

SENATE BILL 170

N2, Q7

3lr1088
CF 3lr1987

By: **Senator Forehand**

Introduced and read first time: January 17, 2013

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Modified Administration and Inheritance Tax**

3 FOR the purpose of altering the circumstances under which a personal representative
4 of an estate may file for an election for modified administration; providing that,
5 if a personal representative discovers certain property after the time for filing a
6 certain verified final report, the representative shall file a certain report and
7 make a final distribution of the property within certain time periods; providing
8 that a certain application to prepay inheritance tax for a subsequent interest
9 may be filed with the register of the county where a certain information report
10 was filed; making conforming changes; providing for the application of this Act;
11 and generally relating to the modified administration of trusts.

12 BY repealing and reenacting, with amendments,
13 Article – Estates and Trusts
14 Section 5–702, 5–704, and 5–706
15 Annotated Code of Maryland
16 (2011 Replacement Volume and 2012 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Tax – General
19 Section 7–219
20 Annotated Code of Maryland
21 (2010 Replacement Volume and 2012 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Estates and Trusts**

25 5–702.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 An election for modified administration may be filed by a personal
2 representative of an estate within 3 months from the date of appointment, if:

3 (1) All residuary legatees of a testate decedent and the heirs at law of
4 an intestate decedent are limited to [the]:

5 (i) [Decedent's] **THE DECEDENT'S** personal representative;
6 [and]

7 (ii) Individuals or entities exempt from inheritance tax in the
8 decedent's estate under § 7-203(b), (e), and (f) of the Tax – General Article; **AND**

9 **(III) TRUSTS UNDER WHICH EACH PERSON WHO HAS A**
10 **CURRENT INTEREST IN THE TRUST IS AN INDIVIDUAL OR ENTITY EXEMPT FROM**
11 **INHERITANCE TAX IN THE DECEDENT'S ESTATE UNDER § 7-203(B), (E), AND (F)**
12 **OF THE TAX – GENERAL ARTICLE;**

13 [(2) All trustees of each trust that is a residuary legatee are limited to
14 the decedent's:

15 (i) Personal representative;

16 (ii) Surviving spouse; and

17 (iii) Children;]

18 [(3)](2) The estate is solvent and sufficient assets exist to satisfy all
19 testamentary gifts;

20 [(4)](3) A verified final report under modified administration is filed
21 within 10 months from the date of appointment;

22 [(5)](4) Final distribution of the estate can occur within 12 months
23 from the date of appointment; and

24 [(6)](5) All residuary legatees of a testate decedent and the heirs at
25 law of an intestate decedent consent to a modified administration as required under §
26 5-706 of this subtitle.

27 5-704.

28 (A) After filing an election for modified administration, the personal
29 representative shall:

1 (1) File a verified final report under modified administration no later
2 than 10 months from the date of appointment instead of filing a formal inventory and
3 account; and

4 (2) On the request of any interested person, provide a formal
5 inventory and account, as required under Title 7 of this article, to all interested
6 persons.

7 **(B) IF THE PERSONAL REPRESENTATIVE DISCOVERS PROPERTY OF THE**
8 **DECEDENT AFTER THE TIME FOR FILING A VERIFIED FINAL REPORT REQUIRED**
9 **BY SUBSECTION (A) OF THIS SECTION, THE PERSONAL REPRESENTATIVE SHALL:**

10 **(1) FILE A VERIFIED FINAL REPORT UNDER MODIFIED**
11 **ADMINISTRATION WITH RESPECT TO THE AFTER-DISCOVERED PROPERTY**
12 **WITHIN 60 DAYS OF THE DISCOVERY OF THE PROPERTY; AND**

13 **(2) MAKE FINAL DISTRIBUTION OF THE AFTER-DISCOVERED**
14 **PROPERTY WITHIN 90 DAYS OF THE DISCOVERY OF THE PROPERTY.**

15 5-706.

16 The consent required under [~~§ 5-702(6)~~] **§ 5-702(5)** of this subtitle shall state
17 that the subscribing person has notice that:

18 (1) Instead of filing a formal inventory and account, the personal
19 representative shall file a verified final report under modified administration no later
20 than 10 months from the date of appointment;

21 (2) On request by any legatee or heir not paid in full, a formal
22 inventory and account shall be provided by the personal representative to the legatees
23 or heirs;

24 (3) A written objection to modified administration by an interested
25 person may be filed with the register of wills at any time during administration, which
26 shall revoke the modified administration;

27 (4) By filing a written objection:

28 (i) The modified administration is revoked;

29 (ii) The estate shall be administered under administrative
30 probate; and

31 (iii) The personal representative shall file a formal inventory and
32 account as needed until the estate is closed;

1 (5) Unless an interested person waives notice of the verified final
2 report under modified administration, the personal representative shall provide a copy
3 to each interested person within 10 months from the date of the appointment; and

4 (6) Under modified administration, distribution to all legatees and
5 heirs shall be made within 12 months from the date of appointment.

6 **Article – Tax – General**

7 7–219.

8 (a) Within a reasonable time after the valuation of a less than absolute
9 interest in property that passes from a decedent, an application to prepay the
10 inheritance tax for a subsequent interest in the same property may be filed with the
11 register of the county where the [inventory] **INFORMATION REPORT** was filed under
12 [§ 7–225] § 7–224 of this subtitle.

13 (b) (1) An application under subsection (a) of this section may be filed by
14 or for a person or class of persons, whether or not then in being, in whom may vest a
15 subsequent interest in the property valued.

16 (2) An application under subsection (a) of this section may not be
17 made by or for a person who, under the instrument that created the property interests,
18 has no interest other than the possibility of becoming an appointee by the exercise of a
19 power of appointment.

20 (3) A person who only has the interest described in paragraph (2) of
21 this subsection is entitled to receive the benefits of prepayment under § 7–210(b) of
22 this subtitle.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
24 construed to apply only prospectively and may not be applied or interpreted to have
25 any effect on or application to an estate of a decedent who dies before October 1, 2013.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2013.