

Members

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Sen. Randall Head
Sen. John Broden
Rep. Trent Van Haaften, Vice-Chairperson
Rep. Ed DeLaney
Rep. Ralph Foley
Chris Colpaert
Joseph H. Davis
Kris Fruehwald
Thomas Hardin
Judge Thomas Lowe
James Martin
David Pendergast
Dan Reeves
Timothy Sendak
Jerry Withered



PROBATE CODE STUDY COMMISSION

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Authority: IC 2-5-16-2

MEETING MINUTES¹

Meeting Date: October 21, 2009
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Joseph Zakas, Chairperson; Rep. Trent Van Haaften, Vice-Chairperson; Rep. Ed DeLaney; Rep. Ralph Foley; Joseph H. Davis; Kris Fruehwald; Thomas Hardin; Judge Thomas Lowe; James Martin; David Pendergast; Dan Reeves; Timothy Sendak; Jerry Withered.

Members Absent: Sen. Randall Head; Sen. John Broden; Chris Colpaert.

Sen. Zakas called the meeting to order at 10:00 a.m. The meeting was devoted to consideration of the following preliminary drafts: PD 3120; PD 3121; PD 3123; PD 3124; PD 3188; PD 3190; PD 3199; PD 3200; PD 3212; and PD 3214 (Exhibit A). Except as noted otherwise, the votes described below are voice votes.

¹ Exhibits and other materials referenced in these minutes can be obtained electronically by requesting copies at licrequests@iga.in.gov. Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

PD 3199

Preliminary Draft 3199 addresses the estate planning powers of a guardian. The draft originated as HB 1040-2009 and was discussed at the Commission's October 7 meeting as PD 3119. Mr. Hooten explained that the new draft contains the changes requested by the Commission. The Commission voted to recommend the draft to the General Assembly.

PD 3121

Preliminary Draft 3121 provides that the Indiana inheritance, generation skipping, and estate taxes do not apply to the estate of an individual who dies after June 30, 2010. Sen. Zakas announced that he would not submit the draft for a vote in light of the stress placed upon state revenues by the difficult economic times. Rep. Foley asked the Commission to consider a general endorsement of the policy of eliminating the three taxes without considering a particular draft or time frame for enacting the policy. The commission voted 11-2 to recommend eventually eliminating the inheritance, generation skipping, and estate taxes. Representatives Delaney and Van Haaften opposed Rep. Foley's proposal.

PD 3123

Preliminary draft 3123 increases the inheritance tax exemption amounts for Class B and Class C transferees from \$500 to \$50,000 and from \$100 to \$25,000, respectively. The draft also amends various inheritance tax procedural provisions. The Commission discussed the proposed exemption increases. Rep. Van Haaften explained that he would be more comfortable with an increase that could be described as the result of a particular manipulation of the current exemption amounts such as an adjustment for inflation. Rep. Delaney said that he understood the concerns with the current exemption amounts but objected to the size of the proposed increases.

Mr. Reeves expressed his concerns about SECTION 7 of the draft which would preclude the application of certain restrictions on the transfer of property following the death of an individual unless the person transferring the property had actual notice of the individual's death. In the discussion that followed, Ms. Fruehwald suggested excising SECTION 7 from the draft.

The Commission voted 13-0 to recommend PD 3123 (minus SECTION 7) to the General Assembly.

A vote to recommend SECTION 7 failed 5-6 by a show of hands.

PD 3188 and PD 3200

Preliminary drafts 3188 and 3200 were presented as alternative approaches to providing relief to creditors who are barred from submitting claims more than nine months after a decedent's death by IC 29-1-14-1(d). Ms. Fruehwald urged the Commission not to approve either of the drafts and explained why she felt that the current statute is good public policy. The Commission rejected both drafts with no affirmative votes being heard.

PD 3190

Preliminary draft 3190 contains various estate planning and estate administration provisions. The Commission voted to recommend the draft to the General Assembly.

PD 3120 and PD 3212

Preliminary drafts 3120 and 3212 seek to mitigate the impact of the Uniform Prudent Investor Rule on trustees who administer trusts that hold life insurance policies. Preliminary draft 3120 is based on SB 505-2009 and was discussed at the October 7 meeting. Mr. Hooten explained the ways in which the two drafts are different. Many members of the Commission raised concerns about the proposed policy changes in the drafts. Neither draft was presented to the Commission for a vote.

PD 3124

Preliminary Draft 3124 authorizes asset protection trusts in Indiana. Sen. Zakas announced that he would not conduct a vote on the draft. The Commission discussed the asset protection trust concept with Mr. Jeff Kolb.

PD 3214

Preliminary Draft 3214 addresses several trust issues. A little more than one-half of the draft was presented at the October 7 meeting in PD 3129. Mr. Hooten described the differences between the two drafts. Mr. Kolb explained the rationale for adding the various provisions to the Trust Code. The Commission voted to recommend the draft to the General Assembly.

Sen. Zakas adjourned the meeting at 12:00 p.m.