

## **American Bar Association**

### **Section of Real Property, Trust and Estate Law**

#### **AMENDED AND RESTATED BYLAWS**

##### **ARTICLE 1. NAME AND MISSION**

§ 1.1 NAME. This Section shall be known as the Section of Real Property, Trust and Estate Law of the American Bar Association (the Section) and shall consist of two divisions, the Real Property Division and the Trust and Estate Division.

§ 1.2 MISSION. The mission of the Section is to improve the law, to enhance the skills of lawyers, and to address the needs of the profession and the public within the areas of practice served by the Section. Goals for the Section may be adopted by its Council.

§ 1.3 REAL PROPERTY DIVISION. The Real Property Division shall relate the mission and goals of the Section to the law concerning the ownership, use, development, transfer, regulation, financing, taxation and disposition of real estate and all interests therein, and such other matters as the Real Property subcouncil may consider appropriate.

§ 1.4 TRUST AND ESTATE DIVISION. The Trust and Estate Division shall relate the mission and goals of the Section to the law concerning the ownership, devolution, disposition, taxation and distribution of property and estates of decedents, persons under disability and missing persons, methods, procedures, and problems relating to the creation, administration, accounting, modification, reformation, revocation, and termination of trusts and the distribution thereof, drafting of wills, trusts, and other documents; estate and tax planning; employee benefits; life insurance; financial planning; problems of taxation in connection with any of the foregoing; and such other matters as the Trust and Estate subcouncil may consider appropriate.

##### **ARTICLE 2. MEMBERSHIP AND DUES**

§ 2.1 ENROLLMENT. Any member in good standing of the American Bar Association (the "Association") may be enrolled as a member of the Section on payment of Section dues for the current fiscal year.

§ 2.2 DUES. Each member of the Section shall at the time of enrollment pay the annual dues at the applicable rate for that member for the fiscal year during which the member is enrolled. Thereafter annual dues shall be paid in advance each year beginning on the September first next succeeding enrollment.

§ 2.3 MEMBERSHIP AND TERMINATION. Members of the Association who are enrolled in the Section and whose Section dues are not delinquent shall constitute the membership of the Section. A person whose dues are delinquent by a period set by the Board of Governors shall cease to be a member of the section.

§ 2.4 DUES. The Council may establish alternative dues and fee structures and classes

of membership.

§ 2.5 LAW STUDENT MEMBERS.

(a) Any member of the Law Student Division of the Association may become a law student member of the Section on written application and payment of annual dues.

(b) Law student members shall be entitled to receive all publications that the Section distributes generally to its members and may attend all meetings of members of the Section, but shall not have the right to vote.

~~§ 2.6~~ § 2.6 INTERNATIONAL LAWYER ASSOCIATE MEMBERS.

(a) Any individual who is an associate of the Association, and whose primary admission to the practice of law is from a jurisdiction outside a state, territory or possession of the United States (and who practices primarily outside a state, territory, or possession of the United States), may become an international lawyer associate member of the Section on written application and payment of annual dues.

(b) No international lawyer associate members may be nominated for, nor serve, in any of the positions enumerated in Sections 4.1, 4.2, and 4.7, but they shall otherwise be entitled to receive all the other benefits, rights, and obligations that are available to Section members, including, without limitation, being nominated for and serving as one of the twenty-four members of the Council elected by Section membership.

§ 2.7 ASSOCIATES.

(a) Any individual who is an associate of the Association may become an associate of the Section on written application and payment of annual dues.

(b) Associates shall be entitled to receive all publications that the Section distributes generally to its members and may attend all meetings of members of the Section, but shall not have the right to vote.

**ARTICLE 3. SECTION MEETINGS**

§ 3.1 ANNUAL MEETING. The annual meeting of the Section shall be held in conjunction with the annual meeting of the Association, at specific times and places to be designated by the Executive Committee or such other time and place as designated by the Council.

§ 3.2 SPECIAL MEETINGS. Special meetings of the Section may be called by the Chair on approval of the Council, at a time and place determined by the Council. Alternatively, upon the written call of at least twelve voting members of the Council, and either the Chair or Vice-Chair, or upon the written call of the Executive Committee, upon twenty days advance notice, a special meeting of the Section may be called at the time and place as designated in the notice of meeting.

§ 3.3 QUORUM. The members of the Section present at any meeting of the membership shall constitute a quorum for the transaction of any business.

§ 3.4 VOTE. Binding action of the Section shall be taken by a majority vote of the members present.

§ 3.5 PARLIAMENTARY AUTHORITY. The most current edition of *Robert's Rules of Order* shall be the parliamentary authority to govern meetings of the Section in situations not covered by these Bylaws, unless a particular meeting of the Section otherwise directs.

**ARTICLE 4. OFFICERS, ASSISTANT SECRETARIES, ASSISTANT FINANCE AND CORPORATE SPONSORSHIP OFFICER, DELEGATES**

§ 4.1 OFFICERS. The officers of the Section shall be the Chair, the Chair-Elect, the Vice-Chair from the Real Property Division, the Vice-Chair from the Trust and Estate Division, the Finance and Corporate Sponsorship Officer, and the Secretary.

§ 4.2 ASSISTANT SECRETARIES AND ASSISTANT FINANCE AND CORPORATE SPONSORSHIP OFFICER. There shall be an Assistant Secretary for each of the two divisions of the Section. During the last Section fiscal year that a person is expected to serve as the Finance and Corporate Sponsorship Officer, there shall be an Assistant Finance and Corporate Sponsorship Officer.

§ 4.3 CHAIR. The Chair shall:

- (a) preside at all meetings of the Section and of the Council;
- (b) act as chief executive officer of the Section and its official spokesperson, personally or by a designee, consistent with Association and Section policies;
- (c) make appointments as authorized by resolution of the Council or the Bylaws;
- (d) have general authority and overall responsibility for administration of Section activities, programs and products, consistent with Association and Section policies;
- (e) serve as an ex-officio member of all standing and special committees of the Section, except the Nominations Committee; and
- (f) perform such other duties and acts as usually pertain to the office of Chair or as are assigned to the Chair by the Council.

§ 4.4 CHAIR-ELECT. The Chair-Elect shall:

- (a) aid the Section Chair in the performance of the Chair's responsibilities as the Chair requests;
- (b) make appointments as authorized by resolution of the Council or the Bylaws,=

(c) on the adjournment of the ABA annual meeting in the year after the Chair-Elect is elected, become Chair of the Section to serve until the adjournment of the next succeeding ABA annual meeting and until a successor takes office, and shall not thereafter be eligible for the office of Chair;

(d) serve as an ex-officio member of all standing and special committees of the Section, except the Nominations Committee; and

(e) perform such other duties as usually pertain to the office of Chair-Elect or as are assigned to the Chair-Elect by the Chair or the Council.

During the disability of the Chair, as determined by the Executive Committee, the Chair-Elect shall perform the duties of the Chair for the period of the disability. If the office of Chair shall become vacant, the Chair-Elect shall become Chair of the Section for the unexpired term. Such service shall not affect the Chair-Elect's becoming or continuing as Chair of the Section at the close of the next succeeding ABA annual meeting.

#### § 4.5 VICE-CHAIRS.

(a) Each of the Vice-Chairs of the Section shall preside at meetings of their respective subcouncils, shall be responsible for the work of their respective divisions and shall perform other duties as are assigned to either or both of them by the Council or the Chair.

(b) As requested by the Chair-Elect, each Vice-Chair and nominee for Vice-Chair shall submit to the Chair-Elect a list of suggested division Groups and committees deemed desirable and a list of division Groups and committees recommended for elimination or consolidation, and the names of chairs and vice-chairs recommended as appointees to the suggested Groups and committees to serve during the Chair-Elect's regular term as Section Chair, and, during the term of the Chair, submit to the Chair, names of additional division Group and committee chairs and committee vice-chairs to fill vacancies.

§ 4.6 FINANCE AND CORPORATE SPONSORSHIP OFFICER. The Finance and Corporate Sponsorship Officer shall act as the controller of the Section's finances, and shall:

(a) require that there be consistently maintained an accurate record of all the monies appropriated to, otherwise received by, or expended for the Section;

(b) monitor and ascertain the accuracy of all accounts, reports and other documents related to Section funds, revenues, and expenditures;

(c) approve extraordinary vouchers and administer the policies on reimbursement of necessary expenses incurred by officers and members, as established by the budget approved by the Council and according to policies approved by the Council;

(d) report on the Section's present and projected financial condition at each meeting of the Council;

(e) advise the officers and Council on the financial impact of any proposed action by

the officers, Council or Section which, in the judgment of the Finance and Corporate Sponsorship Officer, may have a significant effect on the financial condition of the Section;

(f) at least once each year, prepare and submit a proposed budget to the Council for approval or modification at the Section's annual meeting, or such special meeting called for the purpose of considering the budget, together with a report on the Section's financial condition; and

(g) prepare other recommendations and special reports on financial affairs of the Section as requested by the Council or the Chair.

§ 4.7 SECTION DELEGATES. Each Section Delegate shall:

(a) attend all meetings of the House of Delegates of the Association;

(b) give notice to the Section Chair of inability to attend any meeting of the House of Delegates, in which case the Section Chair shall (with the advice of the Executive Committee), appoint an alternate delegate to represent the Section at the meeting of the House of Delegates;

(c) provide timely reports to the Council on all matters to come before the House of Delegates which, in the judgment of the Section Delegate, are of interest or concern to the Section;

(d) if not instructed by the Council, vote in accordance with the Section Delegate's independent judgment; and

(e) after each meeting of the House, make a timely report to the officers, and to the Council at its next meeting on the votes taken on matters of importance to the Section.

When the position is allocated to the Section by the Association, a Section Delegate, who is elected by the Council for such position, shall serve as a Section member-at-large to the Board of Governors or a Section Delegate to the Nominating Committee of the House of Delegates, and shall hold office for the time provided. Upon election to the position of Section member-at-large to the Board of Governors, such person shall be held to have resigned the position of Section Delegate.

§ 4.8 SECRETARY. The Secretary shall:

(a) keep a written record of all business meetings of the Section, the Council and the Executive Committee, but shall have no responsibility to keep a written record of Divisional or Standing Committees;

(b) maintain the Section minutes ; provided that the Secretary may delegate this to Section staff;

(c) prepare amendments to the Section's Bylaws; and

(d) perform other duties as are assigned to the Secretary by the Chair or the Council.

§ 4.9 ASSISTANT SECRETARIES. Each Assistant Secretary shall:

(a) keep a record of the meetings of the subcouncil of the Assistant Secretary's division;

(b) maintain the minutes of such subcouncil; provided that the Assistant Secretary may delegate this to Section staff; and

(c) perform other duties as are assigned by the Chair, the Council, or the Vice-Chair of the Assistant Secretary's division.

§ 4.10 ASSISTANT FINANCE AND CORPORATE SPONSORSHIP OFFICER. The Assistant Finance and Corporate Sponsorship Officer shall perform such duties as are assigned by the Finance and Corporate Sponsorship Officer.

§ 4.11 TERMS OF SERVICE.

(a) The Chair-Elect, the Vice-Chairs, the Finance and Corporate Sponsorship Officer, the Secretary, each Assistant Secretary and the Assistant Finance and Corporate Sponsorship Officer, if applicable, shall be nominated as provided in these Bylaws and elected at each annual meeting of the Section, each to hold office for the term beginning at the close of the ABA annual meeting in the year they are elected and ending at the close of the next succeeding ABA annual meeting or when a successor is elected.

(b) Each Section Delegate to the House of Delegates shall be nominated and elected at the annual meeting of the Section for a term of three years beginning at the close of the ABA annual meeting in the year elected and ending at the close of the third succeeding ABA annual meeting or when a successor is elected.

(c) Each Assistant Secretary shall hold office for the term beginning at the close of the ABA annual meeting in the year he or she is nominated and ending at the close of the next succeeding ABA annual meeting or when a successor is nominated.

(d) The Assistant Finance and Corporate Sponsorship Officer shall hold office for the term beginning at the close of the ABA annual meeting in the year he or she is nominated and ending at the close of the next succeeding ABA annual meeting.

§ 4.12 LIMITATIONS ON YEARS OF SERVICE. No officer, Assistant Secretary, Assistant Finance and Corporate Sponsorship Officer or Delegate shall serve in that office for an aggregate period longer than indicated below:

Secretary	4 years
Vice-Chairs	3 years
Finance and Corporate Sponsorship Officer	4 years
Section Delegate	9 years
Assistant Secretary	4 years

Assistant Finance and Corporate  
Sponsorship Officer

1 year

For purposes of the limitations on years of service, years served to fill an unexpired term shall not be taken into account.

§ 4.13 REMOVAL. Upon the affirmative vote of two-thirds of the Council members, at a regular Council meeting or a special Council meeting called in accordance with §5.7 for that purpose, any officer or other person serving under this Article 4 may be removed with good cause; provided, however, any person proposed to be removed shall receive at least twenty days advance notice of any proposal to remove him or her and shall have the opportunity for a hearing before the Section Council regarding his or her removal.

## ARTICLE 5. COUNCIL.

### § 5.1 GENERAL POWERS AND FUNCTIONS.

(a) In addition to the powers and duties given elsewhere in these Bylaws, the Council shall have general supervision and control of the affairs of the Section, subject to the provisions of the Constitution and Bylaws of the Association and these Bylaws. The Council shall have full authority to act for the Section.

(b) The Council shall adopt a budget annually prior to the commencement of the Association's fiscal year.

(c) The Council shall not authorize commitments, contracts or expenditures which in their aggregate exceed the revenue reasonably projected for the Section for the fiscal year, except that it may authorize expenditure of any reserve funds of the Section as it shall deem advisable.

(d) The Council may authorize the Chair to make commitments or expend money and to appoint special committees, task forces and other groups of Section members to perform such duties and exercise such powers as the Council directs, subject to the provisions of these Bylaws and the Constitution and Bylaws of the Association.

(e) The Council is authorized to establish the committees, functional groups, or organizational structures it considers necessary to assist in accomplishing the goals of the Section.

### § 5.2 COMPOSITION.

(a) The Council shall be composed of:

(i) the officers of the Section (Chair, Chair-Elect, Real Property Division Vice-Chair, Trust and Estate Division Vice-Chair, Finance and Corporate Sponsorship Officer, Secretary);

(ii) the Section Delegates to the House of Delegates;

(iii) the immediate past Chair of the Section;

(iv) two members appointed by the Young Lawyers Division (subject to Council approval);<sup>2</sup> and

(v) twenty-four members elected by the Section membership.

(b) Ex officio members of the Council with full voting rights, and service as such not to count against Council term limits, shall consist of:

(i) the Editor of the *Real Property, Trust and Estate Law Journal*;<sup>2</sup>

(ii) the Editor of *Probate & Property*;<sup>2</sup>

(iii) the Editor of Books and Media;<sup>2</sup>

(iv) the Editor of the *eReport*;<sup>2</sup> and

(v) the two Co-Chairs of the Continuing Legal Education Committee (one from each division).

(c) The following shall attend the meetings of the Council and participate in Council discussions, but shall not be entitled to vote:

(i) Assistant Secretaries;<sup>2</sup>

(ii) if appointed, the Assistant Finance and Corporate Sponsorship Officer;<sup>2</sup>

(iii) an officer or a member of the Board of Governors designated by the Association as liaison with the Section;<sup>2</sup> and

(iv) when allocated to the Section by the Association, the Section member elected to serve as a Section member-at-large to the Board of Governors or a Section Delegate to the Nominating Committee of the House of Delegates.

(d) Past Section Chairs, not members of the Council by election or otherwise, shall be honorary Council members. They shall be given notice of and shall have the right to attend all meetings of the Council and to participate in its discussions but shall not be entitled to vote. They shall be reimbursed for any expenses incurred in attending any meeting on the same basis as other Council members.

### § 5.3 TERMS OF SERVICE<sup>2</sup>

(a) Eight members of the Council, four to represent the Trust and Estate Division and four to represent the Real Property Division, shall be elected at each annual meeting of the Section for terms of three years beginning at the close of the ABA annual meeting in the year they shall have been elected and ending at the close of the third succeeding ABA annual meeting. One or more additional Council members may be elected at that annual meeting of the section to fill unexpired terms otherwise occurring on the Council, which terms shall also begin at the close of the ABA annual meeting in the year at which such Council members are elected. The Council

may elect interim members of the Council to positions occurring because of the resignation or removal of a member of the Council between annual meetings. An interim member shall serve until the next ABA annual meeting following the next report of the Nominations Committee nominating persons to fill the next or unexpired term of the departed member pursuant to Section 5.10 below or until a successor is elected. The term of an interim member shall commence at the end of the meeting of the Council at which the interim member was elected.

(b) The term of the representatives of the Young Lawyers Division shall be for two years each beginning at the close of the annual meeting during which a representative is approved by the Council.

§ 5.4 LIMITATIONS ON YEARS OF SERVICE. No individual shall serve as a Council ~~Member~~member for an aggregate period longer than six years. For purposes of the limitations on years of service, years served either as a liaison to the Council from the Young Lawyers Division or to fill an unexpired term (which will include for this purpose an interim short term arising by reason of a bylaw change) shall not be taken into account.

§ 5.5 EXECUTIVE COMMITTEE. There shall be an Executive Committee to act on behalf of the Council in the intervals between Council meetings, except as otherwise provided in these Bylaws. The Executive Committee shall consist of the Chair, the Chair-Elect, the Vice-Chair from the Real Property Division, the Vice-Chair from the Trust and Estate Division, the Finance and Corporate Sponsorship Officer, the Secretary, the immediate past Chair of the Section, and, except as follows, the Section Delegates to the House of Delegates. If there are more than three Section Delegates, the three most senior Delegates, based on years of service as a Delegate, shall be on the Executive Committee, unless the officers otherwise agree. When appointed, the Assistant Finance and Corporate Sponsorship Officer shall serve as an ex-officio member of the Executive Committee and shall have the right to attend the meetings of the Executive Committee and to participate in its discussion but shall not be entitled to vote. The Executive Committee shall have the authority to act for the Council on all matters except for the following, which shall be reserved for the Council: (i) adoption of the annual budget of the Section; (ii) approval of amendments to these Bylaws; (iii) amending or repealing any resolution of the Council which by its terms may not be so amended or repealed other than by the Council; (iv) establishing dues and classes of membership; and (v) extension of the term of service of any person.

§ 5.6 SUBCOUNCILS. There shall be a subcouncil for each division of the Section. Each subcouncil shall consist of the Vice-Chair for the division, who shall be its chair, the Assistant Secretary for the division, and other Council members elected by the members as representatives of the division. The subcouncils shall meet in conjunction with the meetings of the Council and shall not meet otherwise, unless authorized by Council or the Executive Committee. The subcouncil of each division shall assist the Vice-Chair of such division in administration of the division. The subcouncils shall have no authority to act for the Section.

§ 5.7 MEETINGS. The Council shall meet at least three times each fiscal year. One of the meetings shall be in conjunction with the annual meeting of the Association. The Council shall meet in special session at any other time or place, upon three days advance notice, on the call of the Chair or the Chair-Elect or on the written request of three members of the Council,

which written request may be transmitted to the Chair by electronic means, including, but not limited to, electronic mail (collectively, “electronic means”). The Chair shall give Council members such notice as the Chair shall determine. A special session may meet by conference telephone call if so provided in the notice of such special meeting.

#### § 5.8 VOTING AND QUORUM.

(a) Except as otherwise voted at the meeting, binding action of the Council shall be by a majority vote of the members of the Council present at such meeting. If a Council member is unable to attend a meeting in person due to extenuating circumstances (as determined by the Chair), then, with advance permission of the Chair, a member of the Council may participate in a Council meeting by means of conference telephone or similar communications equipment through which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

(b) A quorum consisting of a majority of the Council members must be present as determined at the beginning of the Council meeting to conduct business.

There shall be neither absentee nor proxy voting.

#### § 5.9 ACTION WITHOUT A MEETING.

(a) The Chair of the Section may, and on the written request of any three members of the Council or upon the vote of a majority of the members of the Executive Committee shall, submit in writing to Council members any proposition on which the Council may be authorized to act. The Council members may vote on the proposition either by written ballot; by electronic means; or by any form of telecommunication confirmed to the Secretary in writing or by electronic means. The Secretary shall in any case record:

- (i) the proposition;
- (ii) the person or persons at whose request the proposition was submitted; and
- (iii) the votes on the matter. Binding action without a meeting shall be by a majority vote of the entire number of the members of Council.

(b) Executive Committee action without a meeting may be taken under the same procedure as provided for the Council in Article 5.9, subsection (a), at the call of the Section Chair or on the written request of any two members of the Executive Committee, which written request may be submitted to the Chair by electronic means. Binding action without a meeting shall be by a majority vote of the entire number of the Executive Committee. The Executive Committee may establish a schedule of periodic meetings to be held by telephone conference call or other electronic means.

§ 5.10 VACANCIES. The Council, during the interim between annual meetings of the Section, may fill vacancies in its own membership, the officers, the Section Delegates, the Assistant Secretaries and the Assistant Finance and Corporate Sponsorship Officer. A person elected to fill any such vacancy shall serve until the close of the next annual meeting of the

Section following the report of the Nominations Committee recommending nominees for the next or unexpired term or until a successor is elected. Any balance of an unexpired term shall be filled by nomination and election at the next annual meeting of the Section as provided in Section 5.3 of these Bylaws and for which the required notice of nominees can be given.

§ 5.11 LIAISONS.

(a) Law Student Division liaisons, nominated by the Law Student Division and approved by the Council, shall each serve for a term of one year, beginning June 1.

(b) The Council may establish liaisons to other Association entities and other organizations and may accept liaisons from other Association entities and other organizations to the Section, on such terms as the Council shall determine.

§ 5.12 REMOVAL. Upon the affirmative vote of two-thirds of the Council members, at a regular Council meeting or special Council meeting called for that purpose, any Council member or other person serving under this Article 5 may be removed with good cause; provided, however, any person proposed to be removed shall receive at least twenty days advance notice of any proposal to remove him or her and shall have the opportunity for a hearing before the Section Council regarding his or her removal.

**ARTICLE 6. NOMINATIONS AND ELECTIONS**

§ 6.1 NOMINATIONS.

(a) The Section shall have a Standing Committee on Nominations, which shall be appointed by the Chair-Elect. The Nominations Committee shall be appointed by the Chair-Elect before the annual meeting at which the Chair-Elect is to take office as Chair.

(b) The Nominations Committee shall consist of five members including a chair who shall be designated by the Chair-Elect. The appointed members shall be appointed for a one-year term, and shall be eligible for not more than one succeeding one-year term. At least two past Chairs of the Section shall be appointed to the Nominations Committee, which are to include, if able to serve, the immediate past Chair and the next to immediate past Chair, and at least one member of the Nominations Committee shall be neither a present nor former officer nor a member of the Section's Council. If a vacancy occurs on the Nominations Committee, the Section Chair shall promptly appoint a replacement. To the extent possible, members selected to serve on the Nominations Committee shall represent a broad spectrum of the membership, and a majority of the members shall be from the division which is to nominate the Chair-Elect. If they are unable to serve, the next to immediate past Chair serves as the chair of the Nominations Committee, and the immediate past Chair serves as the vice chair of the Nominations Committee.

(c) Members of the Nominations Committee shall not be eligible for election to positions as an officer, Council member, Section Delegate, Assistant Secretary or Assistant Finance and Corporate Sponsorship Officer.

(d) It shall be the duty of the Nominations Committee (i) to receive and consider

suggestions for nominations and to nominate a member of the Section for each person to be elected and to serve as an Assistant Secretary or an officer of the Section, a Section Delegate, a Council member and, for the last Section fiscal year that a person is expected to serve as the Finance and Corporate Sponsorship Officer, an Assistant Finance and Corporate Sponsorship Officer; and (ii) to the extent that notice can be given in time for the election, persons to fill vacancies in these positions for unexpired terms commencing at the next annual meeting.

(e) Nominations Committee shall make a diligent effort to consider as candidates for nomination Section members from a broad spectrum of the membership.

(f) On or before September 15 every year, the Nominations Committee shall send to the Section members a written notice soliciting nominations of one or more persons to hold elected office within the Section. Such written notice shall list the names and addresses of each member of the Nominations Committee and shall direct Section members to submit nominations to any member of the Nominations Committee. The Nominations Committee shall send such written notice by any means or combination of means which, in the Nominations Committee's reasonable discretion, is intended to reach the most number of Section members as is reasonably practical. Such means may, but need not, include the following: (i) publication within a Section periodical of general circulation placed in the United States mail by September 25 or (ii) electronic means.

(g) Ninety days prior to the annual meeting of the Section, the Nominations Committee shall send to the Section members a written notice listing the Nominations Committee's nominations for each position to be elected at the next annual Section meeting. Such written notice shall list each nominee's name and address, the office or position to which each person was nominated, and a short biographical statement that briefly lists the prior and current positions in the Section held by each nominee as an officer or other position, or, if the nominee has never held any office or other such position, any duties the nominee has performed on behalf of the Section. The Nominations Committee shall send such written notice by any means or combination of means which, in the Nominations Committee's reasonable discretion, is intended to reach the most number of Section members as is reasonably practical. Such means may, but need not, include the following: (i) publication within a Section periodical of general circulation placed in the United States mail by ninety days prior to the annual meeting of the Section (ii) electronic means.

(h) Nominations other than those by the Nominations Committee may be made for the same offices by petition, provided that a nominee is a member of the Section and that a nomination is made by written petition signed by at least 100 members of the Section, not more than 25 of whom shall be from any one state. The petition must state the name and address of the person nominated, the office or position for which the person is nominated and that the individual nominated has agreed to the nomination. The petition must be received by the Chair of the Section not later than thirty days prior to the next annual meeting of the Section at which the vacancy is to be filled for the office or position for which the nomination is made.

(i) No nominations shall be made at the annual meeting of the Section.

## § 6.2 CAMPAIGNING.

If there is a contested election:

- (a) no candidates shall be personally endorsed by officers of the Section or members of the Nominations Committee;
- (b) Section publications may be used for informational purposes but shall not be used for campaigning;
- (c) no receptions or social events shall be held by or on behalf of a candidate;
- (d) no gifts or favors shall be distributed on behalf of a candidate;
- (e) the Section will provide each candidate, on request, with a set of mailing labels for Section members registered for the annual meeting;
- (f) no campaign materials shall be distributed at the annual meeting; and
- (g) each candidate will be provided an opportunity to speak for five minutes at an appropriate meeting designated by the Chair during the days set for the business of the Section at its annual meeting.

## § 6.3 ELECTION AND VOTING PROCEDURES.

- (a) Elections shall be held at the business meeting of the annual meeting of the Section, and shall be by voice vote unless written ballots are required under subsection (b) below or are otherwise ordered by resolution adopted by the Section at the annual meeting at which the election is held. All voting shall be in person at the annual meeting. There shall be no voting by proxy or absentee ballot.
- (b) All elections shall be held at the annual meeting of the Section. Elections for contested positions shall be by written ballot on a ballot format designating the office or position, as approved by the Chair, resolution of Council or the Executive Committee. Each contested position shall be voted on separately on a ballot approved for the office or position, as designated by the Chair, resolution of Council or the Executive Committee. Election shall be by a majority of votes cast. If a majority vote is not initially obtained, a second vote shall be taken between the two candidates receiving the highest number of votes. Those nominees receiving the highest number of votes shall be elected to the Council or any other position for which a valid written ballot has been received by the Section under Article 6 for positions that are vacant with candidates receiving the higher number of votes filling the longer terms for which a vacancy is being filled.
- (c) The voting place for written ballots shall be at the administrative office of the Section or other place designated by the Chair at the annual meeting of the Section. The voting place shall remain open during the period that the Section's administrative office is open, and the times shall be included in notices of the election before the annual meeting. Members eligible to vote shall be those shown on the roster of the Section as maintained by the Association office certified to have paid their Association and Section dues by sixty days preceding the annual

meeting. A Section member must present his or her annual meeting registration badge to receive a ballot. The Chair shall appoint a Committee of Tellers for the election, which committee shall include one representative of each contested candidate and one other member of the Section. All election results shall be reported to the Chair by the Committee of Tellers.

## **ARTICLE 7. DIVISION GROUPS AND COMMITTEES.**

§ 7.1 APPOINTMENT OF DIVISION GROUP AND COMMITTEE CHAIR LEADERS. The Chair-Elect shall appoint Group and committee chairs and vice-chairs for each division, having requested from each division Vice-Chair and nominee for division Vice-Chair a list of suggested division Groups and committees deemed desirable and a list of division Groups and committees recommended for elimination or consolidation, and the names of Group and committee chairs and vice-chairs recommended as appointees to the suggested Groups and committees to serve during the Chair-Elect's regular term as Section Chair.

### § 7.2 LIMITATIONS ON YEARS OF SERVICE.

#### (a) Chairs.

(i) No individual serving as chair of any division committee shall serve in that position for more than four consecutive years unless further service in such capacity is authorized by a majority vote of the Council.

(ii) No individual serving as a chair of any division group shall serve in that position for more than two consecutive years unless further service in such capacity is authorized by a majority vote of the Council.

#### (b) Vice-Chairs.

(i) No individual serving as a vice-chair of any division committee shall serve in that position for more than four consecutive years unless further service in such capacity is authorized by a majority vote of the Council.

(ii) No individual serving as vice-chair of any division group shall serve in that position for more than two consecutive years unless further service in such capacity is authorized by a majority vote of the Council.

## **ARTICLE 8. PUBLICATIONS.**

§ 8.1 JOURNAL, MAGAZINE AND SECTION ELECTRONIC PERIODICAL. The *Real Property, Trust and Estate Law Journal*, *Probate & Property* and *eReport* shall be published and furnished to the members of the Section. Each publication shall be published pursuant to policies in the form and in the intervals of publication authorized by the Council.

§ 8.2 OTHER PUBLICATIONS AND MEDIA PRODUCTS. The Section may publish other publications and media products as the Council may authorize.

§§ 8.3 EDITORS.

(a) The editors-in-chief, editors and others, as appropriate, of the *Real Property, Trust and Estate Law Journal*, *Probate & Property*, *eReport* and other publications shall each be appointed by the Chair-Elect of the Section to serve during the ensuing year of the Section. Subject to policies as may be established by the Council, the editors-in-chief of such publications shall be responsible for the form and content of their respective publications.

(b) The managing editor of *Probate & Property* and other editors of Section publications may be paid fees or other compensation as may be authorized by the Council. The editors-in-chief and other editors of Section publications, as appropriate, may be reimbursed for expenses as authorized by the Council. The Editor of *Probate & Property*, the Editor of the *Real Property, Trust and Estate Law Journal*, the Editor of the *eReport*, and the Editor of Books and Media serve as ex officio members of the Council with full voting rights and service as such will not count against Council term limits. Other editors and other staff may be invited to attend meetings of the Council and of the Executive Committee at the discretion of the Section Chair.

(c) Editors of any Section publication may serve as such without limitation on years of service.

**ARTICLE 9. STANDING AND SPECIAL COMMITTEES.**

§ 9.1 STANDING COMMITTEES. The Section shall have the following standing committees, and the chairs, vice-chairs and membership shall be appointed by the Chair-Elect to serve during the ensuing year following the next annual meeting or until their successors are appointed: Communications, Community Outreach, Continuing Legal Education, Corporate Sponsorship, Diversity and Inclusion, Groups and Substantive Committees, Membership, Nominations, Planning, Publications, Trust and Estate Division Governmental Submissions, Real Property Division Governmental Submissions, and such other committees and task forces as authorized by Council. To the extent that the Committee serves both divisions of the Section, a co-chair and vice-chair from each division shall be appointed, and the membership shall include a more or less equal number of representatives from each division. Each Council member shall serve on at least one standing committee.

(a) COMMUNICATIONS. The Standing Committee on Communications shall manage and implement the Section's communication strategy to convey the Section's substantive work, benefits, resources and opportunities to the ABA and its membership, Section members, other lawyers in relevant practice areas and the public in accordance with the Committee's operating statement and action plan, shall develop and coordinate the Section's use of existing and new technologies to effectuate the Section's communications strategy and enhance collaboration among Section members and shall perform such other tasks in connection with the Section's communications as are directed, from time to time, by the Chair, the Executive Committee or the Council.

(b) COMMUNITY OUTREACH. The Standing Committee on Community Outreach shall promote the Section's initiatives in pro bono service, recruitment of minority law students to practice in the areas of real property and trusts and estates law, outreach to minority bar

associations and training of minority lawyers and lawyers in small firms and in sole practices in the basics of real property, trust and estate law in accordance with the committee's operating statement and action plan, and it shall perform such other tasks in connection with the Section's community outreach and pro bono service as directed, from time to time, by the Chair, the Executive Committee or the ~~Council~~Council.

(c) CONTINUING LEGAL EDUCATION. The Standing Committee on Continuing Legal Education shall be responsible for implementing the Section's continuing legal education in accordance with the Committee's operating statement and action plan and shall perform such other tasks in connection with the Section's continuing legal education as are directed, from time to time, by the Chair, the Executive Committee or the Council. The chair and vice-chair of each division's subcommittee on continuing legal education shall be a standing member of the Committee.

(d) CORPORATE SPONSORSHIP. The Standing Committee on Corporate Sponsorship shall promote sponsorship for the Section and its programs and activities in accordance with Section and ABA policy and in accordance with the Committee's operating statement and action plan and shall perform such other tasks in connection with the Section's sponsorship goals as are directed, from time to time, by the Chair, the Executive Committee or the Council. The Section Finance and Corporate Sponsorship Officer (and, as applicable, the Associate Finance and Corporate Sponsorship Officer) shall be a standing member of the Committee.

(e) DIVERSITY-~~AND INCLUSION~~AND INCLUSION. The Standing Committee on Diversity and Inclusion shall promote the Section's efforts to meet the ABA and Section goal to enhance diversity and full and equal participation by all within the Section through the implementation of the Section's diversity plan. The Committee shall work with all Section leaders to develop educational resources and best practices to meet these goals in accordance with the Committee's operating statement and action plan and shall perform such other tasks in connection with the Section's diversity goals as are directed, from time to time, by the Chair, the Executive Committee or the Council.

(f) GROUPS AND SUBSTANTIVE COMMITTEES. The Standing Committee on Groups and Substantive Committees shall provide coordination, monitoring and advice on the administrative operation of the Section's groups and substantive committees in accordance with Section policies, procedures and initiatives and in accordance with the Committee's operating statement and action plan and shall perform such other tasks in connection with the Section's groups and substantive committees as are directed, from time to time, by the Chair, the Executive Committee or the Council.

(g) MEMBERSHIP. The Standing Committee on Membership shall promote the acquisition, retention, and active involvement of members in the Section in accordance with the Committee's operating statement and action plan and shall perform such other tasks in connection with the Section's membership goals as are directed, from time to time, by the Chair, the Executive Committee or the Council.

(h) NOMINATIONS. The Standing Committee on Nominations shall be governed by

Article 6 of these Bylaws.

(i) **PLANNING.** The Standing Committee on Planning shall consider and recommend long range plans to enable the Section to best carry out its mission and goals and shall perform other functions in connection with the Section's mission and goals as are directed, from time to time, by the Chair, the Executive Committee or the Council. The Committee shall consist of the Chair-Elect and the Section's Vice-Chairs, who shall each be a standing member of the Committee, and not fewer than three members of the Section's Council. The Chair-Elect shall serve as chair of the Committee.

(j) **PUBLICATIONS.** The Standing Committee on Publications shall be responsible for oversight of Section publications in accordance with the Committee's operating statement and action plan and shall perform such other tasks in connection with the Section's publications as are directed, from time to time, by the Chair, the Executive Committee or the Council. The editors-in-chief of the principal electronic and print publications shall be standing members of the Committee. The Committee ensures that each Section publication appears on a timely basis, with materials appropriate to its readership, and within its broad budgetary guidelines.

(k) **TRUST AND ESTATE DIVISION GOVERNMENTAL SUBMISSIONS.** The Standing Committee on Trust and Estate Government Submissions shall consist of one chair or two co-chairs, and possibly one or more vice-chairs, and such other members as the Chair-Elect shall appoint after consulting with the Vice-Chair of the Trust and Estate Division. The Committee shall initiate and review submissions to governmental bodies with respect to proposed legislation, regulation projects and other matters affecting estate planning and estate administration, with the view to improving the law and ensuring the highest quality and balanced approach.

(l) ~~(l)~~ **REAL PROPERTY DIVISION GOVERNMENTAL SUBMISSIONS.** The Standing Committee on Real Property Governmental Submissions shall consist of one chair or two co-chairs, and possibly one or more vice-chairs, and such other members as the Chair-Elect shall appoint after consulting with the Vice-Chair of the Real Property Division. The Committee shall initiate and review submissions to governmental bodies with respect to proposed legislation, regulation projects and other matters affecting real property, with the view to improving the law and ensuring the highest quality and balanced approach.

§ 9.2 **OTHER.** There shall be other special committees and task forces as authorized by the Council and consistent with these Bylaws, including but not limited to:

(a) **NATIONAL CONFERENCE OF LAWYERS & CORPORATE FIDUCIARIES.** The National Conference of Lawyers and Corporate Fiduciaries shall be composed of Section representatives and American Bankers Association (Trust Counsel) representatives and shall address matters of common interest to the two associations.

§ 9.3 **LIMITATION ON YEARS OF SERVICE.** No individual serving as chair of any standing committee, subcommittee of a standing committee or special committee of the Section shall serve in that position for more than four consecutive years unless further service in such capacity is authorized by a majority vote of the Council. Vice-Chairs and members of any

standing or special committee of the Section may serve as such without limitation on years of service.

#### **ARTICLE 10. CONFLICT OF INTEREST.**

To avoid criticism based on an assertion of possible conflict of interest or bias because of professional representation of a client, or the appearance of conflict, all members of the Section should observe the following:

§ 10.1 FAIRNESS. All Section activities should be conducted in a way which will give due recognition to competing points of view.

§ 10.2 CONFLICT OF INTEREST. No Section member shall voice any position on any Section activity that, because of representation of a client, presents a conflict of interest or raises an appearance of bias unless the fact of such representation is fully disclosed.

§ 10.3 COMPLIANCE. All Section officers and group and committee chairs shall require compliance with these rules by all members of other Sections in their work for the Section.

#### **ARTICLE 11. MISCELLANEOUS PROVISIONS.**

§ 11.1 FISCAL YEAR. The fiscal year of the Section shall be the same as that of the Association.

§ 11.2 AUTHORIZATION OF BILLS. All bills incurred by the Section, the divisions, officers or members, shall be authorized in accordance with the Section's financial policies as adopted by the Council before being forwarded to the treasurer of the Association for payment.

§ 11.3 COMPENSATION. No salary or compensation may be paid to any officer, Council member or committee member, except royalties under a royalty policy established by the Council for publications, and except as otherwise expressly provided in these Bylaws.

#### **ARTICLE 12. REPRESENTATION OF ASSOCIATION POSITION.**

Except as may be undertaken under any blanket authority theretofore given the Section by the Association, any action or position of the Section shall be approved by the Association before it becomes effective as the action or position of the Association. Any resolutions adopted or action taken by the Section or the Council may, on the request of the Section or the Council, be reported by the Chair or the Section Delegates to the Board of Governors or the House of Delegates for action by the Association.

#### **ARTICLE 13. AMENDMENTS.**

These Bylaws may be amended at any meeting of the Section by a majority of the members of the Section present and voting, if the proposed amendment shall first have been approved by the Council. Before the members of the Section may vote on a proposed amendment to these Bylaws, a notice of intention to amend must be sent to Section members by any means or combination of means reasonably intended to reach the most number of Section

members as reasonably practical. Such means may include one or more of the following: (i) publication of written notice in a Section publication placed in the United States mail or distributed by electronic means at least 60 days before the Section meeting at which such vote is to take place; (ii) distribution of a mailing, other than a Section publication, placed in the United States mail or distributed by electronic means at least 60 days before the Section meeting at which such vote is to take place; or (iii) any other electronic means given at least 60 days before the Section meeting at which such vote is to take place. No amendment adopted by the Section shall be effective unless approved or ratified by the Board of Governors of the Association.

~~Orlando Lucero~~

Robert C. Paul  
Section Secretary  
August ~~2014~~2016