

## Legislative and Other Form Updates on this CD

We updated numerous ProDoc forms due to legislative and agency changes. The legislative changes reflected in this update are effective July 1, 2009. We will provide you with a WebUpdate for any legislative changes that came too late to include in this CD update.

You will also receive a September CD update from us that contains forms updated as a result of new legislation effective October 1. View our chart below and continued on the next page for a synopsis of new legislation affecting ProDoc forms.

- **Family Law** – We modified 26 forms relating to health insurance provisions for children per HB 5129.
- **Lipman’s Wills & Trusts** - Read about the extensive changes we made to this volume on page 2.
- **Probate** – We updated the *DR-313, Affidavit of No Florida Estate Tax Due When Federal Return is Required* form pursuant to a change by the Florida Department of Revenue.
- **Real Estate** – We updated the *W-9, Request for Taxpayer Identification Number* pursuant to a change by the IRS.
- **Business Organizations** – We added the email address for the contact person in eight forms. We also updated the *Change of Registered Agent, Office, or Both* form based on a change by the Florida Department of State.

### Install this Update before July 1, 2009

This update contains legislative changes that are effective July 1, 2009. Please be sure to install it prior to this date so you don't forget to do so later.

But, since the changes are not effective until July 1, 2009 be sure not to install this update too early.

### Your ProDoc Installation Key Code Is on the Shipping Envelope

You will need a 20-character **Key Code** to install this update. You'll find it on the envelope in which the CD shipped. We strongly encourage you to keep the shipping envelope in a safe place so you have your Key Code available when you install the update.

### Legislative Changes

Here's an overview of the new legislation that affects ProDoc documents. It also provides you the effective date of the new legislation. You will receive another update in September for new legislation effective October 1.

Bill	Overview of the Bill	ProDoc Volume/ PowerPack Program Affected	Effective Date
<b>HB 599</b>	Revises various provisions relating to administration of estates in the Probate Code. Defines the term "minor," removes the definition of an "incompetent" person and replaces it with "incapacitated." Changes the order of what is supplied first to satisfy the spouse's elective share.	Probate, Wills	7/1/2009
<b>HB 5129</b>	Establishes standards for presumption of reasonable costs of & accessibility to health insurance; requires that court make written finding before deviating from presumed reasonable cost; and provides the method for calculating child's health insurance & non-covered medical expenses.	Family Law	Upon becoming law

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Bill	Overview of the Bill	ProDoc Volume/ PowerPack Program Affected	Effective Date
SB 258	Requires that a person filing a petition for change of name have fingerprints submitted for a state and national criminal history records check before the court hearing on the petition. Provides an exception to such requirement. Provides procedures for the taking and submission of fingerprints. Requires submission of the results of a criminal history records check to the clerk of court.	Family Law	10/1/2009
SB 904	Revises parenting plan provisions, requires child address for school purposes, revises standard for modification of parenting plan, adds new provisions re: parenting coordinator, requires specific court acknowledgment if evidence of domestic violence was considered, extensive revisions of relocation provisions; revisions to payment of child support through the State Disbursement Unit	Family Law	10/1/2009
SB 1018	Authorizes a person certified by a not-for-profit legal aid organization to serve as a guardian ad litem in a dissolution of marriage proceeding that does not involve child abuse, abandonment, or neglect.	Family Law	7/1/2009
SB 1722	Requires that the court sentence certain offenders to a non-state prison sanction unless the court makes written findings that ordering an offender to such sanction could present a danger to the public.	Criminal Defense	7/1/2009
SB 1780	Authorizes the Department of State to use electronic transmission to notify and communicate in the performance of its duties.	Business Organizations	Upon becoming law

## Lipman's Wills & Trusts

We made numerous changes and enhancements to this volume, including:

### 1. Comprehensive Will and Revocable Trust

**forms removed** - We removed them because their complexity made it impossible for users to view all of the Will and Revocable Trust forms in ProDoc before drafting them.

### 2. Renamed Comprehensive Revocable Trusts to

**Blind Trusts** - Blind Trusts more clearly reflects the nature of these forms. The primary purpose of a Blind Trust is to provide your clients with a means to have someone other than themselves manage their financial and other business affairs.

### 3. Added Supplemental Needs Trusts and Retirement Benefits Trusts

– We added these to all of the simple Will forms and all of the simple

Revocable Trust forms. We also modified the transmittal letters to include a longer discussion of the SNTs.

### 4. Improved the Codicil forms

- You can now add as many changes as you like (formerly, you were limited to 4 changes) and you can also now delete a section from your client's will in addition to changing and adding a section.

### 5. Added specific bequest option to Will and Revocable Trust forms

– You can give away one or more pieces of non-homestead real estate. The bequests of real estate can be: (a) a house with an address, (b) a cooperative apartment, or (c) a farm or ranch. You can add an unlimited number of these bequests to each document. This was not added to the Blind Trusts.

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**6. Added option relating to “Five or Five” Powers** – In all of the Husband and Wife forms that create bypass and marital trusts, when adding a five or five power, you can now specify whether or not you want the power to be exercisable by a legal representative or an agent acting under a power of attorney.

**7. Added more flexibility for compensation to the executors and trustees** - Separate questions regarding the payment of compensation to executors and trustees provide for more flexibility for different types of compensation.

**8. One-lung /Clayton marital trust option added** - We added this option to four Will forms and six Revocable Trust forms. A “gateway” question has been added asking how you want to draft the forms. You have five options: (1) Bypass only; (2) QTIP and Bypass; (3) Disclaimer Bypass; (4) One-lung Marital; and (5) Clayton Marital. The names of several forms were changed to reflect these new drafting options. Read more about these trusts below.

**9. New option for drafting termination of a small trust -**

Now you have the option to draft this section in several different ways, or to leave it out altogether.

**10. New option for naming a Family Trust** - You now have the option to decide what name to use for the bypass trust. Previously, this trust was always called the Family Trust. Now, you will be able to call it either the Bypass Trust, the Credit Shelter Trust, or the Family Trust.

**11. Expanded Right to Reside provisions** – We expanded this section in certain Revocable Trusts so that the homestead exemption will be available to all persons who are the primary beneficiary of a trust that owns a principal residence. Previously, the language had applied only to the person or persons creating the trust. All of the Revocable Trusts that contain separate share trusts contain this change. In addition, similar language has been added to all of the Will forms that create separate share trusts and to some of the irrevocable trusts as well.

**12. Optional trust tax ID number** – We made this optional in the deeds that can be prepared in conjunction with the revocable trusts and the qualified personal residence trusts.

### Want to view the specific changes to a particular form?

Here’s how to do so in ProDoc:

Open ProDoc and click on **Help**→ **About the Volumes**. Then click the volume of your choice. You will now see a page with three links at the top: Authors, Change History, and Forms List.

Click on the **Change History** link and you will see information about the changes made to each form in this update.

Incidentally, by clicking on the **Forms List** link instead of the Change History link, you will view a complete list of all of the forms in the selected volume.

## More about One-Lung and Clayton Marital Trusts

A **One-Lung Marital Trust (OLMT)** option leaves your client’s entire estate to a single marital trust. The executor will be permitted to make a partial QTIP election, with the result that part of the QTIP trust will not qualify for the marital deduction.

Property over which a QTIP election is not made will be held in a separate trust. The OLMT offers greater flexibility than the Disclaimer Bypass Trust (DBT) because the decision to make a QTIP election does not need to be made until 15 months have elapsed following your client’s death. In a DBT, a disclaimer must be made within nine months. However, the non-QTIP trust will have the same terms as the QTIP trust, and it will only benefit the surviving spouse.

A **Clayton Marital Trust (CMT)** option also leaves your client’s entire estate to a single marital trust. The executor will be permitted to make a partial QTIP election, and any property that does not qualify for the marital deduction will pass to a separate bypass trust, the terms and beneficiaries of which can be different than the QTIP marital trust.

Like the OLMT, the CMT offers greater flexibility than the DBT because the decision to make a QTIP election does not need to be made until 15 months have elapsed following your client’s death. In a DBT, a disclaimer must be made within nine months.