

MINUTES
DSBA ESTATES AND TRUSTS SECTION
March 23, 2006

In accordance with notice duly given, a special meeting of the Estates and Trusts Section of the Delaware State Bar Association was held at the offices of Morris, Nichols, Arsht & Tunnell, 17th Floor, 1201 North Market Street, Wilmington, Delaware, 19801, on Thursday, March 23, 2006 commencing at 3:30 p.m.

In attendance were: F. Peter Conaty, Jr., Anne L. Stallman, David Garrett, Todd A. Flubacher, Richard J.A. Popper, Beverly Wik, Michael Stein, Thomas Sweeney, Colleen E. Pulkrabek (by invitation), Michael Houghton (by invitation), Norris Wright, Joanna Reiver and Eric Anderson (by invitation).

F. Peter Conaty, Jr., Chair, called the meeting to order.

1. Minutes. The minutes of the March 7, 2006 meeting were unanimously approved.
2. Legislation and Rule Committees.

a. Lapsed Distribution – Report of Committee. Peter Conaty reviewed draft legislation that provides that if under a Will a residuary distribution lapses and such lapsed share is not governed by the current anti-lapse statute, the lapsed share would augment the other residuary shares. Current case law provides that if a residuary share under a Will lapses, such lapsed share passes by intestacy. The modern approach is for the lapsed share to augment the other residuary shares. This statute would be applicable in those estates where the current anti-lapse statute did not apply. A discussion ensued around the numbering of the section and it was decided that current 12 *Del. C.* § 2313 would be renumbered 12 *Del. C.* § 2313A and the proposed legislation would be numbered 12 *Del. C.* § 2313B. A motion was made, which was duly seconded and unanimously approved, to present the proposed legislation at the next Section meeting on April 4, 2006.

b. Uniform Disclaimers of Property Interests Act Committee – Report of Committee. Before the Committee presented the draft legislation, Mike Houghton, one of the five Delaware Uniform Law commissioners, thanked the Committee for its hard work on the legislation. The Committee asked for questions and comments concerning the proposed legislation which was circulated to the Section members prior to the meeting. A discussion ensued about various provisions of the proposed legislation. It was decided that a blacklined version of the draft legislation with the changes would be distributed before the next Section meeting. Richard Popper supports a discussion at the next Section meeting on proposed § 614(c) and whether this section should be included as it may be inconsistent with asset protection legislation. A motion was made, which was duly seconded and unanimously approved, to present the finalized version of this proposed legislation at the next Section meeting on April 4, 2006.

There being no further business, the meeting was adjourned at 4:50 p.m.

Respectfully submitted,

Anne L. Stallman, Secretary