
LEGISLATIVE UPDATE

As the Legislature continues to consider legislation and regulations that will directly impact the fiduciary profession, PFAC's leadership and legislative committee continue to be engaged and to lobby on PFAC's behalf. The following information is intended to be an update to the discussion on key legislative issues that was included as part of PFAC's May 7th Membership Meeting.

The 2021 – 2021 legislative session is still underway and the Legislature has not concluded its business as it relates to measures that were introduced this session. Those measures that have passed the house from which the measure originated (assembly or senate) are now proceeding to the policy committees in the second house for consideration prior to a July 14 deadline. This will be followed by an August 27 deadline to pass the fiscal committees, a September 10 deadline to pass the legislature, and an October 10 deadline for the Governor's potential veto or signature. During this process there is opportunity for PFAC to have continuing dialogue with legislators as well as an opportunity for public comment.

Right now, PFAC's lobbying efforts are focused on the Fiduciary Bureau (re: client notification regulations), AB 465's author (Assembly Member Nazarian); AB 1062's author (Assembly Member Mathis), AB 1194's author (Assembly Member Low), Senate and Assembly Committee members and staff in the State Capitol, the Executive Committee of the Trust and Estates Section of the State Bar (TEXOM) and the Judicial Council Probate Advisory Committee. Jerry Desmond's efforts, along with those of PFAC's Legislative Committee, include negotiations, testimony and other efforts.

An important PFAC advocacy tool is the direct, grassroots engagement of PFAC members with their elected representatives on specific issues. As this may be a year that we will need to call the PFAC membership into action, be forewarned that, when the circumstances are appropriate, and at the time we believe it will be most effective, we plan to call our members to action.

In the interim, the following is an overview of the proposed legislation that PFAC has targeted:

- 1. Additions to Title 16 of the California Code of Regulations proposed by the Fiduciary Bureau** which would require licensed fiduciaries to give notice that the licensee is licensed by the Bureau at the inception of a matter and as part of any and all communications with "interested persons". As currently drafted, the Bureau has defined "interested persons" quite broadly to include not only interested persons as defined by the probate code, any person who is interested in a fiduciary's performance in a particular matter. For purposes of potential inspection by the Bureau, licensed Fiduciaries would be required to maintain copies of or maintain a record of any and all notices given in compliance with this requirement
- 2. AB 1062 (Mathis) which would (a) amend Probate Code Section 2465** to require a guardian or conservator to give 15-days written notice of their intention to dispose of or abandon valueless property and allows those who receive such notice to file a petition with the court to resolve any dispute concerning such property; and would (b) **add Section 2465.5 to the Probate Code** which would require that where a guardian or conservator become successor trustee of the minor's or conservatee's trust, such trust would be under the continuing jurisdiction and supervision of the court.
- 3. AB 465 (Nazarian) which would amend Section 64538 of the Business and Professions Code** (fiduciary act) to (a) require that pre-licensing education include one-hour of

instruction in cultural competency; and (b) as part of continuing education requirements, would require licensees to complete one-hour of instruction in cultural competency each year.

4. **AB 1194 (Low) proposes a number of changes to the Business and Professions Code (fiduciary act) as well as the Probate Code.** The proposed changes which relate to Professional Fiduciaries include: (a) requirement to post fee schedules for any service offered on any website/internet presence; (b) fiduciary license to be immediately revoked in the instance of the court finding that the fiduciary has either abused or breached a fiduciary duty to a ward or conservatee; (c) court to impose a fine of \$5,000 against a licensed fiduciary who has been found to have abused (elder/child abuse) a ward or conservatee (payable to the ward or conservatee's estate); (d) court to deny fees and costs to a guardian/conservator incurred in connection with defending a fee request if the court either reduces or denies the requested fees.

Please feel free to send any questions to PFACAdmin@pfac-pro.org. Watch your email for updates as we receive them.

PFAC Legislative Committee *with support from*
Jerry Desmond, Esq., Desmond Lobby Firm