

PREFACE TO THE FOURTH EDITION

This Fourth Edition (2009) of the *Manual for Commissioners of Accounts* incorporates changes in statutes relating to fiduciaries and Commissioners of Accounts enacted since publication of the 2006 Supplement to the Manual and addresses additional issues of concern to Commissioners and fiduciaries. The revisors of this edition of the Manual are members of the Standing Committee on Commissioners of Accounts (the “Standing Committee”) established by the Judicial Council of Virginia in 1993. The Standing Committee, as one of its charges, continues to review Virginia law relating to fiduciaries and suggest legislative changes on an ongoing basis. The Manual is typically revised by the Standing Committee ever three years.

There have been no dramatic legislative changes since the 2006 Supplement to the Manual. Some of the notable changes include:

- Va. Code § 64.1-157.1 was added in 2007 to provide that unless a contrary intent is clearly set out in the will, a specific devise or bequest of real or personal property passes, subject to any mortgage, pledge, security interest, or other lien existing at the date of death of the testator, without the right of exoneration. This changes the long-standing rule in Virginia that a right of exoneration applied in such circumstances.
- Va. Code § 64.1-157 was amended in 2008 to increase the priority for payment of funeral expenses to \$3,500 (increased from \$2,000) for insolvent estates.
- Va. Code §§ 64.1-16.1 and 64.1-16.2 were amended in 2007 to clarify that insurance policies are included in the “augmented estate.”
- Va. Code §§ 64.1-157 was amended in 2007 to provide, for insolvent estates, that debts and taxes due localities and municipal corporations of the Commonwealth of Virginia shall be in the eighth position for payment.
- Va. Code § 55-59.1 was amended in 2009 to provide that when written notice of proposed foreclosure sale is given as provided by the statute, there shall be a rebuttable presumption that the lienholder has complied with any requirement to provide notice of default contained in a deed of trust. The amendment was in response to the 2008 Virginia Supreme Court decision in *Bayview Loan Servicing v. Simmons*, discussed further in Chapter 16 of the Manual.

- **The Virginia estate tax was repealed effective July 1, 2007, and various tax certificates and forms referring to Virginia estate tax requirements were edited accordingly.**

A non-legislative event of importance was the approval by the Justices of the Virginia Supreme Court of the Uniform Fee Schedule Guideline for Commissioners of Accounts, effective July 1, 2008. This new Guideline was proposed by the Standing Committee to revise the original Guideline approved by the Judicial Council, which had been in effect without change since July 1996.

Lastly, the Guidelines for Fiduciary Compensation, which in prior editions was included as part of Chapter 9 of the Manual, has now been moved to a new separate chapter (Chapter 22) to provide more convenient access by separate tab.