



# UTAH STATE SENATE

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February 15, 1999

Mr. President:

The Revenue and Taxation Committee reports a favorable recommendation on **S.B. 55, UNIFORM PROBATE CODE AMENDMENTS**, by Senator J. Valentine, with the following amendments and recommends it be considered read for the second time and placed on the Consent Calendar.

1. Page 1, Line 8: At the beginning of line 8 insert:  
"CLARIFYING TYPES OF PROCEEDINGS;"
2. Page 1, Line 11: After line 11 insert:  
"**75-1-403**, as last amended by Chapter 30, Laws of Utah 1992"
3. Page 7, Line 189: After line 189 insert:  
  
"Section 2. Section **75-1-403** is amended to read:  
**75-1-403. Pleadings -- When parties bound by others -- Notice.**  
In formal proceedings involving intervivos or testamentary trusts or estates of decedents, minors, protected persons, or incapacitated persons, and in judicially supervised settlements, the following apply:  
(1) Interests to be affected shall be described in pleadings which give reasonable information to owners by name or class, by reference to the instrument creating the interests, or in other appropriate manner.  
(2) Persons are bound by orders binding others in the following cases:  
(a) Orders binding the sole holder or all co-holders of a power of revocation or a presently-exercisable general power of appointment, including one in the form of a power of amendment, bind other persons to the extent their interests (as objects, takers in default, or otherwise) are subject to the power.  
(b) To the extent there is no conflict of interest between them or among persons represented, orders binding a conservator bind the person whose estate he controls; orders binding a guardian bind the ward if no conservator of his estate has been appointed; orders binding a trustee bind beneficiaries of the

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trust in proceedings to probate a will establishing or adding to a trust, to review the acts or accounts of a prior fiduciary and in proceedings involving creditors or other third parties; and orders binding a personal representative bind persons interested in the undistributed assets of a decedent's estate in actions or proceedings by or against the estate. If there is no conflict of interest and no conservator or guardian has been appointed, a parent may represent his minor child.

(c) An unborn or unascertained person who is not otherwise represented is bound by an order to the extent his interest is adequately represented by another party having a substantially identical interest in the proceeding.

(3) Notice is required as follows:

(a) Notice as prescribed by Section 75-1-401 shall be given to every interested person or to one who can bind an interested person as described in Subsection (2)(a) or (2)(b). Notice may be given both to a person and to another who may bind him.

(b) Notice is given to unborn or unascertained persons, who are not represented under Subsection (2)(a) or (2)(b), by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons.

(4) At any point in a proceeding, a court may appoint a guardian ad litem to represent the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest otherwise would be inadequate. If not precluded by conflict of interests, a guardian ad litem may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem as a part of the record of the proceeding."

**Renumber remaining sections accordingly**

Respectfully,

John L. Valentine  
Committee Chair