

MINUTES  
DSBA ESTATES AND TRUSTS SECTION  
March 1, 2022

In accordance with notice duly given, a meeting of the Estates and Trusts Section of the Delaware State Bar Association was held on March 1, 2022, at 3:30 p.m. by Zoom conference.

In attendance were: Matthew P. D’Emilio, David A. Diamond, Mary Elizabeth M. Browder, Trisha W. Hall, Michael S. Neri, Richard W. Nenno, Kerry M. Porter, Gregory J. Weinig, Joseph Bosik, Jeffrey C. Wolken, John Legare Williams, Danielle R. Dell, Linda Levinson, Caitlin E. McAndrews and Alexander J. Lyden-Horn.

Chair Matthew P. D’Emilio called the meeting to order at 3:31 p.m.

1. Quorum. Quorum was met by the number of members of the Section participating by Zoom videoconference.
2. Minutes. Upon motion duly made and seconded, the February 1, 2022 meeting minutes were unanimously approved.
3. Committee Reports and Activity.

- A. Trust Act Committee – Mr. Weinig reported that the Committee met with Corporation Law Council resulting in two drafts of Trust Act 2022. The 11<sup>th</sup> draft shows net changes to existing statutes. The 10<sup>th</sup> draft shows changes made to the proposed bill since the last draft circulated among the Section members. The CLC asked the Committee to check the legislative manual and to reformat the bill so that each statutory section has a separate section of the bill. Substantive changes included adding designated representative to Section 3534; reordering Section 3536; making minor updates and adding a description of an imperative interest to Section 3536A; incorporating a reference to Section 3534 and updating the notice period to seven days within Section 3546; updating the notice period to seven days in Section 3585 and removing Section 3596 from the bill. The synopsis was also updated.

Mr. Diamond raised a question on the removal of the proposed new Section 3596. Mr. Weinig explained that CLC was concerned about the negative notice aspect of Section 3596 and thought that trustees might overuse the power. Mr. Weinig suggested working with Mr. Gordon on addressing the CEC’s concerns.

Upon motion duly made and seconded the Trust Act 2022 was unanimously approved.

- B. Estate Administration Committee – No report.
- C. Electronic Wills and Trusts Committee – Mr. D’Emilio reported that Mr. Haupt provided an update by email. Mr. Haupt’s update stated that he is following up with members of the Committee to provide final comments on proposed legislation that would permanently codify the remote notarization and witness

rules that originated from the state of emergency with extensions. He will be circulating a draft before the next meeting.

D. Inactive Committees with no reports:

- Access to Digital Assets Committee – Trisha W. Hall, Chair
- “Issue” Definition Committee – Trisha W. Hall
- CLE Committee – Scott E. Swenson, Chair
- Limited Guardianship Committee – Donald Sparks, Chair
- Revocation Upon Divorce Committee – Denise D. Nordheimer, Chair
- Notice Committee – Vincent C. Thomas, Chair
- Publications Committee - Daniel F. Hayward, Chair
- Power of Attorney/Health Care Directive Committee – P. Kristen Bennett, Chair
- Trust Accountings Committee – William H. Lunger, Chair
- Guardianship Committee – Harold W.T. Purnell, Chair
- Trust Litigation Committee – William M. Kelleher, Chair.

4. Old Business.

- A. Mr. Bosik provided an update on the draft Uniform Real Property Transfer on Death Act. He mentioned that comments have been received and are imbedded in the draft. Mr. Bosik asked Section members to email him any further comments.

5. New Business.

- A. Mr. D’Emilio reported that Mr. Benjamin Strauss, McDermott Will & Emery LLP, reached out to him to inquire if the State of Delaware has considered the implementation of an electronic apostille mechanism (e-Apostille). He attached a letter from ACTEC asking the Delaware Secretary of State to consider the State Issuance of Electronic Apostilles (e-APP). Mr. D’Emilio asked if the Section is interested in pursuing. The Section did not express interest in pursuing and Mr. D’Emilio will advise Mr. Strauss of the same.

6. Next Meeting. The next Section meeting will be held by Zoom conference on April 5, 2022 at 3:30.

There being no further business to come before the Section, the meeting was adjourned at 4:01 p.m.

Respectfully submitted,

Michael Neri