the Council. As such they shall be given notice of and shall have the right to attend any and all meetings of the Council and to participate in any of its discussions, but shall not have any voting right at any such meeting.

ARTICLE 5

Nomination and Election

Section 5.1. The Section elections preceding the adoption of these Bylaws were in accordance with the prior Bylaws of the Section. After the adoption of these Bylaws, the election of the Vice Chairman, Secretary/Treasurer, and such other offices which are vacant and which are, pursuant to Article 6, to be filled by election at the Annual Meeting, shall be held at the Annual Meeting of the Section. Council Members shall be elected at the Annual Meeting as follows: in even-numbered years, one Council Member shall be elected from each of the Indiana Bar Association Districts numbered 2, 4, 6, 8 and 10; and, in odd-numbered years, one Council Member shall be elected from each of the Indiana Bar Association Districts numbered 1, 3, 5, 7, 9 and 11.

Section 5.2. Nominations for such offices and council members shall be made by a three member nominating committee consisting of the most recent past Chairmen of the Section

willing and able to serve on the Nominating Committee. The Chairman shall confer with the most recent past Chairmen of the Section after the Summer meeting of the Council to determine which of them are willing and able to serve on the Nominating Committee.

(a) The Nominating Committee shall nominate one candidate for each appropriate Council District, and one candidate for each of the following positions: Vice Chairman, Secretary/Treasurer, and any other offices required to be filled by election at the Annual Meeting pursuant to Article 6 hereof.

(b) The Nominating Committee shall submit a report of its candidates to the Section Secretary not later than 30 days prior to the date of the Annual Meeting of the Section. The Secretary/Treasurer shall thereupon cause notice of the names of said candidates to be given to each Section member not later than 20 days prior to the date of the Annual Meeting.

(c) Any 20 Section members may nominate a Section member for the office of Vice Chairman or Secretary/Treasurer by filing a written nominating petition addressed to the attention of the Section Secretary/Treasurer, at the principal office of the Association, not later than 10 days prior to the Annual Meeting of the Section.

(d) Any five Section members residing in the same Indiana State Bar Association District may nominate a Section member residing in said District for the office of Council member from said District by filing a written nominating petition, addressed to the attention of the Section Secretary/Treasurer at the principal office of the Association, not later than 10 days prior to the Annual Meeting of the Section.

(e) Whenever two or more persons are nominated for an office or for membership on the Council, the Secretary/Treasurer shall cause written ballots to be prepared, listing the names of all persons duly nominated for the contested position. Election shall be by a majority vote of the Section members present and voting, in a secret ballot, except that unopposed candidates may be elected by voice vote.

ARTICLE 6

Vacancies

Section 6.1. A vacancy in his or her office shall occur when an Officer, Council Member, committee chairman or committee member dies, resigns, or is otherwise unable to perform his or her duties and shall also occur when his or her dues in the Association or Section are unpaid.

Section 6.2. In the event of a vacancy in the office of Chairman, the Chairman-Elect shall automatically become Chairman, and shall serve for the remainder of the vacated term, plus the duration of his own term as Chairman. The Vice Chairman shall automatically become Chairman-Elect for the remainder of the vacated term plus the duration of his own term as Chairman-Elect. The office of Vice Chairman shall remain vacant until the next Annual Meeting.

Section 6.3. In the event of dual vacancies in the offices of Chairman and Chairman-Elect, the Vice Chairman shall automatically become Chairman, and shall serve as such for the remainder of the vacated term plus one full term. The offices of Chairman-Elect and Vice Chairman shall remain vacant until the next Annual Meeting, at which time a Chairman-Elect and a Vice Chairman shall be elected pursuant to Article 5.

Section 6.4. In the event of triple vacancies in the offices of Chairman, Chairman-Elect and Vice Chairman, the Council shall select, by vote of the majority of the Council, a Chairman to serve until the next Annual Meeting of the Section. In such event a Chairman, Chairman-Elect and Vice Chairman shall be elected at the next Annual Meeting pursuant to Article 5.

Section 6.5. Vacancies in the office of Secretary/Treasurer shall be filled by the Chairman with the consent of a majority of the Council for the unexpired term of such office.

Section 6.6. Vacancies on the Council shall be filled by the Chairman, with the approval of a majority of the Council, for the unexpired term of such office.

Section 6.7. Committee vacancies shall be filled by the Chairman for the unexpired term of such office.

ARTICLE 7

Duties of Officers

Section 7.1. The Chairman shall preside at all meetings of the Section and of the Council, and shall have such other powers and shall perform such other duties as usually pertain to the office of presiding officer. With the advice of the Council, except as otherwise herein provided, he shall:

(a) Designate Special Committees as needed and determine the function and purpose of such Committees;

(b) Appoint committee members for all Special Committees and designate the Chairman thereof;

(c) Serve as Chairman of the Long Range Planning Committee;

(d) Prepare and present an annual written report of the work of the Section to the Board of Governors and the House of Delegates of the Association;

and prepare and present such interim reports to the Board of Governors of the Association as may be determined by the Council; and

(e) At the Annual Meeting occurring at the conclusion of his term, shall present an annual report summarizing the work of the Section accomplished during the Chairman's term.

Section 7.2. The Chairman-Elect shall:

(a) Preside at all meetings of the Section or Council in the absence of the Chairman;

(b) Supervise the activities of the Legislation Committee and the activities of any Special Committee as requested by the Chairman and shall report to the Council, or cause to be reported, any such Committee's activities;

(c) Assume the office of Chairman at the expiration of his term as Chairman-Elect and shall outline to the Council, at the Summer Council meeting preceding the Annual Meeting, (i) the goals he has formulated for the Section during his term of office as Chairman; (ii) the identity of the Chairman of all standing committees and the identity of the Chairman of all Special Committees to be formulated or to continue in existence during his term, (iii) the legislative agenda which will be the subject of development or study during his term as Chairman; and (iv) the budget he proposes to utilize in accomplishing his goals for the Section. A report on the above shall be given at the next Annual Meeting of the Section.

Section 7.3. The Vice Chairman shall preside at all meetings in the absence of both the Chairman and Chairman-Elect. He shall supervise the activities of the Seminars, Publication and Newsletter Committees, and any Special Committees as requested by the Chairman, and shall report to the Council, or cause to be reported, any such committee's activities. He shall perform such other duties as may be designated by the Chairman or the Council and shall assume the office of Chairman-Elect at the expiration of his term as Vice Chairman.

Section 7.4. The Secretary/Treasurer shall be the custodian of all books, documents, papers and other property of the Section. He shall keep a true record of the proceedings of all meetings of the Section and Council. He shall establish and maintain a roster of all members of the Section in accordance with Section 2.3. He shall supervise the handling of all Section funds in accordance with the procedure established by the Association, as follows: The dues of this Section shall be billed and collected by the Association, and all collected dues and other funds of the Section shall be deposited and maintained by the Association. No disbursement of the funds of the Section shall be made without authorization from either the Chairman, Chairman-Elect, Vice Chairman or Secretary/Treasurer of the Section, or Executive Director of the Association. The Association shall keep accurate and current records of all funds of the Section.

ARTICLE 8

Duties of Council

Section 8.1. The Council shall determine and control policy of the Section. The Council shall have supervision and control of the affairs of the Section, including expenditure of Section funds, subject to the Articles and Bylaws of the Association, and shall approve, reject or amend the budget proposed by the Chairman-Elect at the Summer Meeting of the Council. The Council shall have such other powers and duties as are enumerated elsewhere by these Bylaws.

Section 8.2. The Council shall meet three times a year. One of such meetings shall occur in either the months of June, July or August and such meeting shall be known as the "Summer Meeting".

Section 8.3. A quorum for the transaction of business of the Council shall be five voting Council members.

Section 8.4. All binding action of the Council shall be by majority vote of the Council members present and voting on the question, provided a quorum is present.

ARTICLE 9

Committees

Section 9.1. There shall be a Nominating Committee, to be appointed by the Chairman, having composition and duties as provided in Article 5 hereof.

Section 9.2. There shall be a Legislation Committee which shall: develop and prepare or study legislation of interest to Section members and report to the Section the results of such development or study; testify at legislative hearings as requested by the Chairman; promote effective relationships with the members of the Legislature and the Probate Code Study Committee; and recommend to the Chairman various Special Committees which should be appointed to further the goals of the Committee.

Section 9.3. There shall be a Seminar Committee which shall prepare and develop seminars of interest to Section members or the public and which shall develop and prepare study sessions or seminars to be held at the Annual and Spring Meetings of the Section.

Section 9.4. There shall be a Newsletter Committee which shall, quarter-annually, send to the Section members a newsletter which summarizes recent cases and legislation or proposed legislation of interest to Section members and which contains such other information as the Newsletter Committee may deem appropriate.

Section 9.5. There shall be a Publications Committee which shall undertake to develop publications, other than the Newsletter, of interest to Section members or the public, and which shall review and revise, as appropriate, any non-Newsletter publications of the Section still in circulation so that these publications will be current at all times.

Section 9.6. There shall be a Long Range Planning Committee consisting of the Chairman, Chairman-Elect, Vice Chairman, Secretary/Treasurer and any other person appointed to the committee by the Chairman. This committee shall prepare long range plans for the Section; shall review and prepare revisions to the Bylaws, as appropriate; and shall report to the Council on its work from time to time.

Section 9.7. There shall be such other committees of the Section which the Chairman may appoint from time to time, with the approval of a majority of the Council, and which shall have such powers and duties as are deemed necessary to carry out the activities of the Section.

Section 9.8. There shall be an Executive Committee which shall act in accordance with the following:

Section 9.8.1. Executive Committee. The officers of the Council will constitute the Council Executive Committee. The chair of the Council shall be the chair of the Executive Committee. During the intervals between the meetings of the Council, the Executive Committee will have and may exercise all of the powers of the Council. The Executive Committee will keep full account of its transactions. All actions by the Executive Committee will be reported to the Council at its meeting next succeeding such action.

Section 9.8.2. Meetings of Executive Committee. The Executive Committee will fix its own rules of procedure and will meet as provided by such rules and it will also meet at the call of any member of the Committee. At least three-quarters of all of the members of the Executive Committee will be necessary to constitute a quorum, and the concurrence of all will be required in all matters to constitute the act of the Committee.

Section 9.8.3. Executive Committee Powers. For all purposes of these Bylaws, the word "Council" or any equivalent term will be construed to include "Executive Committee," it being the intent that such Committee will have and exercise all of the powers conferred on the Council under these Bylaws.

Section 9.9. If, in the course of a committee's authorized activities, action is required when it is not possible to assemble the Council in a properly called meeting, written or oral approval of the proposed action from the Executive Committee may be obtained by the committee after the action is authorized by a two-thirds affirmative vote of the committee members. Any action so taken shall be recorded in the minutes of the next properly called board meeting. Polling may take place by electronic submission to committee members with an affirmative vote deemed given if no response is received within a reasonable time as determined by the committee chair.

Section 9.10. If a committee is working with or testifying before a state or federal law or rule-making body concerning legislation or rules which the Section supports or opposes, the committee and its members may support or oppose amendments and replacements of such laws and rules so long as such support or opposition is consistent with and not materially disparate from the position taken by the Section.

ARTICLE 10

Dues

Section 10.1. Payment of annual dues shall be a prerequisite for membership in this Section.

Section 10.2. Membership in the Section shall terminate in accordance with procedures established for termination of delinquent members of the Association.

Section 10.3. The amount of annual dues shall be established by the Council from time to time. Such dues were $7.00 at the time these Bylaws were enacted.

Section 10.4. Dues shall be paid to the principal office of the Association, to be maintained on behalf of the Section in accordance with Section 2.3.

ARTICLE 11

Resignation and Termination

Section 11.1. A member may resign from Section membership at any time by written resignation directed to the Section Secretary/Treasurer, with a copy to the Executive Director of the Association.

Section 11.2. Termination of membership in the Association shall automatically terminate membership in the Section.

ARTICLE 12

Amendment

These Bylaws may be amended at any Annual or Spring Meeting of the Section by majority vote of the members of the Section present and voting, provided that no amendment shall be effective until reviewed and approved by the Board of Governors of the Association.

ARTICLE 13

Adoption of Amended and Rewritten Bylaws

These Bylaws shall become effective upon adoption by the Section members present at the 1985 Spring Meeting of the Section, subject to the approval of the Board of Governors of the Association, and shall be substituted for and in place of the Bylaws of the Section heretofore in effect.

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