



General Assembly

February Session, 2000

Amendment

LCO No. 4943

Offered by:

REP. LAWLOR, 99th Dist.

To: Subst. House Bill No. 5898

File No. 430

Cal. No. 356

***"An Act Concerning The Revisor's Technical
Corrections To The General Statutes And Certain Public
And Special Acts."***

1 After line 1308, insert the following:

2 "Sec. 49. Subsection (a) of section 2 of house bill 5704 of the current
3 session is repealed and the following is substituted in lieu thereof:

4 (a) Upon any interested party's application alleging that a fiduciary
5 has breached a fiduciary duty which has resulted in a financial loss to
6 an estate, or upon the probate court's own motion, the probate court
7 having jurisdiction over the fiduciary's estate shall, after providing
8 reasonable notice to the fiduciary and such other interested parties as
9 the probate court shall determine, hold a hearing to determine whether
10 such breach occurred and the actual loss sustained by the estate. The
11 judge shall determine the proportionate share of the loss for which
12 each person, including any fiduciary, claimant or other party, is liable.
13 In those cases in which there is only one fiduciary, if that fiduciary has
14 breached a fiduciary duty to an estate and that fiduciary is also a
15 beneficiary of the estate, such fiduciary shall not be entitled to any

16 payment from the Probate Guaranty Fund. In those cases in which
17 there are multiple fiduciaries, a fiduciary who is also a beneficiary may
18 recover from the fund if such fiduciary did not in any way contribute
19 to the loss sustained by the estate. If the loss attributable to any
20 beneficiary is less than fifty per cent, such beneficiary shall be entitled
21 to receive that percentage of the loss of such beneficiary which was not
22 caused by the negligence of such beneficiary. If the negligence of any
23 beneficiary is fifty per cent or greater, such beneficiary [duty] shall not
24 be entitled to receive any payment from the fund. No person, whether
25 a beneficiary or a fiduciary, whose intentional or reckless conduct has
26 contributed to the loss, shall receive any payment from the fund. Any
27 aggrieved party may appeal a decision or determination of the probate
28 court in accordance with sections 45a-186 to 45a-193, inclusive, of the
29 general statutes. The claimant shall prove, by a preponderance of the
30 evidence that a breach of fiduciary duty has occurred and the estate
31 has sustained actual loss."