

# BYLAWS OF THE PROBATE, ESTATE PLANNING AND TRUSTS SECTION OF THE SOUTH CAROLINA BAR

## ARTICLE I

### Name and Purpose

**Section 1.** This Section shall be known as the Probate, Estate Planning and Trusts Section of the South Carolina Bar.

**Section 2.** The purpose of this Section shall be to promote the objects of the South Carolina Bar within the particular fields designated by the name of the Section and, to that end, to further the development of the law of probate, estate planning and trusts; to stimulate and extend the study of these fields of the law; to cooperate in obtaining uniformity with respect to both legislation and administration in all matters concerning probate, estate planning and trusts, and to simplify and improve the application of justice in these fields of law.

## ARTICLE II

### Membership

**Section 1.** Each member of the Section shall pay to the South Carolina Bar annual Section dues of \$15.00. The Council, at any regular meeting, may change the annual Section dues to the extent determined necessary provided that any such change in Section dues, after approval by the Board of Governors or the House of Delegates of the South Carolina Bar, shall be published in as early an issue of the South Carolina Bar News as shall be practicable. Any member of the South Carolina Bar upon request and upon payment of dues for the current year shall be enrolled as a member of this Section. Thereafter, said dues shall be paid in advance each year, beginning on the January 1st next succeeding each enrollment. Any member of this Section whose annual dues shall be more than six (6) months past due shall thereupon cease to be a member of this Section. Members so enrolled and whose dues are so paid shall constitute the membership of this Section. Anyone becoming a new member after November 1st of any year shall, upon payment of one full year's dues, be credited as paid through December 31st of the following year.

**Section 2.** Voting privileges of the floor at any meeting of the Section shall be limited to Section members in good standing as of thirty (30) days prior to the opening day of that meeting, as determined by the official membership list, as certified to the Section Secretary, by the Executive Director, such official list to be open for inspection at any meeting for which it is certified.

## ARTICLE III

### Officers and Council

**Section 1.** The officers of this Section shall be a Chair, a Chair-Elect, a Vice-Chair and a Secretary.

**Section 2.** There shall be a Council, the membership of which shall consist of the Chair, Chairman-Elect, Vice-Chair, Secretary, the Immediate Past Chair, and the Section Delegate, together with six (6) "general members" to be elected by the Section as hereinafter provided.

**Section 3.** The Chair-Elect, Vice-Chair, and Secretary shall be nominated and elected, in manner hereinafter provided, at each annual meeting of this Section, to hold office for the term beginning at the close of the fiscal year in which they shall have been elected, and ending at the close of the next fiscal year, and until their successors shall have been elected and qualified. The Secretary shall hold office for not more than four (4) successive one-year terms.

**Section 4.** Each year two general members of the Council shall be nominated and elected as herein provided at each annual meeting for terms of office to begin at the close of the fiscal year in which they were elected and to continue for three years.

**Section 5.** Any vacancy existing in general membership on the Council shall be filled by the Council until the next annual meeting at which time the membership shall elect a replacement member. Such replacement member shall serve only to the end of the term to which his or her predecessor was elected.

**Section 6.** No person shall be eligible for election as a general member of the Council if (s)he is then a member of the Council and has been a member continuously for a period of two years or more.

**Section 7.** If any elected member of the Council shall fail to attend three successive meetings of the Council, and such failure has not been excused for cause by the Chair or the majority vote of the Council the Chair shall by letter to all Council members declare such member to have automatically resigned and (s)he shall be replaced for his or her unexpired term as provided in Section 5 of this Article.

**Section 8.** The Chair-Elect and the other officers duly elected shall not assume such elected offices until the beginning of the next fiscal year of the Council, at which point the Immediately Retiring Chair shall become the Immediate Past Chair and remain a member of the Council for the ensuing fiscal year, and the person serving as the Immediate Past Chair shall serve as the Section Delegate pursuant to Section 3 of Article IV.

## ARTICLE IV

### Nomination and Election

**Section 1.** RESERVED.

**Section 2.** Not later than November 15th of each year, the Council shall meet and nominate such Officers, Council Members, and Section Delegates as are scheduled to be elected by the members at the next Annual Meeting. The nominations proposed shall be by the concurring vote of not less than a majority of the members of the Council, and shall be published not later than the December issue of The South Carolina Bar News, or otherwise mailed to the membership in December and shall be notice to the membership of the Section of such nomination.

**Section 3.** The Immediate Past Chair shall, during the year after serving as Immediate Past Chair, serve as Section Delegate for a one (1) year term. In the event that the Immediate Past Chair is unable or unwilling to serve as Section Delegate, such position shall be filled pursuant to Section 2 of this Article or pursuant to Section 5 of Article VI.

**Section 4.** No later than January 15th preceding the Annual Meeting not less than ten (10) members of the Section in good standing may file by registered mail with the Chair of the Section a nominating petition, which may be in parts duly signed, with the signatures and printed names and addresses, making nominations for one or more of the offices of Chair-Elect, Vice-Chair, Secretary, such Council members as are due to be elected and the Section Delegate if the Immediate Past Chair is not able to serve pursuant to Section 3 of this Article. All such petitions shall be accompanied with the written consent of any person so nominated. Nominations shall be considered closed on January 16th of each year.

**Section 5.** All contested elections shall be by written ballot unless otherwise ordered by resolution duly adopted by the Section at the annual meeting at which the election is held. Should there be more than two nominations for any one office, that candidate receiving the highest vote shall be declared elected. If two candidates receive an equal number of the votes cast, the Council in office at the time of the election shall, by majority vote, declare the winner.

## ARTICLE V

### **Duties of Officers**

**Section 1. Chair.** The Chair shall be the chief executive officer of the Section during the term of office. In carrying out administrative duties, the Chair shall make all such appointments to the general committees and be possessed of such authority as is customarily associated with such office. The Chair shall perform such other duties and acts as usually pertain to the office.

The Chair, or successively the Chair-Elect, or Vice-Chair, in the absence of the Chair, shall preside at all meetings of the Section and of the Council. He/She shall report at the business meeting of the Section at the Annual Meeting an analysis of the state of the Section together with a message concerning the work of the Section.

**Section 2. Chair-Elect.** The Chair-Elect shall perform such duties as assigned by the Chair and shall succeed the Chair upon the end of the Chair's term.

**Section 3. Vice-Chair.** The Vice-Chair shall perform such duties as assigned by the Chair and shall succeed to the position of Chair-Elect upon the end of the Chair-Elect's term.

**Section 4. Secretary.** The Secretary shall be the custodian of all books, papers, documents, and other property of the Section except money and shall keep a true record of the proceedings of all meetings of the Section and of the Council, whether assembled or acting under submission. With the Chair, the Secretary shall prepare a summary or digest of the proceedings of the Section at its annual meeting. The Secretary, in conjunction with the Chair, as authorized by the Council, shall attend generally to the business of the Section and shall keep an accurate record of all monies appropriated to and expended for the use of the Section. The Secretary shall perform such further duties as assigned by the Chair and shall succeed to the position of Vice-Chair upon the end of the Vice-Chair's term.

A vacancy in the office of Secretary due to his or her death, resignation, or during the disability of the Secretary, or upon his or her refusal to act, shall be an interim vacancy which shall be filled pursuant to Section 5 of Article VI.

**Section 5. Succession.** As provided in Sections 2 through 4 of this Article V, the Chair-Elect, Vice-Chair and Secretary shall succeed to officer positions as described therein. Upon the death, resignation, or during the disability of the Chair, the Chair-Elect or the Vice-Chair, or upon his or her refusal to act, the officer slated to assume the open position shall so succeed. In the event that due to the death, resignation, or during the disability of the Chair, the Chair-Elect, or the Vice-Chair, or due to his or her refusal to act, an officer slated to succeed to an open officer position declines the succession as provided in Sections 2 through 4, such vacancy shall be an interim vacancy. Interim vacancies in the office of Chair, the Chair-Elect and the Vice-Chair shall be filled pursuant to Section 5 of Article VI.

**Section 5 6.** The Council may authorize such committees as it deems necessary or desirable to carry out the activities and work of the Section, and may terminate any of such committees as circumstances warrant, and may appoint such special committees as herein provided.

## ARTICLE VI

### **Duties and Powers of the Council**

**Section 1.** The Council shall have the general supervision and control of the affairs of the Section, subject to the provisions of the Constitution and Bylaws of the South Carolina Bar and the Bylaws of this Section. It shall authorize the expenditure of all monies appropriated for the use or benefit of the Section. It shall not, however, authorize commitments or contracts which shall entail the payment of or expend any money during any fiscal year which shall exceed the estimated receipts from dues, sales of the Section publications, and appropriations of the Section for such fiscal year; provided, however, that the balance of the reserve fund credited to the Section shall be available for use by Council action.

**Section 2.** A majority of the Council shall constitute a quorum for the transaction of all business.

**Section 3.** The Council may authorize the Chair to appoint committees from Section members to perform such duties and exercise such powers as the Council may direct, subject to the limitations of these Bylaws and the Constitution and Bylaws of the South Carolina Bar.

**Section 4.** Any action required or permitted to be taken at any meeting of the Council may be taken without a meeting if, prior to such action, a written consent or consents thereto have been filed with the Chair and signed by a majority of the members of the Council and such consent or consents are filed by the Secretary with the proceedings of the Council.

**Section 5.** The Council shall fill interim vacancies in the office of the Chair, the Chair-Elect, the Vice-Chair, the Secretary and the Section Delegate from among its own members.

**Section 6.** The Council shall have complete authority to act on behalf of and to bind the Section on any and all matters arising between the annual meetings of the Section.

**Section 7.** The Council shall fill interim vacancies of the general members from among members of the Section in accordance with Section 5 of Article III.

## ARTICLE VII

### **Meetings**

**Section 1.** The annual meeting of the Section shall be held during the Annual Meeting of the South Carolina Bar in the same city or place as such Annual Meeting of the South Carolina Bar, with such program and order of business as may be arranged by the Council not inconsistent, or in conflict, with any program or directive of the South Carolina Bar.

**Section 2.** Special meetings of the Section may be called by the Chair, upon approval of the Council, at such time and place as the Council may determine.

**Section 3.** The members of the Section present at any meeting shall constitute a quorum for the transaction of business.

**Section 4.** All binding actions of the Section shall be by a majority vote of the members present.

## ARTICLE VIII

## Miscellaneous Provisions

**Section 1.** The fiscal year of the Section shall be the same as that of the South Carolina Bar.

**Section 2.** All bills incurred by the Section before being forwarded to the Executive Director of the South Carolina Bar for payment, shall be approved by the Council or its designated representative.

**Section 3.** Any action by this Section pertaining to legislation, or South Carolina Bar policy, or public policy, must be approved by the Board of Governors of the South Carolina Bar before the same becomes effective as the action of the South Carolina Bar. Any resolution adopted or action taken by this Section may on request of the Section be reported by the Chair of the Section to the Annual Meeting of the South Carolina Bar for the Bar's action thereon.

**Section 4.** No person, except an invited speaker, shall speak in any meeting of the Section.

## ARTICLE IX

### Amendments

These Bylaws may be amended at any annual meeting of the Section by a majority vote of the members of the Section present and voting, provided such proposed amendment shall not be inconsistent with the Constitution and Bylaws of the South Carolina Bar. Such amendment, however, will not become effective until it has been approved and ratified by the House of Delegates of the South Carolina Bar.