

LEGISLATION COMMITTEE

MATTERS FOR 2016-2017 LEGISLATIVE SESSION

1. CORPORATE FARM ACT – SECTION 500.24, SUBD. 4

Exemption for transfer to revocable trusts

Jennifer Lammers

2. AG HOMESTEAD RULES

Defining the term “under the same ownership” to include property owned by spouses and trusts for purposes of the ag homestead rules.

JoEllen Doebbert Pat Lowther

3. HOLDING PERIOD ON QUALIFIED FARM EXEMPTION

Currently an inheriting spouse is not entitled to an exemption under certain circumstances.

JoEllen Doebbert Brad Hanson

4. GUARDIANSHIP/CONSERVATORSHIP CHANGES (READY TO GO)

Shane Swanson Bob McLeod

5. TECHNICAL REVISION OF 519.11

Statute governing pre- and post-nuptial agreements says that “A man and woman of legal age . . .” Statute should be updated to read “Two individuals of legal age . . .” In light of 517.201, perhaps Revisor can fix this without the need for a formal bill?

Mike Sampson

The Court of Appeals recently decided *Kremer v. Kremer*, -- N.W.2d --, No. A15-2006 (Jan. 9. 2017), injecting even further confusion and uncertainty into the realm of antenuptial agreements. The Family Law section would like to form a joint sub-committee with Probate and Trust to revise Minnesota’s antenuptial agreement statute (Minn. Stat. sec. 519.11) with a goal of having a bill both our sections could support for the 2018 session.

-Michael P. Boulette

6. GENERAL REVIEW OF STATUTES FOR REQUIREMENT TO MAIL OR FILE

Section 55.10 subd. 4(h), related to safe deposit boxes, as an example, requires that an inventory of a safe deposit box belonging to a deceased person be “personally delivered or sent by registered mail” to the court administrator. The problem is that court administrators are not accepting personally delivered or mailed filings anymore – they want documents to be e-filed. We should take a broader look at the statutes affecting our practice for the requirement that items be personally delivered or mailed to the court and consider whether they need to be updated to allow for e-filing.

Drew Baese

7. RESOLVING PRIORITY BETWEEN HOMESTEAD EXEMPTION AND EXPENSES OF ADMINISTRATION

Proposed joint subcommittee with Elder Law and Property Law sections

Adam Rohne

8. PRIORITIZATION OF CREDITOR CLAIMS UNDER § 524.3-805

The Minnesota Court of Appeals decision *In the Matter of the Estate of John Stanley LaSha*, A15-0106, September 28, 2015 (unpublished) held that a mortgaged asset is an “applicable asset” of the estate under Minn. Stat. § 524.3-805(a) and, therefore, subject to the priority of claims outlined under that section. Minn. Stat. § 524.3-805(a) makes no distinction between secured and unsecured claims. We should consider whether any amendment is needed to this section in light of the court’s interpretation in *In re LaSha*. This subcommittee should also consider any impact on Minn. Stat. § 524.3-809 dealing with secured creditors claims.

Drew Baese

Kevin Busch

9. INCOME TAX RESIDENCY ISSUES

This is expected to appear again in the next tax bill. The tax law section is also drafting a correction for the *Marks* case result.

Terry Slye

Scott Nelson

Mike Sampson

10. UTMA ACCOUNTS (CHAPTER 527)

Consider various revisions to the statute, which was largely adopted from the 1986 uniform act: (a) Permitting transfers into a 2503(c) trust; (b) permitting transfers to special needs trusts; (c) collection of assets by directly beneficiary if no custodian is then serving or the custodian refuses to transfer the property; (d) changing the “prudent person” standard of care to the “prudent investor” standard.

Lauren Barron Jacob Geiermann

11. STATUTORY SHORT FORM POWER OF ATTORNEY REVISIONS

Joint Subcommittee with Elder Law and Real Property Section.

Adam Rohne

12. REVIEW OF SECTION 48.64 AND 48A.07 IN LIGHT OF UPIA

Bill Kuhlmann Kelli Hill

13. LIMITATION OF LIABILITY FOR ILIT TRUSTEES

Bill Kuhlmann Kelli Hill Bob Cohen Jason Schuller

14. REPEAL OF THE RULE AGAINST PERPETUITIES

This is the next step in efforts to modernize Minnesota trust law now that the UPC has been enacted.

Dale Schoonover

15. ORGAN DONATION, DRIVERS LICENSES AND HEALTH CARE DIRECTIVES

The checkbox for organ donation on the DMV application references the Uniform Anatomical Gift Act (2007), Minn. Stat. § 171.07. The “donor” designation is revoked only by written notice to the DMV, and not by revocation, suspension, expiration, or cancellation of the license. The scope of the anatomical gift is broad, possibly including research purposes. Although a validly executed health care directive may be able to revoke the anatomical gift, the person may remain on the donor registry. In addition, it is unclear whether an agent may amend or revoke an anatomical gift. We should consider whether better coordination can be achieved between the Anatomical Gift Act and the health care directive statute. Jesse Sheedy has prepared a preliminary memo on this topic.

Jesse Sheedy

16. UTC REVISIONS

Under directed trust provisions, should an investment trust advisor have authority to set the compensation of other advisors, including the trustee (or is this authority limited to circumstances in which the trustee is managing some portion of the investment)?

Chris Hunt

17. DEPARTMENT OF REVENUE BILL

Watch, and take action if necessary.