

SENATE BILL 398

N2

9lr1174

By: **The President (By Request – Department of Legislative Services – Code Revision)**

Introduced and read first time: January 31, 2019

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 5, 2019

CHAPTER _____

1 AN ACT concerning

2 **Code Revision – Estates and Trusts**

3 FOR the purpose of revising, restating, and recodifying the laws of the State relating to
4 estates and trusts; clarifying language; making certain technical and stylistic
5 changes; providing for the construction of this Act; providing for the effect and
6 construction of certain provisions of this Act; authorizing the publisher of the
7 Annotated Code of Maryland to make certain corrections in a certain manner; and
8 generally relating to Maryland law relating to estates and trusts.

9 BY repealing and reenacting, with amendments,

10 Article – Estates and Trusts

11 Section 1–101(b), (d), (f), (h), (i), (j), (k), (m), (q), (r), (s), (t), and (v), 1–103(e), 1–105(a),
12 1–202, 1–203, 1–206, 1–207, 1–208(b), 1–209(b), 1–210(b) and (c), 1–401,
13 2–102(a), 2–105(b), 2–106(a), (d), and (e), 2–107, 2–108(a)(3), (b), (c)(2),
14 (d)(1)(ii) and (iii) and (2), (k), (l)(3), (m)(2), and (o) through (y), 2–202, 2–204,
15 2–205(e), 2–207, 2–208(b) through (k), 2–301(a) and (b), 2–302, 2–303(b) and
16 (c), 3–101, 3–104, 3–106(a), 3–108, 3–109, 3–110, 3–203(b), 3–204, 3–205,
17 3–207(a), 3–208(b), 3–301(b), 3–302(a), 3–303, 4–101, 4–102, 4–104, 4–105,
18 4–201, 4–202, 4–401, 4–402, 4–405, 4–406, 4–409, 4–410, 5–102(b), 5–103,
19 5–105(c)(5), 5–106, 5–201, 5–204, 5–205(b) and (c), 5–207, 5–301, 5–302,
20 5–304, 5–401, 5–402, 5–403(a), 5–404(a), 5–502(a), 5–503(b) and (c), 5–504(a),
21 5–602, 5–603, 5–604(b) and (c), 6–101, 6–102(b), (d), (f), and (h)(1), 6–103,
22 6–105(a), 6–201, 6–203(b) and (c), 6–204, 6–302, 6–303, 6–304, 6–306(a), (c),
23 and (e), 6–308, 6–401(a), 6–403, 6–404, 7–101, 7–102, 7–103, 7–103.1(a) and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(c), 7-104(a), 7-105, 7-201, 7-203, 7-204, 7-205, 7-301, 7-306, 7-307, 7-401(a) through (x), (z), and (aa), 7-402, 7-403, 7-404, 7-501(b), 7-502(a), 7-601(a), (b), and (c), 7-602(a) and (b), 7-603, 8-103(a) through (e), 8-104(b), (c), and (d), 8-105(b), 8-106(d)(1) and (2), 8-107(a), (b), and (c), 8-108, 8-109(a), (b), (c), (d), (g), (h), and (i), 8-110, 8-111, 8-112(a), (b), and (d), 8-114, ~~9-102(b) and (c)~~ 9-102, 9-103(a) and (b), 9-104(b) and (c), 9-106(b) and (c), 9-107(a), 9-109(a), (b), (c), and (d), 9-111, 9-112(a), (c), (d), and (e), 9-201(b)(2), 9-202(a)(2) and (b)(2), 9-203(e), 9-204(a), 10-101, 10-102, 10-104, 11-101, 11-103(a), 11-105(b) and (c), 11-108(a) and (e), 12-102, 12-103, 13-101(g) and (k), 13-102, 13-106(b), 13-201, 13-203(a) and (b), 13-205, 13-206(c)(1), 13-207, 13-208(e), 13-211(b), 13-212, 13-214(b)(3), 13-215, 13-216, 13-217(a), 13-218(a), 13-219, 13-220, 13-221(a) and (b), 13-222, 13-302(a), 13-401(b), (c), and (d), 13-405, 13-406(b) and (e), 13-407, 13-501, 13-503, 13-701, 13-702(a)(2), 13-703, 13-705(b) and (e), 13-707(a)(10), (b), (c), and (d), 13-708(b), 13-709(a), (c)(5) and (7), (d), (e), (f)(1), and (i), 13-801, 13-802, 13-803, 13-804, 13-805, 13-806, 14-302(a), 14-304, 15-102(c) through (o), (q) through (w), and (y), 15-103, 15-104(a) and (b), 15-105, 15-108, 15-110, 15-111, 15-112(a) and (c), 15-202 through 15-208, 15-301(c), 15-302, 15-303(1), 15-304, 15-305, 15-502(b), 15-503, 15-504(a) and (b), 15-505(a), 15-506, 15-507(b), 15-509, 15-510(b), 15-512, 15-513(b), 15-514(a) and (d)(3), 15-516(b) and (c), 15-518(a), (b), and (d), 15-519(d), 15-521(c), 15-522(c), 15-523, 16-101(b), (i), and (j), 16-102, 16-103, 16-106, 16-107, 16-108(a) and (c), and 16-110(a)

Annotated Code of Maryland

(2017 Replacement Volume and 2018 Supplement)

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

Article – Estates and Trusts

1-101.

(b) “Administrative probate” [is defined] **HAS THE MEANING STATED** in § 5-301 of this article.

(d) “Child” [is defined] **HAS THE MEANING STATED** in §§ 1-205 through 1-208 of this title.

(f) “Court” [is defined] **HAS THE MEANING STATED** in § 2-101 of this article.

(h) “Heir” [is] **MEANS** a person entitled to property of an intestate decedent pursuant to §§ 3-101 through 3-110 of this article.

(i) **(1)** “Interested person” [is] **MEANS**:

1 [(1)] (I) A person named as executor in a will;

2 [(2)] (II) A person serving as personal representative after judicial or
3 administrative probate;

4 [(3)] (III) A legatee in being, not fully paid, whether [his] **THE LEGATEE'S**
5 interest is vested or contingent;

6 [(4)] (IV) An heir even if the decedent dies testate, except that an heir of a
7 testate decedent ceases to be an “interested person” when the register has given notice
8 pursuant to § 2–210 or § 5–403(a) of this article; **OR**

9 **(V) AN HEIR OR LEGATEE WHOSE INTEREST IS CONTINGENT**
10 **SOLELY ON WHETHER SOME OTHER HEIR OR LEGATEE SURVIVES THE DECEDENT BY**
11 **A STATED PERIOD IF THE OTHER HEIR OR LEGATEE HAS DIED WITHIN THAT PERIOD.**

12 (2) [Interested person] **“INTERESTED PERSON”** includes [a person as
13 above defined who is]

14 [(a)] (I) [a] **A** minor or other person under a disability[.]; or

15 [(b)] (II) [the] **THE** judicially appointed guardian, committee,
16 conservator or trustee for such person, if any, and if none, then the parent or other person
17 having assumed responsibility for such person.

18 [An heir or legatee whose interest is contingent solely on whether some other heir or
19 legatee survives the decedent by a stated period is an interested person but only after the
20 other heir or legatee has died within that period.]

21 (j) “Issue” [is defined] **HAS THE MEANING STATED** in § 1–209 of this title.

22 (k) “Judicial probate” [is defined] **HAS THE MEANING STATED** in § 5–401 of this
23 article.

24 (m) (1) “Legatee” means a person who under the terms of a will would receive
25 a legacy. [It]

26 (2) **“LEGATEE”** includes a trustee [but not].

27 (3) **“LEGATEE” DOES NOT INCLUDE** a beneficiary of an interest under
28 the trust.

29 (q) (1) “Personal representative” includes an executor or administrator [but
30 not].

1 **(2)** **“PERSONAL REPRESENTATIVE” DOES NOT INCLUDE** a special
2 administrator.

3 (r) **(1)** “Property” includes both real and personal property, and any right or
4 interest therein.

5 **(2)** “Property” refers to:

6 **[(1)] (I)** **[all] ALL** real and personal property of a decedent; and

7 **[(2)] (II)** **[any] ANY** right or interest therein which does not pass, at the
8 time of the decedent’s death, to another person by the terms of the instrument under which
9 it is held, or by operation of law.

10 (s) “Register” **[is defined] HAS THE MEANING STATED** in § 2–201 of this article.

11 (t) “Representation” **[is defined] HAS THE MEANING STATED** in § 1–210 of this
12 title.

13 (v) “Trust company” means an institution that is authorized to exercise trust or
14 fiduciary powers and that:

15 (1) Is organized under the laws of this State as a State bank, trust
16 company, or savings bank; **[or]**

17 (2) Is organized under the laws of the United States and:

18 (i) Has its principal office in this State; **[or]**

19 (ii) 1. Has an office in this State that is not its principal office;

20 and

21 2. Meets the definition of a trust institution under 12 U.S.C.

22 § 1841(c)(2)(D); or

23 (iii) 1. Has an office in this State that is not its principal office;

24 and

25 2. Accepts deposits at its office in this State; or

26 (3) Is organized under the laws of another state as a bank, trust company,
27 or savings bank and:

28 (i) 1. Has an office in this State that is not its principal office;

1 [(c)] **(3)** [No] A person who participates in a marriage ceremony with a third
2 person, after a decree or judgment of divorce or annulment obtained by the decedent[, is a
3 surviving spouse.]; **OR**

4 [(d)] **(4)** [No] A person who has been convicted of bigamy while married to the
5 decedent [is a surviving spouse].

6 **(B) SUBSECTION (A)(2) OF THIS SECTION DOES NOT APPLY IF THE PARTIES**
7 **TO THE DIVORCE OR ANNULMENT SUBSEQUENTLY REMARRY EACH OTHER.**

8 1–203.

9 **(A)** Degrees of relationship shall be reckoned according to the method of the civil
10 law by beginning with either of the persons in question, ascending to the common ancestor,
11 and then descending to the other person.

12 **(B)** One degree shall be counted for each step both ascending and descending.

13 1–206.

14 (a) **(1)** A child born or conceived during a marriage is presumed to be the
15 legitimate child of both spouses.

16 **(2)** Except as provided in § 1–207 of this subtitle, a child born at any time
17 after [his] **THE CHILD’S** parents have participated in a marriage ceremony with each other,
18 even if the marriage is invalid, is presumed to be the legitimate child of both parents.

19 (b) **(1)** A child conceived by artificial insemination of a married woman with
20 the consent of her husband is the legitimate child of both of them for all purposes.

21 **(2)** Consent of the husband is presumed.

22 1–207.

23 (a) **(1)** An adopted child shall be treated as a natural child of [his] **THE**
24 **CHILD’S** adopting parent or parents.

25 **(2)** [On] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
26 **SUBSECTION, ON** adoption[, a child no longer shall] **A CHILD MAY NOT** be considered a
27 child of either natural parent[, except that upon].

28 **(3)** **ON** adoption by the spouse of a natural parent, the child shall still be
29 considered the child of that natural parent.

1 (b) A child who has been adopted more than once shall be considered to be a child
2 of the parent or parents who have adopted [him] **THE CHILD** most recently and shall cease
3 to be considered a child of [his] **THE CHILD'S** previous parents.

4 1–208.

5 (b) A child born to parents who have not participated in a marriage ceremony
6 with each other shall be considered to be the child of [his] **THE** father only if the father:

7 (1) Has been judicially determined to be the father in an action brought
8 under the statutes [relating] **THAT RELATE** to paternity proceedings;

9 (2) Has acknowledged himself, in writing, to be the father;

10 (3) Has openly and notoriously recognized the child to be his child; or

11 (4) Has subsequently married the mother and has acknowledged himself,
12 orally or in writing, to be the father.

13 1–209.

14 (b) A person who is treated as a child of a person pursuant to §§ 1–205 through
15 1–208 of this subtitle shall be considered for all purposes as:

16 (1) A lineal descendant of the person; and

17 (2) [Subject to the exception in the first sentence] **EXCEPT AS PROVIDED**
18 **IN SUBSECTION (A)** of this section, a lineal descendant of all persons of whom the person
19 is a lineal descendant.

20 1–210.

21 (b) **(1)** In the case of issue of the decedent, the property shall be divided into
22 as many equal shares as there are children of the decedent who survive the decedent and
23 children of the decedent who did not survive the decedent but of whom issue did survive
24 the decedent.

25 **(2)** Each child of the decedent who did survive the decedent shall receive
26 one share and the issue of each child of the decedent who did not survive the decedent but
27 of whom issue did survive the decedent shall receive one share apportioned by applying to
28 the children and other issue of each nonsurviving child of the decedent the pattern of
29 representation provided for in this subsection for the children and other issue of the
30 decedent and repeating that pattern with respect to succeeding generations until all shares
31 are determined.

1 (c) (1) In the case of issue of a parent, grandparent, or great-grandparent of
2 the decedent, the property shall be divided into as many equal shares as there are lineal
3 descendants of either, or of both, of the pair of parents, grandparents, or
4 great-grandparents, as the case may be, of the nearest degree of relationship to the
5 decedent of whom any survived the decedent and who did so survive, and lineal descendants
6 of the same degree who did not survive the decedent but of whom issue did survive the
7 decedent.

8 (2) Each lineal descendant of the nearest degree surviving the decedent
9 shall receive one share and the issue of each deceased lineal descendant of that degree who
10 left issue surviving the decedent shall receive one share apportioned in the manner of
11 representation set forth for issue of the decedent in subsection (b) of this section.

12 1-401.

13 (A) A provision in an account agreement, as defined in § 1-204(b)(2) of the
14 Financial Institutions Article, for a transfer on death is nontestamentary and shall be
15 effective according to the provisions of § 1-204 of the Financial Institutions Article.

16 (B) Transfers pursuant to § 1-204 of the Financial Institutions Article are
17 effective in the form and manner prescribed by that section and are not to be considered
18 testamentary.

19 2-102.

20 (a) (1) The court may [conduct]:

21 (I) CONDUCT judicial probate, direct the conduct of a personal
22 representative, and pass orders which may be required in the course of the administration
23 of an estate of a decedent[. It may summon]; AND

24 (II) SUMMON witnesses.

25 (2) The court may not, under pretext of incidental power or constructive
26 authority, exercise any jurisdiction not expressly conferred.

27 2-105.

28 (b) (1) At the request of an interested person made within the time determined
29 by the court, the issue of fact may be determined by a court of law.

30 (2) When the request is made before the court has determined the issue of
31 fact, the court shall transmit the issue to a court of law.

32 2-106.

1 (a) (1) Except as provided in this section and unless a different time is
2 prescribed by local law, the court shall be held in each county at the usual place of holding
3 court in the county, on the second Tuesday of February, April, June, August, October, and
4 December, and more often if need be, according to its own adjournment.

5 (2) One of the judges of the court, in the absence of the others, shall have
6 power to hold court at a stated time of adjournment only for the purpose of adjourning.

7 (3) Two judges shall have full power to do an act which the court is or may
8 be authorized by law to perform, and two of them shall have power to hold court on a day
9 not named in an adjournment, on the application of a person having pressing business in
10 the court, if notice be given to any interested person, and the register records that notice
11 has been given.

12 (4) One of the judges, in the absence of the others on account of prolonged
13 illness, or in case of vacancy, shall have full power to do an act which the court is authorized
14 by law to do, provided there is attached to the proceedings or papers in each case a
15 certificate signed by the register, certifying to the vacancy or prolonged illness of the judge
16 or judges not attending court on that day.

17 (5) If the court does not meet on a day fixed for its meeting and is not
18 adjourned as provided, the register shall adjourn the court from day to day until a meeting
19 is had according to law.

20 (d) (1) Each judge of the Court for Prince George's County shall spend at least
21 [three] 3 days each week in the conduct of the business of the Court.

22 (2) (I) [In] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,
23 IN Prince George's County, a judge of the Orphans' Court who is also an attorney-at-law
24 has full power to do any act which the Court is or may be authorized to perform, including
25 the power to hold court on a day not named in an adjournment.

26 (II) [However, upon] ON request of any interested party, two judges
27 shall be required to act for the Court.

28 (3) If necessary to transact business before the Court, court may be
29 convened 5 days each week.

30 (e) (1) In Harford County, the provisions of subsection (a) of this section do not
31 apply.

32 (2) A judge of the Circuit Court for Harford County shall sit as the
33 Orphans' Court for the County at the time or times established by the judges of the County
34 Circuit Court and shall have full power to do any act which the Orphans' Court of the
35 County is or shall be authorized to perform, including the power to hold court on a day not
36 named in an adjournment.

1 2-107.

2 (a) (1) Except in Harford County and Montgomery County, the Governor shall
3 designate and commission one of the three judges of the Court in each county as Chief
4 Judge of the Court.

5 (2) Full power and authority are vested in each judge designated and
6 commissioned as chief judge to act as chief judge.

7 (3) Any writ and other process tested in the name of the chief judge is valid
8 for any purpose.

9 (b) (1) A reference in the estates of decedents law to the chief judge of the court
10 of a county means, with regard to Harford County or Montgomery County, the judge of the
11 circuit court then sitting as the Orphans' Court.

12 (2) A reference to the judges of the court in plural number means, with
13 respect to Harford County or Montgomery County, the judge of the circuit court then sitting
14 as the Orphans' Court, unless the section otherwise specifically provides.

15 2-108.

16 (a) (3) Mileage or travel expenses may not be allowed to a judge for attending
17 sessions of [his] **THE JUDGE'S** court except as specifically provided.

18 (b) (1) Each of the judges of the Court for Allegany County shall receive an
19 annual salary set by the County Commissioners in accordance with Title 28, Subtitle 1 of
20 the Local Government Article.

21 (2) Each judge shall also receive an expense allowance in the amount of
22 \$600 annually, to be paid at the rate of \$50 monthly.

23 (c) (2) Each judge shall also receive an expense allowance up to \$150 per
24 month for personal expenses incidental to [his] **THE JUDGE'S** duties, to be paid by the
25 Comptroller of Anne Arundel County each month [upon] **ON** presentation of an itemized
26 voucher in accordance with rules and regulations prescribed by the Comptroller.

27 (d) (1) (ii) Each associate judge who was in active service on or after
28 January 1, 1984 shall be paid after the termination of active service, if [he] **THE**
29 **ASSOCIATE JUDGE** is then at least 60 years of age or when [he] **THE ASSOCIATE JUDGE**
30 shall attain 60 years of age, a pension or salary calculated at the rate of \$3,725 annually
31 for each year, or a part of a year, of active service; but the maximum pension or salary for
32 the service by an associate judge may not exceed \$37,250 annually.

1 (iii) 1. Each Chief Judge who was in active service on or after
2 January 1, 1984, shall be paid, after the termination of active service, if [he] **THE CHIEF**
3 **JUDGE** is then at least 60 years of age or when [he] **THE CHIEF JUDGE** shall attain 60
4 years of age, a pension or salary calculated at the rate of \$4,225 annually for each year, or
5 a part of a year of active service; but the maximum pension or salary for the service by a
6 Chief Judge may not exceed \$42,250 annually.

7 2. The pension or salary shall be paid by the City of
8 Baltimore in the same manner as the salaries of the judges of the Court for the City are
9 paid.

10 (2) (I) The surviving spouse of every elected judge of the Court of
11 Baltimore City shall be paid [one half] **ONE-HALF** of the pension to which [his] **THE**
12 **JUDGE'S** spouse was entitled at the time of [his] **THE JUDGE'S** death, or would have
13 become entitled to by reason of attaining 60 years of age.

14 (II) In each instance, the pension shall be paid to the spouse until
15 remarriage or death.

16 (III) The provisions of this subsection shall not apply in the case of a
17 spouse who was married to a sitting judge for a period of less than [three] **3** years [prior to
18 his] **BEFORE THE JUDGE'S** death, and to a retired judge for a period less than [three] **3**
19 years before [his] **THE JUDGE'S** retirement.

20 (k) (1) Each of the judges of the Court for Dorchester County shall receive an
21 annual salary as determined by the County Council, but not less than \$4,700.

22 (2) Each judge shall also receive an expense allowance as determined by
23 the County Council, but not less than \$800 annually.

24 (l) (3) Each judge also shall receive reimbursement for expenses actually
25 incurred in the performance of duties, up to \$700 per year, to be paid by the Board of County
26 Commissioners each month [upon] **ON** presentation of an itemized voucher.

27 (m) (2) (I) Each judge shall be reimbursed for traveling to and from the
28 sessions of the Court at the rate Garrett County pays for mileage.

29 (II) Each judge shall also receive an amount for expenses for every
30 day's attendance on the sessions of the Court set by the Board of County Commissioners in
31 accordance with §§ 32.43 and 32.44 of the Public Local Laws of Garrett County.

32 [(o)] (N) (1) Each associate judge of the Court for Howard County shall
33 receive an annual compensation, to be paid monthly, of:

34 (i) \$12,000 for fiscal year 2019;

1 (ii) \$14,000 for fiscal year 2020;

2 (iii) \$16,000 for fiscal year 2021; and

3 (iv) \$18,000 for fiscal year 2022.

4 (2) The Chief Judge shall receive an annual compensation, to be paid
5 monthly, of:

6 (i) \$13,500 for fiscal year 2019;

7 (ii) \$15,500 for fiscal year 2020;

8 (iii) \$17,500 for fiscal year 2021; and

9 (iv) \$19,500 for fiscal year 2022.

10 (3) Each judge shall also receive an expense allowance, in addition, up to
11 \$50 per month, for personal expenses incidental to the judge's duties, to be paid by the
12 Treasurer of Howard County each month on presentation of an itemized voucher.

13 **[(p)] (O)** (1) Each of the judges of the Court for Kent County shall receive a
14 salary as set by the County Commissioners.

15 (2) (i) Each judge shall receive an allowance for travel expenses in
16 accordance with the county budget.

17 (ii) The County Commissioners shall pay quarterly to each judge the
18 travel allowance provided in subparagraph (i) of this paragraph.

19 **[(q)] (P)** The salary of each associate judge of the Court for Prince George's
20 County shall be \$50,000 per annum, and the salary of the Chief Judge shall be \$55,000 per
21 annum.

22 **[(r)] (Q)** (1) Each of the judges of the Court for Queen Anne's County shall
23 receive a salary as set by the County Commissioners.

24 (2) (i) Each judge shall receive an allowance for travel expenses in
25 accordance with the County budget.

26 (ii) The County Commissioners shall pay quarterly to each judge the
27 travel allowance provided in subparagraph (i) of this paragraph.

28 **[(s)] (R)** (1) Each of the judges of the Court for St. Mary's County shall
29 receive an annual salary of:

- 1 (i) \$9,000 for the calendar year 2015;
- 2 (ii) \$9,000 for the calendar year 2016;
- 3 (iii) \$9,000 for the calendar year 2017; and
- 4 (iv) \$9,000 for the calendar year 2018.

5 (2) Each judge shall also be allowed \$1,000 annually for traveling expenses,
6 payable quarterly.

7 **[(t)] (S)** (1) The Chief Judge of the Court for Somerset County shall receive
8 an annual salary of \$3,800 to be paid quarterly.

9 (2) Each of the associate judges of the Court for Somerset County shall
10 receive an annual salary of \$3,400 to be paid quarterly.

11 (3) Each judge shall also receive a daily allowance for traveling expenses
12 of \$34.50 for every day's attendance **[upon] ON** the sessions of the Court.

13 **[(u)] (T)** Each of the judges of the Court for Talbot County shall receive a salary
14 as set by the County Council.

15 **[(v)] (U)** (1) As compensation each of the judges of the Court for Washington
16 County shall receive an annual compensation as set by the County Commissioners of
17 Washington County under Title 28, Subtitle 2 of the Local Government Article.

18 (2) The County Commissioners may provide for an expense allowance as
19 the County Commissioners determine.

20 **[(w)] (V)** (1) Each judge of the Court for Wicomico County shall receive an
21 annual salary of \$9,500 to be paid quarterly.

22 (2) Each judge shall also receive an annual allowance for traveling
23 expenses of \$1,560 to be paid quarterly.

24 **[(x)] (W)** (1) The Board of County Commissioners of Worcester County shall
25 determine the compensation for judges of the Court for Worcester County but the
26 compensation may not be less than the sum of \$30 for every day's attendance **[upon] ON**
27 the sessions of the Court.

28 (2) The judges shall also receive an allowance for traveling expenses of
29 \$1,600 annually.

30 **[(y)] (X)** (1) Except in Montgomery, Frederick, Carroll, Talbot, Cecil, Kent,
31 Queen Anne's, Baltimore, Garrett, and Harford counties and Baltimore City, and except as

1 provided in paragraphs (3) and (4) of this subsection, a county shall pay a pension, in the
2 same manner as salaries are paid during active service, to each judge of the Orphans' Court
3 who:

- 4 (i) Has terminated active service;
- 5 (ii) Has reached 60 years of age; and
- 6 (iii) Has completed at least two terms of office.

7 (2) Except as provided in this section, the salary or pension shall be the
8 greater of:

- 9 (i) \$1,200 annually; or
- 10 (ii) An annual amount calculated at the rate of [4 percent] 4% of the
11 last annual amount of compensation multiplied by the number of years or partial years of
12 service, not exceeding 12 years.

13 (3) An Orphans' Court judge in Somerset County and Worcester County is
14 eligible for a pension under this subsection only if [he] **THE JUDGE** is in office on or before
15 July 1, 1979.

16 (4) In Wicomico County, an Orphans' Court judge who has completed at
17 least 12 years in office is eligible for a pension under this subsection.

18 (5) In Prince George's County, the salary or pension to each Orphans' Court
19 judge shall be the greater of:

- 20 (i) \$1,200 annually; or
- 21 (ii) An annual amount calculated at the rate of [4 percent] 4% of the
22 last annual amount of compensation multiplied by the number of years or partial years of
23 service, not exceeding 20 years.

24 (6) In Allegany County, the pension for an Orphans' Court judge shall be
25 the greater of:

- 26 (i) \$1,200 annually; or
- 27 (ii) 1. Except as provided in item 2 of this subparagraph, an
28 annual amount calculated at the rate of [4 percent] 4% of the last annual amount of
29 compensation multiplied by the number of years of service, not exceeding 24 years; or
- 30 2. An annual amount equal to two-thirds of the last annual
31 amount of compensation if the judge has more than 16 years of service.

1 (7) The pension or salary may be suspended during any month the judge is
2 a full-time employee of any county or of this State.

3 (8) Notwithstanding any provision of this section an Orphans' Court judge
4 may not receive a pension under this section if [he] **THE JUDGE** is receiving any other State
5 pension based on service as an Orphans' Court judge.

6 2-202.

7 **(A)** Each register shall devote [his] **THE REGISTER'S** full working time to the
8 duties of [his] **THE REGISTER'S** office.

9 **(B)** [He] **THE REGISTER** shall not practice law during the term of [his] **THE**
10 **REGISTER'S** office.

11 2-204.

12 (a) **(1)** At the time of assuming office, the register shall give bond to the State.

13 **(2)** The provisions of § 2-105(b), (d), (e), and (f) of the Courts Article shall
14 be applicable to the bond.

15 **(3)** [It] **THE BOND** shall be for the term of [his] **THE REGISTER'S** office in
16 the form and for the penalty the Comptroller prescribes, with the advice of the Legislative
17 Auditor.

18 **(4)** The Comptroller may require that the penalty of a bond be
19 supplemented or increased.

20 (b) If the register fails to give bond before [he] **THE REGISTER** acts as register,
21 [he] **THE REGISTER** is guilty of a misdemeanor and [upon] **ON** conviction shall pay a fine
22 of \$1,000.

23 2-205.

24 (e) (1) **(I)** If the fees and receipts of the office are insufficient in any fiscal
25 year to pay all or a part of the expenses of the office and authorized salary of a register, the
26 deficiency shall be funded from the taxes remitted to the Comptroller [of the treasury] by
27 the register during that fiscal year.

28 **(II)** Written authority for the transfer of funds shall be first obtained
29 from the Comptroller.

30 (2) In the event that tax collections for the fiscal year are insufficient, the
31 Comptroller shall make up the deficit from excess fees remitted from all other registers.

1 2-207.

2 (a) (1) Every register shall return annually to the Comptroller a full and
3 accurate account of the fees and receipts of [his] **THE REGISTER'S** office and of the
4 expenses incident to the proper conduct of [his] **THE REGISTER'S** office.

5 (2) The account shall be verified and in the form and supported by the proof
6 prescribed by the Comptroller.

7 (b) The excess of fees and receipts over expenses shall be delivered by the register
8 to the Comptroller with each report.

9 (c) The Comptroller shall deposit the fees received under this section in the
10 General Fund of the State.

11 2-208.

12 (b) (1) [He] **THE REGISTER** shall appoint deputies and clerks required for the
13 efficient operation of [his] **THE REGISTER'S** office.

14 (2) Appointments and compensation of deputies and clerks shall be
15 approved by the Comptroller.

16 (3) When qualified, every deputy shall have the power and authority to act
17 in the place of the register and every act performed by a deputy shall have the force and
18 effect as if performed by the register.

19 (c) (1) [He] **THE REGISTER** shall receive, file, and store safely every original
20 paper and record left in [his] **THE REGISTER'S** custody, in a repository of the courthouse
21 as the court may direct.

22 (2) The County Commissioners, County Council, or the Mayor and City
23 Council of Baltimore shall provide and keep in repair the repository at its expense.

24 (d) (1) [He] **THE REGISTER** shall keep a proper docket showing the grant of
25 letters and a short entry of every paper filed in the court and every order of the court or the
26 register, setting forth the nature of the order or paper.

27 (2) The docket shall be similar in every respect to the dockets required to
28 be kept in the offices of the equity courts.

29 (3) The dockets shall be subject to supervision, examination, and control as
30 ordered by the Comptroller.

1 (e) [He] **THE REGISTER** shall make out and issue every summons, process, or
2 order of the court and, in every respect, act under the control and direction of the court as
3 the clerk of a court of law acts under the direction of the court of law.

4 (f) (1) [He] **THE REGISTER** shall issue and certify under the seal of the court
5 a copy of any part of the proceedings in the court or in [his] **THE REGISTER'S** office which
6 a person may demand.

7 (2) Unless otherwise provided by law or order of a court of competent
8 jurisdiction, any person may, without charge, inspect, examine, and make memoranda or
9 notes from an index or paper filed with the register.

10 (g) (1) Each register shall attend each meeting of the court and, under the
11 direction of the court, make full and fair entries of court proceedings.

12 (2) [He] **THE REGISTER** may also record by photographic process in strong
13 bound books every probated will, and record by photographic process every other paper
14 filed in the court or in [his] **THE REGISTER'S** office in a manner, consistent with the
15 provisions of § 2-211 of this subtitle, as may be prescribed by the Comptroller and the State
16 Archives to insure uniformity throughout the State.

17 (h) Except Saturdays, Sundays, Fridays when a legal holiday falls on a Saturday,
18 and legal holidays, [he] **THE REGISTER** shall attend [his] **THE REGISTER'S** office daily in
19 person or by deputy unless prevented by sickness, accident or necessity.

20 (i) [He] **THE REGISTER** shall audit every account filed with [him] **THE**
21 **REGISTER** and examine in detail every voucher which may be submitted to substantiate
22 payments made by a personal representative.

23 (j) [He] **THE REGISTER** shall inform the court of a default in the past of a
24 personal representative which may come to [his] **THE REGISTER'S** attention.

25 (k) [He] **THE REGISTER** shall keep a seal of the court and the register.

26 2-301.

27 (a) (1) The register may appoint a reasonable number of standing appraisers
28 to serve at [his] **THE REGISTER'S** pleasure.

29 (2) Subject to the approval of the Comptroller, [he] **THE REGISTER** may
30 fix the conditions of their employment and their remuneration.

31 (b) (1) If a register exercises [his] **THE REGISTER'S** authority to appoint
32 standing appraisers, all property required to be independently appraised but not appraised
33 by special appraisers under § 7-202(e) of this article shall be appraised by standing
34 appraisers.

1 **(2)** If a register does not appoint standing appraisers, [he] **THE REGISTER**
2 shall, with respect to any estate which contains property required to be independently
3 appraised but not appraised by special appraisers, appoint general appraisers as provided
4 in § 2–302 of this subtitle.

5 2–302.

6 **(A)** [Upon] **ON** application by the personal representative in accordance with §
7 7–202(b) of this article for the appointment of general appraisers, the register shall
8 designate one or more qualified persons not related to the decedent nor interested in the
9 administration.

10 **(B)** [Upon] **ON** designation of the general appraisers, the register shall issue a
11 warrant authorizing and directing them jointly to appraise all property of the estate of the
12 decedent required to be independently appraised but not specially appraised under §
13 7–202(e) of this article.

14 **(C)** If an appraiser shall fail to act, the register shall make a new designation and
15 issue a new warrant [upon] **ON** application by the personal representative.

16 2–303.

17 (b) **(1)** The appraisal shall be in columnar form, and state generally each item
18 that has been appraised and the value of each item in dollars and cents.

19 **(2)** [It] **THE APPRAISAL** shall contain a statement signed and verified by
20 the appraisers certifying that they have impartially valued the property described in the
21 appraisal to the best of their skill and judgment.

22 (c) The appraisal shall immediately [upon] **ON** completion and verification be
23 delivered to the personal representative.

24 3–101.

25 Any part of the net estate of a decedent not effectively disposed of by [his] **THE**
26 **DECEDENT’S** will shall be distributed by the personal representative to the heirs of the
27 decedent in the order prescribed in this subtitle.

28 3–104.

29 (a) If there is no surviving issue [the net estate exclusive of the share of the
30 surviving spouse, or the entire net estate if there is no surviving spouse, shall be distributed
31 by the personal representative pursuant to the provisions of this section], **THE PERSONAL**
32 **REPRESENTATIVE SHALL DISTRIBUTE, AS PRESCRIBED IN THIS SECTION:**

1 **(1) IF THERE IS A SURVIVING SPOUSE, THE NET ESTATE EXCLUSIVE**
2 **OF THE SHARE OF THE SURVIVING SPOUSE; OR**

3 **(2) IF THERE IS NO SURVIVING SPOUSE, THE ENTIRE NET ESTATE.**

4 (b) Subject to §§ 3–111 and 3–112 of this subtitle, [it] **THE NET ESTATE** shall be
5 distributed [to]:

6 **(1) TO** the surviving parents equally[, or if];

7 **(2) IF** only one parent survives, to the survivor; or [if]

8 **(3) IF** neither parent survives, to the issue of the parents, by
9 representation.

10 (c) **(1)** If there is no surviving parent or issue of a parent, [it] **THE NET**
11 **ESTATE** shall be distributed [one half to]:

12 **(I) ONE–HALF:**

13 1. **TO** the surviving paternal grandparents equally[, or if];

14 2. **IF** only one paternal grandparent survives, to the
15 survivor[.]; or [if]

16 3. **IF** neither paternal grandparent survives, to the issue of
17 the paternal grandparents, by representation[.]; and [one half to]

18 **(II) ONE–HALF:**

19 1. **TO** the surviving maternal grandparents equally[, or if];

20 2. **IF** only one maternal grandparent survives, to the
21 survivor[.]; or [if]

22 3. **IF** neither maternal grandparent survives, to the issue of
23 the maternal grandparents, by representation.

24 **(2)** In the event that neither of one pair of grandparents and none of the
25 issue of either of that pair survives, the [one half] **ONE–HALF** share applicable shall be
26 distributed to [the]:

27 **(I) THE** other pair of grandparents[, the];

1 (II) **THE** survivor of [them] **THE OTHER PAIR OF GRANDPARENTS;**
2 or [the]

3 (III) **THE** issue of either of [them] **THE OTHER PAIR OF**
4 **GRANDPARENTS**, in the same manner as prescribed for their half share.

5 (d) (1) If there is no surviving parent or issue of a parent, or surviving
6 grandparent or issue of a grandparent, [it] **THE NET ESTATE** shall be distributed [one
7 quarter] **ONE-QUARTER** to [each]:

8 (I) **EACH** pair of great-grandparents equally; [or all]

9 (II) **ALL** to the survivor[.]; or [if]

10 (III) **IF** neither survives, all to the issue of either or of both of that
11 pair of great-grandparents, by representation.

12 (2) In the event that neither member of a pair of great-grandparents nor
13 any issue of either of that pair survives, the quarter share applicable shall be distributed
14 equally among the remaining pairs of great-grandparents or the survivor of a pair or issue
15 of either of a pair of great-grandparents, in the same manner as prescribed for a quarter
16 share.

17 (e) (1) **IN THIS SUBSECTION, “STEPCHILD” MEANS THE CHILD OF ANY**
18 **SPOUSE OF THE DECEDENT, IF THE SPOUSE WAS NOT DIVORCED FROM THE**
19 **DECEDENT.**

20 (2) If there is no surviving blood relative entitled to inherit under this
21 section, [it] **THE NET ESTATE** shall be divided into as many equal shares as there are
22 [stepchildren]:

23 (I) **STEPCHILDREN** of the decedent who survive the decedent; and
24 [stepchildren]

25 (II) **STEPCHILDREN** of the decedent who did not survive the
26 decedent but of whom issue did survive the decedent.

27 (3) (I) Each stepchild of the decedent who did survive the decedent shall
28 receive one share [and the].

29 (II) **THE** issue of each stepchild of the decedent who did not survive
30 the decedent but of whom issue did survive the decedent shall receive one share
31 apportioned by applying the pattern of representation set forth in § 1-210 of this article.
32 [As used in this subsection, “stepchild” shall mean the child of any spouse of the decedent
33 if such spouse was not divorced from the decedent.]

1 3–106.

2 (a) If a [person] **DECEDENT** dies intestate as to a part of [his] **THE DECEDENT’S**
3 net estate, property which [he] **THE DECEDENT** gave in [his] **THE DECEDENT’S** lifetime
4 to an heir shall be treated as an advancement against the share of the latter of the net
5 estate if declared in writing by the decedent or acknowledged in writing by the heir to be
6 an advancement.

7 3–108.

8 (A) [Property] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
9 **PROPERTY** of an illegitimate person passes in accordance with the usual rules of intestate
10 succession[.].

11 (B) [except that the] **THE** father or [his] **THE FATHER’S** relations **OF AN**
12 **ILLEGITIMATE PERSON** can inherit only if the **ILLEGITIMATE** person is treated as the
13 child of the father pursuant to § 1–208 of this article.

14 REVISOR’S NOTE: In subsection (b) of this section, the reference to the father or
15 the father’s relations “of an illegitimate person” is added for clarity.

16 3–109.

17 A person who is related to the decedent through two lines of relationship is entitled
18 to only a single share based on the relationship which would entitle [him] **THE PERSON** to
19 the larger share.

20 3–110.

21 (A) If a descendant, ancestor, or descendant of an ancestor of the decedent, fails
22 to survive the decedent by 30 full days, [he shall] **THE DESCENDANT, ANCESTOR, OR**
23 **DESCENDANT OF AN ANCESTOR OF THE DECEDENT:**

24 (1) **SHALL** be considered to have predeceased the decedent for purposes of
25 intestate succession[.]; and [is]

26 (2) **IS** not to be entitled to the rights of an heir.

27 (B) If the time of death of the decedent or of the descendant, ancestor, or
28 descendant of an ancestor of the decedent, who would otherwise be an heir, or the times of
29 death of both, cannot be determined, so that it cannot be established that [he] **THE**
30 **DESCENDANT, ANCESTOR, OR DESCENDANT OF AN ANCESTOR OF THE DECEDENT** has
31 survived the decedent by 30 full days, [that person shall] **THE DESCENDANT, ANCESTOR,**

1 **OR DESCENDANT OF AN ANCESTOR OF THE DECEDENT MAY** not be considered to have
2 survived for the required period.

3 3-203.

4 (b) Instead of property left to the surviving spouse by will, the surviving spouse
5 may elect to take [a]:

6 (1) A one-third share of the net estate if there is also a surviving issue[.];
7 or [a]

8 (2) A one-half share of the net estate if there is no surviving issue.

9 3-204.

10 (A) The right of election of the surviving spouse [is]:

11 (1) IS personal to [him. It is] **THE SURVIVING SPOUSE;**

12 (2) IS not transferable; and [cannot]

13 (3) CANNOT be exercised subsequent to [his] **THE** death **OF THE**
14 **SURVIVING SPOUSE.**

15 (B) If the surviving spouse is under 18 years of age or under disability, the election
16 may be exercised by order of the court having jurisdiction of the person or property of the
17 spouse or person under disability.

18 3-205.

19 (A) The right of election of a surviving spouse may be waived before or after
20 marriage by a written contract, agreement, or waiver signed by the party waiving the right
21 of election.

22 (B) Unless it provides to the contrary, a waiver of "all rights" in the property or
23 estate of a present or prospective spouse, or a complete property settlement entered into
24 after or in anticipation of separation or divorce, is [a]:

25 (1) A waiver of any right to [his family] **THE WAIVING PARTY'S:**

26 (I) **FAMILY** allowance [as well as to his elective];

27 (II) **ELECTIVE** share by each spouse in the property of the spouse[,
28 his right]; **AND**

1 **(III) RIGHT** to letters under § 5–104 of this article[, is an]; and

2 **(2) AN** irrevocable renunciation of any benefit which would pass to [him]
3 **THE WAIVING PARTY** from the other by intestate succession, by statutory share, or by
4 virtue of the provisions of a will executed before the waiver or property settlement.

5 3–207.

6 (a) An election to take an elective share of an estate of a decedent shall be [in]:

7 **(1) IN** writing [and signed];

8 **(2) SIGNED** by the surviving spouse or other person entitled to make the
9 election pursuant to § 3–204 of this subtitle[.]; and [filed]

10 **(3) FILED** in the court in which the personal representative of the decedent
11 was appointed.

12 3–208.

13 (b) (1) If there is an election to take an elective share, contribution to the
14 payment of [it] **THE ELECTIVE SHARE** shall be prorated among all legatees.

15 (2) Instead of contributing an interest in specific property to the elective
16 share, a legatee or legatees, but not the personal representative, may pay the surviving
17 spouse in cash, or other property acceptable to the spouse, an amount equal to the fair
18 market value of the surviving spouse’s interest in specific property on the date or dates of
19 distribution.

20 (3) **(I) [Unless] EXCEPT AS PROVIDED UNDER SUBPARAGRAPH (II)**
21 **OF THIS PARAGRAPH, UNLESS** specifically provided in the will, a legatee is not entitled
22 to sequestration or compensation from another legatee, or from another part of the estate
23 of the decedent[, except that an].

24 **(II) AN** interest renounced by the surviving spouse and not included
25 in the share of the net estate received by the surviving spouse under this section may be
26 subject to sequestration for the benefit of individuals who are the natural objects of the
27 bounty of the decedent, in order to avoid a substantial distortion of the intended
28 dispositions of the testator.

29 3–301.

30 (b) A child described in subsection (a) of this section or issue, if any, of such child
31 who does not survive the testator, is entitled to a share in the estate to be determined and
32 paid in accordance with §§ 3–302 and 3–303 of this subtitle, if:

1 (1) The will contains a legacy for a child of the testator but makes no
2 provision for a person who becomes a child of the testator subsequent to the execution of
3 the will;

4 (2) The child was born, adopted, or legitimated after the execution of the
5 will;

6 (3) The child, or [his] **THE CHILD'S** issue, survive the testator; and

7 (4) The will does not expressly state that the child, or **THE CHILD'S** issue,
8 should be omitted.

9 3-302.

10 (a) A child permitted to share in the estate of a decedent under § 3-301 of this
11 subtitle shall receive from the personal representative an amount equal to the lesser of:

12 (1) The distribution which the child would have taken in the event of
13 intestacy; or

14 (2) The value of all legacies to children of the testator and issue of deceased
15 children divided by the total number of children of the testator who survive [him] **THE**
16 **TESTATOR** and deceased children leaving issue who take under this subtitle, including the
17 pretermitted child.

18 3-303.

19 **(A)** Property distributed pursuant to § 3-302 of this subtitle shall be paid by the
20 personal representative from the legacies of children of the testator and issue of deceased
21 children who take by representation.

22 **(B) (1)** Each person shall contribute in the proportion which [his] **THE**
23 **PERSON'S** legacy bears to all legacies of children of the testator and issue of deceased
24 children taking by representation.

25 **(2)** Instead of contributing an interest in specific property to the
26 pretermitted child, a legatee may pay the pretermitted child or [his] **THE CHILD'S** issue,
27 in cash or other property acceptable to the pretermitted child or [his] **THE CHILD'S** issue,
28 an amount equal to the fair market value of the interest in specific property as of the date
29 of death of the testator.

30 4-101.

31 Any person may make a will if [he] **THE PERSON** is 18 years of age or older, and
32 legally competent to make a will.

1 4–102.

2 Except as provided in §§ 4–103 and 4–104 of this subtitle, every will shall be:

3 (1) [in] **IN** writing[.];

4 (2) [signed] **SIGNED** by the testator, or by some other person [for him]
5 **FOR THE TESTATOR**, in [his] **THE TESTATOR’S** presence and by [his] **THE TESTATOR’S**
6 express direction[.]; and

7 (3) [attested] **ATTESTED** and signed by two or more credible witnesses in
8 the presence of the testator.

9 4–104.

10 A will executed outside this State is properly executed if it is:

11 (1) In writing;

12 (2) Signed by the testator; and

13 (3) Executed in conformity with [the]:

14 (I) **THE** provisions of § 4–102 of this subtitle[, or the];

15 (II) **THE** law of the domicile of the testator[.]; or [the]

16 (III) **THE** place where the will is executed.

17 4–105.

18 (A) [A] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION**, A will,
19 or any part of it, may not be revoked in [a] **ANY** manner [other than as provided in this
20 section].

21 (B) **A WILL MAY BE REVOKED UNDER THE FOLLOWING CIRCUMSTANCES:**

22 (1) By provision in a subsequent, validly executed will [which] **THAT:**

23 (i) [revokes] **REVOKES** any prior will or part of it either expressly
24 or by necessary implication[.]; or

25 (ii) [expressly] **EXPRESSLY** republishes an earlier will that had
26 been revoked by an intermediate will but is still in existence;

1 (2) By burning, cancelling, tearing, or obliterating the [same] WILL, by the
2 testator [himself], or by some other person in [his] THE TESTATOR'S presence and by [his]
3 THE TESTATOR'S express direction and consent;

4 (3) By [the] subsequent marriage of the testator followed by the birth,
5 adoption, or legitimation of a child by [him,] THE TESTATOR provided [such] THE child or
6 [his] THE CHILD'S descendant survives the testator; and all wills executed [prior to such]
7 BEFORE THE marriage shall be revoked; or

8 (4) By an absolute divorce of a testator and [his] THE TESTATOR'S spouse
9 or the annulment of the marriage, either of which occurs subsequent to the execution of the
10 testator's will; and all provisions in the will relating to the spouse, and only those
11 provisions, shall be revoked unless otherwise provided in the will or decree.

12 4-201.

13 (a) (1) A will may be deposited by the testator, or by [his] THE TESTATOR'S
14 agent, for safekeeping with the register of the county where the testator resides.

15 (2) The register shall give a receipt for [it, upon] THE WILL, ON the
16 payment of the required fee.

17 (b) (1) The will shall be enclosed in a sealed wrapper, which shall have
18 endorsed on it "Will of," followed by [the]:

19 (I) THE name of the testator[, his];

20 (II) THE TESTATOR'S address[.]; and [his]

21 (III) THE TESTATOR'S Social Security number, if available.

22 (2) The register shall endorse on [it the day when] THE WILL:

23 (I) THE DATE IT WAS RECEIVED; and [the]

24 (II) THE NAME OF THE person from whom it was received.

25 (3) The will is not to be delivered or opened except as provided in this
26 subtitle.

27 (c) During the lifetime of the testator a deposited will may be delivered only to
28 [him] THE TESTATOR, or to a person authorized by [him] THE TESTATOR in writing to
29 receive it.

1 (d) [The will shall be opened by] **AFTER BEING INFORMED OF THE DEATH OF**
2 **THE TESTATOR**, the register [after being informed of the death of the testator. The register
3 shall notify] **SHALL:**

4 (1) **OPEN THE WILL;**

5 (2) **NOTIFY** the personal representative named in the will, and any other
6 person the register considers appropriate, that the will is on deposit with the register[. The
7 will shall be retained by the register];

8 (3) **RETAIN THE WILL** as a deposited will until **IT IS** offered for probate[.
9 The register shall keep]; **AND**

10 (4) **KEEP** a photographic copy of a will transmitted elsewhere for probate.

11 4-202.

12 (A) After the death of a testator, a person having custody of [his] **THE**
13 **TESTATOR'S** will shall deliver the instrument to the register for the county in which
14 administration should be had pursuant to § 5-103 of this article.

15 (B) The custodian may inform an interested person of the contents of the will.

16 (C) A custodian who willfully fails or refuses to deliver a will to the register after
17 being informed of the death of the testator is liable to a person aggrieved for the damages
18 sustained by reason of the failure or refusal.

19 4-401.

20 A legatee, other than [his] **THE TESTATOR'S** spouse, who fails to survive the testator
21 by 30 full days is considered to have predeceased the testator, unless the will of the testator
22 [expressly]:

23 (1) **EXPRESSLY** creates a presumption that the legatee is considered to
24 survive the testator; or [requires]

25 (2) **REQUIRES** that the legatee survives the testator for a stated period in
26 order to take under the will and the legatee survives for the stated period.

27 4-402.

28 There is a presumption that a will passes all property the testator owns at the time
29 of [his] **THE TESTATOR'S** death[. This includes], **INCLUDING** property acquired after the
30 execution of the will.

1 4-405.

2 Unless a contrary intent is expressly indicated in the will, **A SPECIFIC LEGACY**
3 **INCLUDES ADDITIONAL OR SUBSTITUTED SECURITIES** if [securities]:

4 (1) **SECURITIES** are the subject of a specific legacy [and after];

5 (2) **AFTER** the execution of the will other securities of the same or another
6 entity are distributed to the testator because of [his] **THE TESTATOR'S** ownership of the
7 original securities, whether as a result of a partial liquidation, stock dividend, stock split,
8 merger, consolidation, reorganization, recapitalization, redemption, exchange, or other
9 transaction[.]; and [if these]

10 (3) **THE** securities are part of the estate of the testator at [his] **THE TIME**
11 **OF THE TESTATOR'S** death[, the specific legacy includes the additional or substituted
12 securities].

13 4-406.

14 (A) Unless a contrary intent is expressly indicated in the will, a legacy of specific
15 property shall pass subject to a security interest [or], lien, **OR RENEWAL, EXTENSION, OR**
16 **REFINANCING OF A SECURITY INTEREST OR LIEN** on the property [which] **THAT** existed
17 at the time of execution of the will [or which is a renewal, extension, or refinancing].

18 (B) If a security interest or lien is created or attaches initially after the execution
19 of the will, the legatee is entitled to exoneration.

20 4-409.

21 A legacy for charitable use may not be void because of an uncertainty with respect
22 to the donees [if]:

23 (1) [The] **IF THE** will making the legacy also contains directions for the
24 formation of a corporation to take [it] **THE LEGACY**; and

25 (2) (I) [A] **IF THE LEGACY IS IMMEDIATE AND NOT SUBJECT TO A**
26 **LIFE ESTATE**, A corporation is formed in accordance with the directions, capable and
27 willing to receive and administer the legacy, within 12 months from the probate of the will[,
28 if the legacy is immediate and not subject to a life estate.]; **OR**

29 (II) If the legacy is subject to a life estate, a corporation shall be
30 formed at a time between probate of the will and the end of 12 months following the
31 expiration of a life estate or life estates.

32 4-410.

1 Unless a contrary intent is expressly indicated in the will, in a legacy the
2 **FOLLOWING** words **MEAN A LACK OR A FAILURE OF ISSUE IN THE LIFETIME, OR AT**
3 **THE TIME OF THE DEATH OF THE PERSON, AND NOT AN INDEFINITE FAILURE OF THE**
4 **PERSON’S ISSUE:**

5 (1) [“die] **“DIE** without issue”[, or];

6 (2) [“die] **“DIE** without leaving issue”[.]; or [other]

7 (3) **OTHER** words which may imply either a lack or a failure of issue of a
8 person in [his] **THE PERSON’S** lifetime, or at the time of [his] **THE PERSON’S** death, or an
9 indefinite failure of [his] **THE PERSON’S** issue[, mean a lack or a failure of issue in the
10 lifetime, or at the time of the death of the person, and not an indefinite failure of his issue].

11 5–102.

12 (b) Except for a foreign personal representative, a person may not qualify as or
13 exercise the powers and duties of a personal representative unless [he] **THE PERSON** has
14 been appointed administratively or judicially.

15 5–103.

16 (a) The venue for administrative or judicial probate is in the county in which the
17 decedent [had his domicile] **WAS DOMICILED** at the time of [his] death, or, if the decedent
18 was not domiciled in Maryland, the county in which the petitioner believes the largest part
19 in value of the property of the decedent in Maryland was located at the time of [his] death.

20 (b) (1) For the purpose of determining venue for the administration of the
21 estate of a decedent who was not domiciled in Maryland at the time of [his] death, the situs
22 of tangible personal property is its location.

23 (2) (I) The situs of intangible personal property is the location of the
24 instrument evidencing a debt, obligation, stock, or chose in action.

25 (II) If there is no instrument, the residence of the debtor governs.

26 (3) The situs of an interest in property held in trust is any county where
27 the trustee may be sued.

28 (c) (1) Probate proceedings concerning a decedent may not be maintained in
29 more than one county.

30 (2) If a proceeding is commenced in more than one county, the court of the
31 county where proceedings are filed first has exclusive jurisdiction to determine venue.

1 **(3)** If proper venue is finally determined to be in another county, the
 2 proceeding, including a will, petition, or any other paper filed, shall be transferred to the
 3 proper court.

4 5–105.

5 (c) Letters may not be granted to a person who, at the time a determination of
 6 priority is made, has filed with the register a declaration in writing that the person
 7 renounces the right to administer or is:

8 (5) A full–time judge of a court established under the laws of Maryland or
 9 the United States including[,] a judge of an orphans’ or probate court, or a clerk of court,
 10 or a register, unless the person is the surviving spouse or is related to the decedent within
 11 the third degree; or

12 5–106.

13 (a) **(1)** [When] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND**
 14 **SUBSECTION (B) OF THIS SECTION, WHEN** there are several eligible persons in a class
 15 entitled to letters, the court or register may grant letters to one of them, or to more than
 16 one of them, as necessary or convenient for the proper administration of the estate.

17 **(2)** [However, subject] **SUBJECT** to § 5–105 of this subtitle, all personal
 18 representatives named in the will or nominated in accordance with a power conferred in
 19 the will are entitled to probate.

20 (b) Within classes (3) through (10) of § 5–104 of this subtitle, letters may be
 21 granted to two or more persons in different classes provided that the person or class first
 22 entitled to letters consents.

23 REVISOR’S NOTE: In subsection (a)(1) of this section, the reference to “subsection
 24 (b) of this section” is added for clarity.

25 5–201.

26 **(A)** The petition for probate shall contain all knowledge or information of the
 27 petitioner with respect to the items listed in **SUBSECTION (B) OF** this section.

28 **[(a)] (B)** [It] **THE PETITION FOR PROBATE** shall state [the]:

29 **(1)** **THE** name, domicile, place, and date of death of the decedent[.];

30 **[(b)] (2)** [It shall state the] **THE** interest of the person filing the petition[.];

1 [(c)] (3) [It shall state the] **THE** county in which the decedent was domiciled at
2 the time of [his] death, and[, if] **IF THE DECEDENT ~~IS~~ WAS** not domiciled in Maryland, the
3 county in this State [which] **THAT** the petitioner believes was the situs of the largest part
4 in value of the property of the decedent at the time of [his] death[.];

5 [(d)] (4) [It shall list all] **ALL** other proceedings filed in Maryland and elsewhere
6 regarding the same estate[.];

7 [(e)] (5) [It shall state whether] **WHETHER** the decedent died testate or
8 intestate, and:

9 [(1)] (I) 1. If **THE DECEDENT DIED** testate, there shall be exhibited
10 with the petition the will or a copy of the will[.]; **OR**

11 2. If this exhibit cannot be produced, [a] **THERE SHALL BE**
12 **EXHIBITED:**

13 A. A statement of the reasons for the inability **TO EXHIBIT**
14 **THE WILL OR A COPY OF THE WILL**[, the];

15 B. **THE** name[,] and the address of the person in whose
16 custody the documents may be[, a];

17 C. A statement of the provisions of the will as far as known
18 to the petitioner[.]; and [a]

19 D. A statement of the manner in which the exhibit came into
20 the hands of the petitioner as well as a statement that [he] **THE PETITIONER** knows of no
21 later will; or

22 [(2)] (II) If **THE DECEDENT DIED** intestate, a statement of the extent of
23 a search for a will[.]; **AND**

24 [(f)] (6) [It shall state the] **THE** names and addresses of all persons who are
25 witnesses to the will referred to in [subsection (e)(1) of this section] **ITEM (5)(I) OF THIS**
26 **SUBSECTION.**

27 REVISOR'S NOTE: In subsection (b)(5)(i)2A of this section, the reference to the
28 inability "to exhibit the will or a copy of the will" is added for clarity.

29 5-204.

30 [(a)] The petition shall contain, as appropriate, a request for one or more of the
31 **FOLLOWING** acts [stated in this section.]:

1 **[(b)] (1)** [It shall request the] **THE** probate or recording of a will exhibited with
2 the petition or deposited with the register pursuant to Title 4, Subtitle 2 of this article[.];

3 **[(c)] (2)** [It shall request an] **AN** order directing witnesses to an alleged will to
4 appear and give testimony regarding its execution[.];

5 **[(d)] (3)** [It shall request an] **AN** order requiring a person alleged to have
6 custody of a will to deliver it to the court[.];

7 **[(e)] (4)** [It shall request an] **AN** order directing all interested persons to show
8 cause why the provisions of a lost or destroyed will should not be admitted to probate as
9 expressed in the petition[.];

10 **[(f)] (5)** [It shall request a] **A** finding that the decedent died intestate[.]; **AND**

11 **[(g)] (6)** [It shall request other] **OTHER** relief that the petitioner may consider
12 appropriate.

13 5–205.

14 **(b) (1)** [It] **THE PETITION** shall request the grant of letters to the petitioner,
15 if [the]:

16 **(I)** **THE** petition is filed by all of the persons named as executors in
17 the will of a testate decedent[.]; or [if the]

18 **(II)** **THE** persons in classes higher in the order of priority set forth in
19 § 5–104 of this title of those entitled to administer the estate of an intestate decedent join
20 in the petition or consent in writing to the grant.

21 **(2)** The joinder or consent of a person who has renounced [his] **THE** right
22 to administer is not necessary.

23 **(c)** [It] **THE PETITION** shall request an order requiring persons named as
24 executors or entitled to administration to appear and qualify for appropriate letters.

25 5–207.

26 **(a) (1)** Regardless of whether a petition for probate has been filed, a verified
27 petition to caveat a will may be filed at any time [prior to] **BEFORE** the expiration of [six]
28 **6** months following the first appointment of a personal representative under a will, even if
29 there be a subsequent judicial probate or appointment of a personal representative.

30 **(2)** If a different will is offered subsequently for probate, a petition to caveat
31 the later offered will may be filed at a time within the later to occur of:

1 [(1)] (I) [Three] **3** months after the later probate; or

2 [(2)] (II) [Six] **6** months after the first appointment of a personal
3 representative of a probated will.

4 (b) (1) If the petition to caveat is filed before the filing of a petition for probate,
5 or after administrative probate, it has the effect of a request for judicial probate.

6 (2) If **THE PETITION TO CAVEAT IS** filed after judicial probate the matter
7 shall be reopened and a new proceeding held as if only administrative probate had
8 previously been determined.

9 (3) In either case **DESCRIBED IN PARAGRAPHS (1) AND (2) OF THIS**
10 **SUBSECTION**, the provisions of Subtitle 4 of this title apply.

11 5–301.

12 (A) Administrative probate is a proceeding instituted by the filing of a petition for
13 probate by an interested person before the register for the probate of a will or a
14 determination of the intestacy of the decedent, and for the appointment of a personal
15 representative.

16 (B) Subject to the provisions of § 5–402 of this title, the proceeding may be
17 conducted without prior notice, and is final, to the extent provided in § 5–304 of this
18 subtitle, subject to the right of an interested person to require judicial probate as provided
19 in Subtitle 4 of this title.

20 5–302.

21 (A) [Upon] **ON** a request for administrative probate contained in a petition for
22 probate, the register [may]:

23 (1) **MAY** admit a will to probate[.]; and [shall]

24 (2) **SHALL** appoint one or more personal representatives on the basis of the
25 allegations contained in the petition.

26 (B) The register may require additional verified proof, [and it] **WHICH** shall be
27 filed in the proceeding.

28 5–304.

29 (a) (1) Unless a timely request for judicial probate has been filed pursuant to
30 subsection (b) of this section, or unless a request has been filed pursuant to § 5–402 of this

1 title within [six] 6 months of administrative probate, any action taken after administrative
2 probate shall be final and binding as to all interested persons.

3 (2) Except as provided in subsection (b) of this section, a defect in a petition
4 or proceeding relating to administrative probate shall not affect the probate or the grant of
5 letters.

6 (b) An administrative probate may be set aside and a proceeding for judicial
7 probate instituted if, following a request by an interested person within 18 months of the
8 death of decedent, the court finds that:

9 (1) The proponent of a later offered will, in spite of the exercise of
10 reasonable diligence in efforts to locate any will, was actually unaware of the existence of
11 a will at the time of the prior probate;

12 (2) The notice provided in § 2-210 of this article was not given to such
13 interested person nor did [he] **THE INTERESTED PERSON** have actual notice of the petition
14 for probate; or

15 (3) There was fraud, material mistake, or substantial irregularity in the
16 prior probate proceeding.

17 5-401.

18 (A) Judicial probate is a proceeding instituted by [the]:

19 (1) **THE** filing of a petition for probate by an interested person, or creditor,
20 with the court for the probate of a will; or [a]

21 (2) **A** determination of the intestacy of the decedent, and for the
22 appointment of a personal representative.

23 (B) The proceeding is conducted after notice as provided in § 5-403 of this subtitle,
24 and is final except as provided in § 5-406 of this subtitle.

25 (C) If no petition is filed within a reasonable time the register may file it with the
26 approval of the court.

27 5-402.

28 A proceeding for judicial probate shall be instituted at any time before
29 administrative probate or within the period after administrative probate provided by §
30 5-304 of this title[.]:

31 [(a)] (1) At the request of an interested person;

1 **[(b)] (2)** By a creditor in the event that there has been no administrative
2 probate;

3 **[(c)] (3)** If it appears to the court or the register that the petition for
4 administrative probate is materially incomplete or incorrect in any respect;

5 **[(d)] (4)** If the will has been torn, mutilated, burned in part, or marked in a way
6 as to make a significant change in the meaning of the will; **OR**

7 **[(e)] (5)** If it is alleged that a will is lost or destroyed.

8 5–403.

9 **(a) (1)** Notice that judicial probate has been requested shall be given promptly
10 by the register to all interested persons as shown in the documents in **[his] THE**
11 **REGISTER’S** file.

12 **(2)** The petitioner shall advise the register of the names and addresses of
13 all interested persons of whom **[he may learn prior to] THE ~~REGISTER~~ PETITIONER**
14 **LEARNS BEFORE** the granting of judicial probate, and the register shall give notice to the
15 persons in the manner prescribed by § 1–103(a)(1) of this article.

16 **(3)** In addition, the register shall publish a notice in a newspaper of general
17 circulation in the county where judicial probate is requested, once a week for **[two] 2**
18 successive weeks.

19 5–404.

20 **(a) (1)** A hearing for judicial probate is a plenary proceeding conducted in
21 accordance with the provisions of § 2–105 of this article.

22 **(2)** **[It] A HEARING FOR JUDICIAL PROBATE** shall adjudicate the issues
23 raised in the hearing and shall determine the testamentary capacity of the decedent if **[he]**
24 **THE DECEDENT** died testate.

25 **(3)** After the hearing **FOR JUDICIAL PROBATE** the court shall appoint one
26 or more personal representatives and shall, if appropriate, revoke, modify, or confirm action
27 taken at the administrative or any prior judicial probate.

28 5–502.

29 **(a)** Any foreign personal representative may exercise in Maryland all powers of
30 **[his] THE** office, and may sue and be sued in Maryland, subject to any statute or rule
31 relating to nonresidents.

1 5-503.

2 (b) A foreign personal representative shall:

3 (1) Publish once a week for [three] **3** successive weeks a notice in a
4 newspaper of general circulation in each county in which real or leasehold property of the
5 decedent was located, [announcing his] **CONTAINING:**

6 (I) **THE FOREIGN PERSONAL REPRESENTATIVE'S** appointment[,
7 his];

8 (II) **THE FOREIGN PERSONAL REPRESENTATIVE'S** name and
9 address[, the];

10 (III) **THE** name and address of [his] **THE FOREIGN PERSONAL**
11 **REPRESENTATIVE'S** Maryland agent for service of process on file with the register in each
12 county where real or leasehold property was located[, the];

13 (IV) **THE** name of the court [which] **THAT** appointed [him, a] **THE**
14 **FOREIGN PERSONAL REPRESENTATIVE;**

15 (V) **A** brief description of all real and leasehold property owned by
16 the decedent in the county[, the];

17 (VI) **THE** date of the decedent's death[.]; and [containing the]

18 (VII) **THE** following statement: All persons having claims against the
19 decedent must present their claims to the undersigned, or file them with the register of
20 wills on or before the earlier of the following dates:

21 [(i)] **1.** 6 months from the date of the decedent's death; or

22 [(ii)] **2.** [Two] **2** months after the foreign personal representative
23 mails or otherwise delivers to the creditor a copy of this published notice or other written
24 notice, notifying the creditor that [his] **THE CREDITOR'S** claim will be barred unless [he]
25 **THE CREDITOR** presents the claim within [two] **2** months from the mailing or other
26 delivery of the notice;

27 (2) Record in each appropriate office of the register a certification that [he]
28 **THE FOREIGN PERSONAL REPRESENTATIVE** has published notice as required; and

29 (3) Promptly after a proceeding under this subtitle has been instituted,
30 comply with the provisions of § 7-103.1 of this article.

1 (c) (1) Within the time periods provided under subsection (b) of this section, a
2 creditor may file with the register a written statement of [his] **THE CREDITOR'S** claim, in
3 the form set forth in § 8–104(c) of this article, and if a foreign personal representative has
4 instituted a proceeding under this subtitle deliver or mail a copy of the statement to the
5 personal representative.

6 (2) (I) The register shall maintain a book known as the “Claims Against
7 Nonresident Decedents” book in which every claim and release shall be recorded.

8 (II) Unless and until a release of a validly recorded claim has been
9 recorded, or the claim has finally been determined in favor of the personal representative,
10 the claim shall constitute a lien against the real and leasehold property owned by the
11 decedent in the county at [his] **THE TIME OF** death for a period of 12 years from date of
12 death.

13 (III) If the personal representative is empowered by the will to sell the
14 property the claim shall constitute a lien against the net proceeds from the sale.

15 5–504.

16 (a) (1) A foreign personal representative administering an estate which has
17 property located in Maryland **THAT IS** subject to Maryland inheritance taxes shall file with
18 the register of the county in which the foreign personal representative believes the largest
19 part in value of the property is located[, a]:

20 (I) A copy of [his] **THE PERSON'S** appointment as personal
21 representative [and of the];

22 (II) **THE** will of the decedent, if there is a will, authenticated
23 pursuant to 28 U.S.C. § 1738[, together with a]; **AND**

24 (III) A verified application [which] **THAT** shall [describe]:

25 1. **DESCRIBE** all the property owned by the estate in
26 Maryland and known to the foreign personal representative[.]; and [set]

27 2. **SET** forth the market value and the basis [upon] **ON**
28 which that value has been determined.

29 (2) The register shall proceed to fix the amount of the inheritance tax due
30 and may require other evidence of value, or make an independent investigation, as [he]
31 **THE REGISTER** considers appropriate.

32 (3) The determination of the register is final, subject to appeal to the
33 Maryland Tax Court.

1 5-602.

2 A petition for administration of a small estate may be filed by any person entitled to
3 administration pursuant to § 5-104 of this title and shall contain, in addition to the
4 information required by §§ 5-201 and 5-202 of this title:

5 [(a)] (1) A statement that the petitioner has made a diligent search to discover
6 all property and debts of the decedent;

7 [(b)] (2) A list of the known property and its value;

8 [(c)] (3) A list of the known creditors of the decedent, with the amount of each
9 claim, including contingent and disputed claims; **AND**

10 [(d)] (4) A statement of any legal proceedings pending in which the decedent
11 was a party.

12 5-603.

13 (a) If the register finds that the petition and additional information filed in the
14 proceeding is accurate, [he] **THE REGISTER** shall:

15 (1) Direct that the petitioner serve as personal representative of the small
16 estate and issue additional letters of administration as needed;

17 (2) Direct the immediate payment of the allowable funeral expenses as
18 provided in § 8-106 of this article and the family allowances provided in § 3-201 of this
19 article;

20 (3) Direct sale of property as may be necessary to satisfy expenses and
21 allowances; and

22 (4) If it appears that there will be property remaining after the payments,
23 expenses and allowances, admit a will to probate and direct that notice be given in
24 accordance with subsection (b) of this section.

25 (b) (1) If the register directs a proceeding in accordance with subsection (a)(4)
26 of this section, unless notice of the appointment of a personal representative appointed
27 under Subtitle 3 or Subtitle 4 of this title has been published one or more times, notice shall
28 be given once in the form required by § 7-103 of this article, but the period within which
29 objection must be made to the action is 30 days from the date of publication of notice and
30 the period within which claims must be filed is the earlier of the following dates:

31 (i) 6 months after the date of the decedent's death; or

1 (ii) 30 days after the personal representative mails or otherwise
 2 delivers to the creditor a copy of a notice in the form required by § 7–103 of this article or
 3 other written notice, notifying the creditor that [his] **THE CREDITOR’S** claim will be barred
 4 unless [he] **THE CREDITOR** presents the claim within 30 days from the mailing or other
 5 delivery of the notice.

6 **(2) [The] IN DELIVERING A COPY OF A NOTICE TO THE CREDITOR**
 7 **UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION, THE** personal representative shall
 8 comply with the provisions of § 7–103.1 of this article.

9 **[(2)] (3)** If the register directs a proceeding in accordance with subsection
 10 (a)(4) of this section and if notice of the appointment of a personal representative appointed
 11 under Subtitle 3 or Subtitle 4 of this title has been published one or more times, the notice
 12 provisions of § 7–103 of this article and the time limits specified therein shall apply.

13 **REVISOR’S NOTE:** In subsection (b)(2) of this section, the phrase “[i]n delivering a
 14 copy of a notice to the creditor under paragraph (1)(ii) of this subsection” is
 15 added for clarity.

16 5–604.

17 (b) **(1)** After the expiration of 60 days following publication of the notice
 18 required by § 5–603(b) of this subtitle, the personal representative shall file proof of
 19 publication of the notice and a list of all claims, including contingent and disputed claims,
 20 and the amount of each filed since the original petition.

21 **(2)** The court shall hear objections filed pursuant to the notice and, if
 22 satisfied that all action taken pursuant to this subtitle is proper, shall direct the petitioner
 23 to pay all proper claims, expenses, and family allowance and to distribute the net estate in
 24 accordance with the will or, if the decedent died intestate, in accordance with Title 3,
 25 Subtitle 1 of this article.

26 (c) The personal representative does not incur any personal liability by [his]
 27 payment of claims or distribution of assets in accordance with this subtitle if, at the time
 28 of payment or distribution, [he] **THE REPRESENTATIVE** has no actual knowledge of a valid
 29 unbarred claim [which] **THAT** has not been filed with the register.

30 6–101.

31 As a condition to [his] **A PERSONAL REPRESENTATIVE’S** appointment, [a] **THE**
 32 personal representative shall file:

33 **[(a)] (1) [a] A** statement of acceptance of the duties of the office[.];

34 **[(b)] (2) [any] ANY** required bond[.]; and

1 [(c)] **(3)** [a] A written consent to personal jurisdiction in any action brought in
2 the State against [him] **THE PERSONAL REPRESENTATIVE** as personal representative or
3 arising out of [his] **THE PERSONAL REPRESENTATIVE'S** duties, where service of process
4 is effected pursuant to the Maryland Rules at [his] **THE** address **OF THE PERSONAL**
5 **REPRESENTATIVE** shown in the proceedings.

6 6–102.

7 (b) (1) Even if a personal representative is excused from giving bond, a bond
8 shall be given in an amount [which] **THAT** the register or the court considers sufficient to
9 secure the payment of the debts and Maryland inheritance taxes payable by the personal
10 representative.

11 **(2)** The bond shall be conditioned accordingly.

12 [(2)] **(3)** Even if a bond is not required as a condition of the appointment
13 of a personal representative, the court may require a bond during the administration
14 [upon] **ON** the petition of an interested person or creditor and for good cause shown.

15 (d) **(1)** The surety on the bond may be a corporation authorized to act as a
16 surety in the State or one or more individuals approved by the register.

17 **(2)** Unless otherwise ordered by the court, all sureties and the personal
18 representatives are jointly and severally liable on the bond.

19 (f) **(1)** Every bond executed by a personal representative shall be filed in the
20 office of the register.

21 **(2)** A person may obtain a copy of the bond certified by the register.

22 (h) (1) The bond shall be substantially in the following form:

23 The condition of the above obligation is such, that if shall well and truly
24 perform the office of the personal representative of, late of, deceased, according
25 to law, and shall in all respects discharge the duties required of [him] **THE PERSONAL**
26 **REPRESENTATIVE** by law as personal representative without any injury or damage to any
27 person interested in the faithful performance of the office, then the above obligation shall
28 be void; it is otherwise to be in full force and effect.

29 6–103.

30 **(A)** After appointment, letters shall be issued to the personal representative by
31 the register.

32 **(B)** Letters shall contain:

1 [(a)] (1) The name and location of the court or register by whom appointment
2 was made;

3 [(b)] (2) The name of the decedent and the personal representative;

4 [(c)] (3) The date of [his] **THE REPRESENTATIVE'S** appointment;

5 [(d)] (4) The date of probate of the will admitted to probate in the proceeding;

6 [(e)] (5) The signature of the register and the seal of the court; and

7 [(f)] (6) [Date] **THE DATE THE** certificate was issued.

8 6–105.

9 (a) The duties and powers of a personal representative commence [upon] **ON** the
10 issuance of [his] **THE PERSONAL REPRESENTATIVE'S** letters, but when done in good
11 faith, [his] **THE PERSONAL REPRESENTATIVE'S** acts occurring [prior to] **BEFORE**
12 appointment have the same effect as those occurring after.

13 6–201.

14 **(A)** A person to whom letters are first issued has exclusive authority under the
15 letters until [his] **THE PERSON'S** appointment is terminated or modified.

16 **(B)** If, in the absence of termination or modification, letters are afterwards issued
17 to another, the first appointed personal representative may recover any property of the
18 estate in the hands of, and demand and secure an accounting from, the personal
19 representative subsequently appointed, but the acts of the latter done in good faith before
20 notice of the first letters, are not void for want of validity of appointment.

21 6–203.

22 (b) The provisions of subsection (a) of this section do not apply if:

23 (1) The act involved is receiving or receipting for property due the estate;

24 (2) All personal representatives cannot readily be consulted in the time
25 reasonably available for emergency action;

26 (3) A personal representative has validly delegated to a copersonal
27 representative [his] **THE PERSONAL REPRESENTATIVE'S** power to act; or

28 (4) The will or a statute provides otherwise.

1 (c) Persons dealing with a copersonal representative without knowledge that [he]
2 **THE COPERSONAL REPRESENTATIVE** is not the sole personal representative are as fully
3 protected as if the person with whom they dealt had been the sole personal representative.

4 6–204.

5 Unless the will otherwise provides:

6 [(a)] (1) Every power exercisable by copersonal representatives may be
7 exercised by the survivors or survivor of them when the appointment of one is terminated;
8 and

9 [(b)] (2) [where] **WHERE** one of two or more nominated as copersonal
10 representatives is not appointed, those appointed may exercise all the powers incident to
11 the office.

12 6–302.

13 The appointment of a personal representative shall be terminated in accordance with
14 Title 10 of this article and may be terminated sooner by [his] **THE PERSONAL**
15 **REPRESENTATIVE’S** death, disability, resignation, or removal as provided in §§ 6–303
16 through 6–307 of this subtitle.

17 6–303.

18 (a) Termination ends the right and power pertaining to the office of personal
19 representative as conferred by will or by the estates of decedents law.

20 (B) A personal representative whose appointment has been terminated shall:

21 (1) Unless otherwise ordered by the court, perform acts necessary to
22 protect property belonging to the estate; and

23 (2) Deliver the property to the successor representative.

24 [(b)] (C) Termination does not discharge a personal representative from liability
25 for transactions or omissions occurring before termination, or relieve [him] **THE**
26 **PERSONAL REPRESENTATIVE** of the duty to protect property subject to [his] **THE**
27 **PERSONAL REPRESENTATIVE’S** control, and to account for and deliver the property to
28 [his] **THE PERSONAL REPRESENTATIVE’S** successor.

29 (D) Termination does not affect the personal jurisdiction to which [he] **THE**
30 **PERSONAL REPRESENTATIVE** has given consent pursuant to § 6–101 of this title in
31 proceedings which may be commenced against [him] **THE PERSONAL REPRESENTATIVE**
32 arising out of the performance of [his] **THE PERSONAL REPRESENTATIVE’S** duties as
33 personal representative.

1 [(c)] (E) All lawful acts of a personal representative before the termination of
2 [his] **THE PERSONAL REPRESENTATIVE'S** appointment remain valid and effective.

3 6–304.

4 (A) The appointment of a personal representative shall be terminated by [his]
5 **THE PERSONAL REPRESENTATIVE'S** death or a judicial determination of [his] **THE**
6 **PERSONAL REPRESENTATIVE'S** disability.

7 (B) In either case, unless there is a surviving personal representative the personal
8 representative of a deceased personal representative or the person appointed to protect the
9 estate of a personal representative under legal disability shall [have]:

10 (1) **HAVE** the duty to protect property belonging to the estate being
11 administered by the deceased or disabled personal representative[, shall have];

12 (2) **HAVE** the power to perform acts necessary for the protection of
13 property[, shall immediately];

14 (3) **IMMEDIATELY** account for and deliver the property to a successor
15 personal representative or special administrator[.]; and [shall immediately]

16 (4) **IMMEDIATELY** apply to the court for the appointment of a special
17 administrator or successor personal representative to carry on the administration of the
18 estate [which] **THAT** was being administered by the deceased or disabled personal
19 representative.

20 6–306.

21 (a) A personal representative shall be removed from office [upon] **ON** a finding by
22 the court that [he] **THE PERSONAL REPRESENTATIVE:**

23 (1) Misrepresented material facts in the proceedings leading to [his] **THE**
24 **PERSONAL REPRESENTATIVE'S** appointment;

25 (2) Willfully disregarded an order of the court;

26 (3) Is unable or incapable, with or without [his] **THE PERSONAL**
27 **REPRESENTATIVE'S** own fault, to discharge [his] **THE PERSONAL REPRESENTATIVE'S**
28 duties and powers effectively;

29 (4) Has mismanaged property;

1 (5) Has failed to maintain on file with the register a currently effective
2 designation of an appropriate local agent for service of process as described in § 5–105(c)(6)
3 of this article; or

4 (6) Has failed, without reasonable excuse, to perform a material duty
5 pertaining to the office.

6 (c) (1) A hearing shall be conducted by the court [prior to] **BEFORE** the
7 removal of a personal representative.

8 (2) The hearing may be held [on]:

9 (I) **ON** the motion of the court[, on];

10 (II) **ON THE** motion of the register[.]; or [on]

11 (III) **ON THE** written petition of an interested person.

12 (3) Notice of hearing shall be given by the register to all interested persons.

13 (4) After notice has been given to the personal representative, [he] **THE**
14 **PERSONAL REPRESENTATIVE** may exercise only the powers of a special administrator as
15 permitted by § 6–403 of this title.

16 (e) A personal representative who is removed from office shall account for and
17 immediately deliver the property belonging to the estate to [his] **THE PERSONAL**
18 **REPRESENTATIVE’S** successor or special administrator.

19 6–308.

20 (A) A personal representative whose appointment is terminated may receive for
21 [his] **THE PERSONAL REPRESENTATIVE’S** services the compensation awarded by the
22 court at the time of the termination of [his] **THE PERSONAL REPRESENTATIVE’S**
23 appointment.

24 (B) [It] **THE COMPENSATION AWARDED BY THE COURT** may not exceed an
25 appropriate proportion of the statutory limit allowable under § 7–601 of this article.

26 6–401.

27 (a) [Upon] **ON** the filing of a petition by an interested party, a creditor, or the
28 register, or [upon] **ON** the motion of the court, a special administrator may be appointed by
29 the court [whenever]:

1 **(1)** **IF** it is necessary to protect property [prior to] **BEFORE** the
2 appointment and qualification of a personal representative; or [upon]

3 **(2)** **ON** the termination of appointment of a personal representative and
4 [prior to] **BEFORE** the appointment of a successor personal representative.

5 6–403.

6 **(A)** A special administrator shall collect, manage, and preserve property and
7 account to the personal representative [upon his] **ON THE PERSONAL**
8 **REPRESENTATIVE’S** appointment.

9 **(B)** A special administrator [shall]:

10 **(1)** **SHALL** assume all duties unperformed by a personal representative
11 imposed under Title 7, Subtitles 2, 3, and 5 of this article[.]; and [has]

12 **(2)** **HAS** all powers necessary to collect, manage, and preserve property.

13 **(C)** In addition, a special administrator has the other powers designated from
14 time to time by court order.

15 6–404.

16 **(A)** The appointment of a special administrator terminates [upon]:

17 **(1)** **ON** the appointment of a personal representative; or [in]

18 **(2)** **IN** the manner prescribed in Subtitle 3 of this title.

19 **(B)** The powers of a special administrator may be suspended or terminated in the
20 same manner as prescribed in Subtitle 3 of this title for the suspension and termination of
21 the powers, or the removal, of a personal representative.

22 7–101.

23 (a) **(1)** A personal representative is [a]:

24 **(I)** A fiduciary[.]; **AND**

25 **(II)** [He is under] **UNDER** a general duty to settle and distribute the
26 estate of the decedent in accordance with the terms of the will and the estates of decedents
27 law as expeditiously and with as little sacrifice of value as is reasonable under the
28 circumstances.

1 **(2)** [He] **A PERSONAL REPRESENTATIVE** shall use the authority
2 conferred [upon him] **ON THE PERSONAL REPRESENTATIVE** by [the]:

3 **(I)** **THE** estates of decedents law[, by the];

4 **(II)** **THE** terms of the will[, by orders];

5 **(III)** **ORDERS** in proceedings to which [he] **THE PERSONAL**
6 **REPRESENTATIVE** is A party[.]; and [by the]

7 **(IV)** **THE** equitable principles generally applicable to fiduciaries,
8 fairly considering the interests of all interested persons and creditors.

9 (b) Unless the time of distribution is extended by order of court for good cause
10 shown, the personal representative shall distribute all the assets of the estate of which [he]
11 **THE PERSONAL REPRESENTATIVE** has taken possession or control within the time
12 provided in § 7–305 of this title for rendering [his] **THE** first account.

13 (c) The personal representative does not incur any personal liability [by his] **FOR**
14 **THE** payment of claims or distribution of assets even if [he] **THE PERSONAL**
15 **REPRESENTATIVE** does not consider claims for injuries to the person prosecuted under the
16 provisions of § 8–103(e) or § 8–104 of this article, if at the time of payment or distribution:

17 (1) [He] **THE PERSONAL REPRESENTATIVE** had no actual knowledge of
18 the claim; and

19 (2) The plaintiff had not filed on time [his] A claim with the register.

20 7–102.

21 **(A)** A personal representative has a right to and shall take possession or control
22 of the estate of the decedent, except that property in the possession of the person
23 presumptively entitled to it as heir or legatee shall be possessed by the personal
24 representative only when reasonably necessary for purposes of administration.

25 **(B)** The request by a personal representative for delivery of property possessed by
26 the heir or legatee is conclusive evidence, in an action against the heir or legatee for
27 possession, that the possession of the property by the personal representative is reasonably
28 necessary for purposes of administration.

29 **(C)** The personal representative may maintain an action to recover possession of
30 property or to determine its title.

31 7–103.

1 (a) (1) After the appointment of a personal representative, the register shall
2 have a notice of the appointment published in a newspaper of general circulation in the
3 county of appointment once a week in [three] 3 successive weeks, announcing the
4 appointment and address of the personal representative, and notifying creditors of the
5 estate to present their claims.

6 (2) The personal representative shall file or have filed with the register a
7 certification that a notice has been published.

8 (B) The notice OF APPOINTMENT shall be substantially in the FOLLOWING form
9 [provided in this section.]:

10 [(b)] "To all persons interested in the estate of:

11 This is to give notice that the undersigned, whose address is was,
12 on, appointed personal representative of the estate of who died on
13 (with) (without) a will.

14 All persons having any objection to the appointment (or to the probate of the will of
15 the decedent) shall file the same with the register of wills on or before [six] 6 months
16 from the date of the appointment.

17 All persons having claims against the decedent must present their claims to the
18 undersigned, or file them with the register of wills on or before the earlier of the following
19 dates:

20 (1) 6 months from the date of the decedent's death; or

21 (2) [Two] 2 months after the personal representative mails or otherwise
22 delivers to the creditor a copy of this published notice or other written notice, notifying
23 the creditor that [his] THE CREDITOR'S claim will be barred unless [he] THE CREDITOR
24 presents the claim within [two] 2 months from the mailing or other delivery of the notice.

25 Any claim not filed on or before that date, or any extension provided by law, is
26 unenforceable thereafter.

27
28 Personal representative

29 Date of first publication:
30".

31 7-103.1.

32 (a) Promptly after appointment, the personal representative of a decedent's
33 estate shall:

34 (1) Make a reasonably diligent effort to ascertain the names and addresses
35 of the decedent's creditors; and

36 (2) Mail or otherwise deliver a notice to those creditors whose names and
37 addresses [he] THE PERSONAL REPRESENTATIVE has ascertained of the time within
38 which their claims may be presented under § 8-103(a) of this article.

1 (c) (1) The failure of a creditor to receive notice under this section shall not
2 extend the time within which the creditor may present [his] A claim beyond 6 months from
3 the date of the decedent's death.

4 (2) The personal representative, individually and on behalf of the estate,
5 [shall] IS not [be] liable for failing under this section to ascertain or notify a creditor or for
6 giving notice to a person who is not a creditor of the decedent.

7 7-104.

8 (a) Not later than 20 days after [his] THE appointment [the] OF A personal
9 representative, THE PERSONAL REPRESENTATIVE shall deliver to the register the text of
10 the first published newspaper notice of [his] THE appointment and shall advise the register
11 of the names and addresses of the heirs of the decedent and of the legatees to the extent
12 known by [him] THE PERSONAL REPRESENTATIVE, so that the register may issue the
13 notices provided in § 2-210 of this article.

14 7-105.

15 Whenever a personal representative discovers that a document previously filed by
16 [him] THE PERSONAL REPRESENTATIVE or a predecessor personal representative is
17 incomplete or erroneous, [he] THE PERSONAL REPRESENTATIVE shall promptly file a
18 revised and corrected document with the register, reciting the correct information if known
19 by [him] THE PERSONAL REPRESENTATIVE.

20 7-201.

21 (A) Subject to the provisions of § 7-205 of this subtitle, and within [three] 3
22 months after [his] THE appointment OF A PERSONAL REPRESENTATIVE, [a] THE
23 personal representative shall prepare and file an inventory of property owned by the
24 decedent at the time of [his] THE death OF THE DECEDENT, listing each item in
25 reasonably descriptive detail, and indicating its fair market value as of the date of the death
26 of the decedent, and the type and amount of any encumbrance that may exist with reference
27 to the item.

28 (B) The inventory shall include:

29 (1) Real property;

30 (2) Tangible personal property, excluding:

31 [(a)] (I) [wearing] WEARING apparel, other than furs and jewelry;
32 and

33 [(b)] (II) [provisions] PROVISIONS for consumption by the family;

- 1 (3) Corporate stocks;
- 2 (4) Debts owed to the decedent, including bonds and notes;
- 3 (5) Bank accounts, building, savings and loan association shares, and
4 money;
- 5 (6) Debts owed to the decedent by the personal representative; and
- 6 (7) Any other interest in tangible or intangible property owned by the
7 decedent which passes by testate or intestate succession.

8 7-203.

9 [Whenever property not included in the original inventory comes to the knowledge
10 of a personal representative, or whenever the personal representative learns that the value
11 indicated in the original inventory for an item is erroneous or misleading, he] **A PERSONAL**
12 **REPRESENTATIVE** shall make a supplemental inventory or appraisal of [the] **AN** item
13 showing the market value as of the date of the death of the decedent, or the revised market
14 value, and the appraisals or other data relied [upon] **ON** and shall file [it] **THE**
15 **SUPPLEMENTAL INVENTORY OR APPRAISAL** with the court **IF:**

16 **(1) PROPERTY NOT INCLUDED IN THE ORIGINAL INVENTORY COMES**
17 **TO THE KNOWLEDGE OF THE PERSONAL REPRESENTATIVE; OR**

18 **(2) THE PERSONAL REPRESENTATIVE LEARNS THAT THE VALUE**
19 **INDICATED IN THE ORIGINAL INVENTORY FOR THE ITEM IS ERRONEOUS OR**
20 **MISLEADING.**

21 7-204.

22 **(A)** At any time before [the] **AN** estate is closed, the State or an interested person
23 may petition the court for revision of a value assigned to an item of inventory and the court
24 may require revision as it considers appropriate.

25 **(B)** Unless the personal representative has filed [the] **A** petition **UNDER**
26 **SUBSECTION (A) OF THIS SECTION**, the court shall hold a hearing [upon it] **ON THE**
27 **PETITION.**

28 7-205.

29 Within [three] **3** months of the date of [his] **THE** appointment **OF A SUCCESSOR**
30 **PERSONAL REPRESENTATIVE**, [a] **THE** successor personal representative shall return
31 [either a]:

1 **(1)** A new inventory to stand in place of the inventory filed by [his] **THE**
2 predecessor **PERSONAL REPRESENTATIVE**; or [a]

3 **(2)** A written consent to be answerable for the items as listed and valued
4 in the inventory filed by [his] **THE** predecessor **PERSONAL REPRESENTATIVE**.

5 7–301.

6 A personal representative shall file written accounts of [his] **THE PERSONAL**
7 **REPRESENTATIVE’S** management and distribution of property at the times and in the
8 manner prescribed in this subtitle, with a certification that [he] **THE PERSONAL**
9 **REPRESENTATIVE** has mailed or delivered a notice of the filing to all interested persons.

10 7–306.

11 [Upon failure] **IF A PERSONAL REPRESENTATIVE FAILS** to render an account or
12 to file a certificate as required **UNDER THIS SUBTITLE**, [a] **THE** personal representative
13 [may]:

14 **(1)** **MAY** be removed as provided in § 6–306 of this article[. In addition, he
15 is]; **AND**

16 **(2)** **IS** liable to interested persons as provided in §
17 7–403 of this title.

18 **REVISOR’S NOTE:** In the introductory language of this section, the phrase “[i]f a
19 personal representative fails to render an account or to file a certificate as
20 required under this subtitle” is substituted for the former phrase “[u]pon
21 failure to render an account or to file a certificate as required” for clarity.

22 7–307.

23 (a) **(1)** Inheritance taxes with respect to a distribution shall be paid by the
24 personal representative to the register.

25 **(2)** An inheritance tax due in connection with a legacy or intestate share
26 shall be paid at the time of accounting for its distribution.

27 **(3)** Failure to pay the inheritance tax when due or to make full disclosure
28 of the information necessary to the determination by the register of the tax due may subject
29 a personal representative to reduction or forfeiture of commissions by the court unless good
30 cause to the contrary is shown.

1 (4) Failure to pay the inheritance tax when due subjects the bond of the
2 personal representative to liability.

3 (b) (1) [Upon] **ON** payment of the inheritance taxes as determined by the
4 register to be due, the personal representative is entitled to receive a certificate reciting
5 that the taxes have been paid.

6 (2) If requested by the personal representative, the certificate shall set
7 forth in detail items of real or leasehold property [upon] **FOR** which the inheritance taxes
8 have been paid.

9 (3) The certificate may be filed among the permanent records of the estate
10 maintained by the register.

11 7-401.

12 (a) (1) In the performance of a personal representative's duties pursuant to §
13 7-101 of this title, a personal representative may exercise all of the power or authority
14 conferred [upon] **ON** the personal representative by statute or in the will, without
15 application to, the approval of, or ratification by the court.

16 (2) Except as validly limited by the will or by an order of court, a personal
17 representative may, in addition to the power or authority contained in the will and to other
18 common-law or statutory powers, exercise the powers enumerated in this section.

19 (b) [He] **A PERSONAL REPRESENTATIVE** may retain assets owned by the
20 decedent pending distribution or liquidation, including those in which the representative
21 is personally interested or which are otherwise improper for trust investment.

22 (c) (1) [He] **A PERSONAL REPRESENTATIVE** may hold a security in the name
23 of a nominee or in other form without disclosure of the interest of the estate.

24 (2) [In this case, the] **A personal representative WHO HOLDS A SECURITY**
25 **IN THE NAME OF A NOMINEE OR IN OTHER FORM WITHOUT DISCLOSURE OF THE**
26 **INTEREST OF THE ESTATE** is liable for a wrongful act of the nominee in connection with
27 the security held.

28 (d) [He] **A PERSONAL REPRESENTATIVE** may receive assets from fiduciaries or
29 other sources.

30 (e) [He] **A PERSONAL REPRESENTATIVE** may deposit funds for the account of
31 the estate, including money received from the sale of assets, in checking accounts, in
32 insured interest-bearing accounts, or in short-term loan arrangements which may be
33 reasonable for use by a trustee.

1 (f) [He] **A PERSONAL REPRESENTATIVE** may agree to deposit assets of the
2 estate with a financial institution so that the assets cannot be withdrawn or transferred
3 without:

4 (1) The written consent of the surety on the bond; or

5 (2) An order of court.

6 (g) [He] **A PERSONAL REPRESENTATIVE** may satisfy written charitable pledges
7 of the decedent.

8 (h) [He] **A PERSONAL REPRESENTATIVE** may pay a valid claim as provided in
9 this article or effect a fair and reasonable compromise with a creditor or obligee, or extend
10 or renew an obligation due by the estate.

11 (i) [He] **A PERSONAL REPRESENTATIVE** may pay the funeral expenses of the
12 decedent in accordance with the procedures provided in § 8–106 of this article, including
13 the cost of burial space and a tombstone or marker, and the cost of perpetual care.

14 (j) [He] **A PERSONAL REPRESENTATIVE** may pay taxes, assessments, and
15 other expenses incident to the administration of the estate.

16 (k) [He] **A PERSONAL REPRESENTATIVE** may insure the property of the estate
17 against damage, loss, and liability, and [himself, as] **THE** personal representative[,]
18 against liability in respect to third persons.

19 (l) [He] **A PERSONAL REPRESENTATIVE** may vote stocks or other securities in
20 person or by general or limited proxy.

21 (m) [He] **A PERSONAL REPRESENTATIVE** may sell or exercise stock
22 subscription, conversion or option rights, consent to or oppose, directly or through a
23 committee or agent, the reorganization, consolidation, merger, dissolution, or liquidation of
24 a corporation or other business enterprise.

25 (n) [He] **A PERSONAL REPRESENTATIVE** may invest in, sell, mortgage, pledge,
26 exchange, or lease property.

27 (o) [He] **A PERSONAL REPRESENTATIVE** may borrow money.

28 (p) [He] **A PERSONAL REPRESENTATIVE** may [release]:

29 (1) **RELEASE** or terminate a mortgage or security interest, if the obligation
30 secured by the mortgage or security interest was fully satisfied during the lifetime of the
31 decedent or during the administration of the estate[. He may also extend]; **OR**

32 (2) **EXTEND** or renew any obligation owed to the estate.

1 (q) If assets of the estate are encumbered by a mortgage, pledge, lien, or other
2 security interest and if it appears to be in the best interests of the estate, [he] **A PERSONAL**
3 **REPRESENTATIVE** may pay the encumbrance, or convey or transfer the assets to the
4 creditor in satisfaction of [his] **THE** security interest **OF THE CREDITOR**, in whole or in
5 part, whether or not the holder of the encumbrance has filed a claim.

6 (r) Regardless of a contrary provision in the will, [he] **A PERSONAL**
7 **REPRESENTATIVE** may execute, [upon] **ON** the written demand of the owner of a
8 redeemable leasehold or subleasehold estate, a full and valid conveyance of the reversion
9 or subreversion held by the estate.

10 (s) [He] **A PERSONAL REPRESENTATIVE** may continue an unincorporated
11 business or venture in which the decedent was engaged at the time of [his] **THE**
12 **DECEDENT'S** death:

13 (1) In the same business form for a period of not more than [four] **4** months
14 from the date of appointment of a personal representative, where continuation is a
15 reasonable means of preserving the value of the business including goodwill;

16 (2) In the same business form for an additional period of time that may be
17 approved by order of court, in a proceeding to which all persons interested in the estate are
18 parties; or

19 (3) Throughout the period of administration, if the business is incorporated
20 after the death of the decedent.

21 (t) [He] **A PERSONAL REPRESENTATIVE** may incorporate a business or venture
22 in which the decedent was engaged at the time of [his] **THE DECEDENT'S** death if none of
23 the probable distributees of the business who are competent adults objects to its
24 incorporation and retention in the estate.

25 (u) [He] **A PERSONAL REPRESENTATIVE** may convert a sole proprietorship the
26 decedent was engaged in at the time of [his] **THE DECEDENT'S** death to a limited liability
27 company and may become a limited partner in any partnership or a member in any limited
28 liability company, including a single member limited liability company.

29 (v) [He] **A PERSONAL REPRESENTATIVE** may perform the contracts of the
30 decedent that continue as obligations of the estate, and execute and deliver deeds or other
31 documents under circumstances as the contract may provide.

32 (w) [He] **A PERSONAL REPRESENTATIVE** may exercise options, rights, and
33 privileges contained in a life insurance policy, annuity, or endowment contract constituting
34 property of the estate, including the right to obtain the cash surrender value, convert the
35 policy to another type of policy, revoke a mode of settlement, and pay a part or all of the
36 premiums on the policy or contract.

1 (x) [He] **A PERSONAL REPRESENTATIVE** may employ, for reasonable
2 compensation, auditors, investment advisors, or persons with special skills, to advise or
3 assist [him] in the performance of [his] **THE** administration duties **OF THE PERSONAL**
4 **REPRESENTATIVE**.

5 (z) If the decedent died testate, [he] **A PERSONAL REPRESENTATIVE** may
6 designate [himself] **THE PERSONAL REPRESENTATIVE** on documents as an executor, or
7 if the decedent died intestate, as an administrator.

8 (aa) [He] **A PERSONAL REPRESENTATIVE** may make partial and final
9 distributions, in cash, in kind, or both, from time to time during the administration.

10 7-402.

11 (A) The personal representative may petition the court for permission to act in
12 any matter relating to the administration of the estate.

13 (B) The court may pass any order it considers proper.

14 7-403.

15 (A) If the exercise of power concerning the estate is improper, the personal
16 representative is liable for breach of [his] **THE** fiduciary duty **OF THE PERSONAL**
17 **REPRESENTATIVE** to interested persons for resulting damage or loss to the same extent
18 as a trustee of an express trust.

19 (B) The exercise of power **OF A PERSONAL REPRESENTATIVE** in violation of a
20 court order, or contrary to the provisions of the will may be a breach of duty.

21 (C) The rights of purchasers and others dealing with a personal representative
22 are determined as provided in § 7-404 of this subtitle and are not necessarily affected by
23 the fact that the personal representative breached [his] **THE** fiduciary duty **OF THE**
24 **PERSONAL REPRESENTATIVE** in the transaction.

25 7-404.

26 (A) In the absence of actual knowledge or of reasonable cause to inquire as to
27 whether the personal representative is improperly exercising [his] **THE** power **OF THE**
28 **PERSONAL REPRESENTATIVE**, a person dealing with the personal representative is not
29 bound to inquire whether the personal representative is properly exercising [his] **THE**
30 power, and is protected as if the personal representative properly exercised the power.

31 (B) A person is not bound to see to the proper application of estate assets paid or
32 delivered to a personal representative.

1 7-501.

2 (b) (1) Exceptions to an account must be filed with the register within 20 days
3 of the approval of the account by the court.

4 (2) Exceptions may not be filed concerning an item which has become final
5 and binding under § 7-502 of this subtitle.

6 (3) Copies of exceptions shall be mailed by the exceptant to the personal
7 representative.

8 7-502.

9 (a) (1) The personal representative shall give written notice **IN ACCORDANCE**
10 **WITH PARAGRAPH (2) OF THIS SUBSECTION** to each creditor who has filed a claim under
11 § 8-104 of this article which is still open and to all interested persons of a claim, petition,
12 or other request which could result, directly or indirectly, in the payment of a debt,
13 commission, fee, or other compensation to or for the benefit of the personal representative
14 or the attorney for the estate.

15 (2) The notice shall [state]:

16 (I) **STATE** the amount requested[, and set];

17 (II) **SET** forth in reasonable detail the basis for the request[. It shall
18 also state]; **AND**

19 (III) **STATE** that a request for hearing may be made within 20 days
20 after the notice is sent.

21 7-601.

22 (a) (1) A personal representative or special administrator is entitled to
23 reasonable compensation for services.

24 (2) If a will provides a stated compensation for the personal representative,
25 additional compensation shall be allowed if the provision is insufficient in the judgment of
26 the court.

27 (3) The personal representative or special administrator may renounce at
28 any time all or a part of the right to compensation.

29 (b) (1) Unless the will provides a larger measure of compensation, [upon] **ON**
30 petition filed in reasonable detail by the personal representative or special administrator
31 the court may allow the commissions it considers appropriate.

1 **(2)** The commissions **AUTHORIZED UNDER PARAGRAPH (1) OF THIS**
 2 **SUBSECTION** may not exceed those computed in accordance with the **FOLLOWING** table
 3 **[in this subsection.]**:

4 If the property subject to	The commission may
5 administration is:	not exceed:
6 Not over \$20,000	9%
7 Over \$20,000	\$1,800 plus 3.6% of the
8	excess over \$20,000

9 (c) Within 30 days a personal representative, special administrator, or
 10 unsuccessful exceptant may appeal the allowance to the circuit court, which shall
 11 determine the adequacy of the commissions and increase, but not in excess of the **[above**
 12 **schedule]** **COMMISSIONS COMPUTED IN ACCORDANCE WITH THE TABLE IN**
 13 **SUBSECTION (B)(2) OF THIS SECTION**, or decrease them.

14 7-602.

15 (a) An attorney is entitled to reasonable compensation for legal services rendered
 16 by **[him]** **THE ATTORNEY** to the estate **[and/or]** **OR** the personal representative **OR BOTH**.

17 (b) **(1)** **[Upon]** **ON** the filing of a petition in reasonable detail by the personal
 18 representative or the attorney, the court may allow a counsel fee to an attorney employed
 19 by the personal representative for legal services.

20 **(2)** The compensation shall be fair and reasonable in the light of all the
 21 circumstances to be considered in fixing the fee of an attorney.

22 7-603.

23 When a personal representative or person nominated as personal representative
 24 defends or prosecutes a proceeding in good faith and with just cause, **[he]** **THE PERSONAL**
 25 **REPRESENTATIVE OR PERSON NOMINATED AS PERSONAL REPRESENTATIVE** shall be
 26 entitled to receive **[his]** necessary expenses and disbursements from the estate regardless
 27 of the outcome of the proceeding.

28 8-103.

29 (a) Except as otherwise expressly provided by statute with respect to claims of
 30 the United States **[and]** **OR** the State, **[all claims]** **A CLAIM** against an estate of a decedent,
 31 whether due or to become due, absolute or contingent, liquidated or unliquidated, founded
 32 on contract, tort, or other legal basis, **[are]** **IS** forever barred against the estate, the personal
 33 representative, and the heirs and legatees, unless presented within the earlier of the
 34 following dates:

1 (1) 6 months after the date of the decedent's death; or

2 (2) 2 months after the personal representative mails or otherwise delivers
3 to the creditor a copy of a notice in the form required by § 7–103 of this article or other
4 written notice, notifying the creditor that [his] **THE** claim will be barred unless [he] **THE**
5 **CREDITOR** presents the claim within 2 months [from] **AFTER** the mailing or other delivery
6 of the notice.

7 (b) A claim for slander against an estate of a decedent [which] **THAT** arose before
8 the death of the decedent is barred even if an action was commenced against and service of
9 process was effected on the decedent before [his] **THE DECEDENT'S** death.

10 (c) A claim against the estate based on the conduct of or a contract with a personal
11 representative is barred unless an action is commenced against the estate within [six] **6**
12 months [of] **AFTER** the date the claim arose.

13 (d) Nothing in this section shall affect or prevent an action or proceeding to
14 enforce a mortgage, pledge, judgment or other lien, or security interest [upon] **ON** property
15 of the estate.

16 (e) If the decedent had been duly served with process before [his] **THE**
17 **DECEDENT'S** death, nothing in this section shall affect an action for injuries to the person
18 [and/or] **OR** damage to property [which] **THAT** was commenced against the decedent.

19 REVISOR'S NOTE: In the introductory language of subsection (a) of this section,
20 the reference to claims of "the United States or the State" is substituted for
21 the former reference to claims of "the United States and the State" for
22 accuracy.

23 8–104.

24 (b) (1) The claimant may deliver or mail to the personal representative a
25 verified written statement of the claim indicating its basis, the name and address of the
26 claimant, and the amount claimed.

27 (2) If the claim is not yet due, the date when it will become due shall be
28 stated.

29 (3) If the claim is contingent, the nature of the contingency shall be stated.

30 (4) If the claim is secured, the security shall be described.

31 (5) The failure of the claimant to comply with the provisions of this section
32 or with the reasonable requests of the personal representative for additional information
33 may be a basis for disallowance of a claim in the discretion of the court.

1 (c) (1) The claimant may file a verified written statement of the claim,
2 substantially in the FOLLOWING form [contained in this subsection.]:

3 **“CLAIM AGAINST ESTATE OF DECEDENT**

4 **THE BELOW-NAMED CREDITOR CERTIFIES THAT THERE IS DUE AND OWING**
5 **BY _____, DECEASED, IN ACCORDANCE WITH THE STATEMENT OF ACCOUNT**
6 **ATTACHED AS A PART OF THIS STATEMENT, THE SUM OF _____, TOGETHER WITH**
7 **INTEREST AT THE RATE OF _____ FROM _____ UNTIL PAID, AND THAT THE ACCOUNT**
8 **IS CORRECT AS STATED AND IS UNPAID.**

9 **ON BEHALF OF THE BELOW NAMED CREDITOR, I DO SOLEMNLY DECLARE**
10 **AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE INFORMATION AND**
11 **REPRESENTATIONS MADE IN THE CLAIM AND THE ACCOUNT ARE TRUE AND**
12 **CORRECT ACCORDING TO MY KNOWLEDGE, INFORMATION, AND BELIEF.**

13 _____
14 **(NAME OF CREDITOR)**

15 _____
16 **(SIGNATURE OF CREDITOR OR PERSON**
AUTHORIZED TO MAKE VERIFICATION
ON BEHALF OF CREDITOR)”.

17 (2) If the claim is filed [prior to] BEFORE the appointment of the personal
18 representative, the claimant may file [his] THE claim [with]:

19 (I) WITH the register in the county in which the decedent was
20 domiciled; or [in]

21 (II) IN any county in which [he] THE DECEDENT resided on the date
22 of [his] THE DECEDENT’S death or in which real property or a leasehold interest in real
23 property of the decedent is located.

24 (3) If the claim is filed after the appointment of the personal
25 representative, the claimant shall file [his] THE claim with the register of the county in
26 which probate proceedings are being conducted and shall deliver or mail a copy of the
27 statement to the personal representative.

28 **[CLAIM AGAINST ESTATE OF DECEDENT.**

29 The below-named creditor certifies that there is due and owing by ..., deceased,
30 in accordance with the statement of account attached as a part of this statement the
31 sum of ..., together with interest at the rate of ... from ... until paid, and that the
32 account is correct as stated and is unpaid.

33 On behalf of the below-named creditor, I do solemnly declare and affirm under
34 the penalties of perjury that the information and representations made in the claim,
35 and the account are true and correct according to my knowledge, information, and belief.

1
2	(Name of Creditor)	(Signature of creditor or person
3		authorized to make verification
4		on behalf of creditor)]

5 (d) (1) When a cause survives death, the claimant is not required to file a claim
6 under subsection (b) or (c) of this section.

7 (2) [He] **THE CLAIMANT** may commence an action against the estate or
8 against a person to whom property has been distributed, but the commencement of the
9 action [must] **SHALL** occur within the time limited for the filing of claims.

10 8–105.

11 (b) (1) A preference [shall] **MAY** not be given in the payment of a claim over
12 another claim of the same class.

13 (2) A claim due and payable is not entitled to a preference over claims not
14 yet due.

15 8–106.

16 (d) (1) If the funeral expenses are not paid within [six] **6** months, the creditor
17 may petition the court to require the personal representative to show cause why [he] **THE**
18 **PERSONAL REPRESENTATIVE** should not be compelled to make the payment.

19 (2) If the court finds that the claim is valid, it shall fix the amount due and
20 shall order the personal representative to make payment within [ten] **10** days after the
21 order is served [upon] **ON** the personal representative.

22 8–107.

23 (a) If a personal representative intends to disallow, in whole or in part, a claim
24 that has been presented within the appropriate time and in the form prescribed in §
25 8–104(b) or (c) of this subtitle, [he] **THE PERSONAL REPRESENTATIVE** shall mail notice
26 to each claimant stating:

27 (1) That the claim has been disallowed in whole or in a stated amount; or

28 (2) That the personal representative will petition the court to determine
29 whether the claim should be allowed.

30 (b) (1) If the claim is disallowed in whole or in a stated amount, the claimant
31 is forever barred to the extent of the disallowance unless [he] **THE CLAIMANT** files a
32 petition for allowance in the court or commences an action against the personal
33 representative or against one or more of the persons to whom property has been distributed.

1 (2) The action shall be commenced within 60 days after the mailing of
2 notice by the personal representative.

3 (3) The notice shall warn the claimant concerning the time limitation.

4 (c) (1) If no action is taken by the personal representative disallowing a claim
5 in whole or in part under subsection (a) of this section, [upon] ON the petition of the
6 personal representative or a claimant, the court shall allow or disallow in whole or in part
7 a claim or claims presented to the personal representative or filed with the register in due
8 time and not barred by subsection (a) of this section.

9 (2) Notice in this proceeding shall be given to the claimant, the personal
10 representative, and interested persons as the court directs by order entered at the time the
11 proceeding is commenced.

12 8–108.

13 (a) (1) [Upon] ON the expiration of 6 months from the date of the decedent's
14 death, the personal representative shall pay the claims allowed against the estate in the
15 order of priority prescribed in § 8–105 of this subtitle.

16 (2) The court may extend the time for payment for good cause shown.

17 (3) A person with a valid unbarred claim or with a valid unbarred judgment
18 who has not been paid may petition the court for an order directing the personal
19 representative to pay the claim to the extent that funds of the estate are available for
20 payment.

21 (b) The personal representative may pay, at any time, a just claim [which] THAT
22 has not been barred, with or without formal presentation, but [he] THE PERSONAL
23 REPRESENTATIVE is personally liable to another claimant whose claim is allowed and who
24 is injured by the payment if:

25 (1) The payment was made before the expiration of the time limit stated in
26 subsection (a) of this section and the personal representative failed to require the payee to
27 give adequate security to refund any part of the payment necessary to pay other claimants;
28 or

29 (2) The payment was made in a manner to deprive the injured claimant of
30 [his] THE CLAIMANT'S priority as a result of negligence or [wilful] WILLFUL fault of the
31 personal representative.

32 8–109.

1 (a) The individual liability of a personal representative to third parties arising
2 from the administration of the estate is that of an agent for a disclosed principal, as
3 distinguished from [his] **THE PERSONAL REPRESENTATIVE'S** fiduciary accountability to
4 the estate.

5 (b) A personal representative is not individually liable on contracts properly
6 entered into in [his] **THE PERSONAL REPRESENTATIVE'S** fiduciary capacity in the course
7 of administration of the estate unless [he] **THE PERSONAL REPRESENTATIVE** expressly
8 agrees to be.

9 (c) A personal representative is not individually liable for obligations arising from
10 possession or control of property of the estate or for torts committed in the course of
11 administration of the estate unless [he] **THE PERSONAL REPRESENTATIVE** is personally
12 at fault.

13 (d) Claims based [upon] **ON** contracts, obligations, and torts of the types
14 described in subsections (b) and (c) of this section may be allowed against the estate
15 whether or not the personal representative is individually liable.

16 (g) When the court allows a claim against the personal representative
17 individually, the allowance has the same effect as a judgment against [him] **THE**
18 **PERSONAL REPRESENTATIVE**.

19 (h) **(1)** A personal representative may appoint a meeting of creditors whose
20 claims have been filed under the provisions of § 8–104(b) or (c) of this subtitle on a day
21 designated by order of the court.

22 **(2)** Written notice of the time, date, place, and purpose of the meeting shall
23 be given at least [ten] **10** days before the date **OF THE MEETING**.

24 **(3)** The approval of part or all of the claims of creditors represented at the
25 meeting shall be made under the direction and control of the court, and the payment of a
26 claim as approved by court order shall protect and indemnify the personal representative
27 acting in obedience to it.

28 **(4)** [The] **A COURT** order **ISSUED UNDER PARAGRAPH (3) OF THIS**
29 **SUBSECTION** is subject to appeal.

30 (i) [No] **AN** action [shall] **MAY NOT** be brought to charge a personal
31 representative [upon] **ON** any special promise to answer damages out of [his] **THE**
32 **PERSONAL REPRESENTATIVE'S** own estate, unless the contract or agreement [upon] **ON**
33 which the action is brought, or some memorandum or note of it, is in writing and signed by
34 the party to be charged, or some other person lawfully authorized by [him] **THE PERSONAL**
35 **REPRESENTATIVE**.

1 REVISOR'S NOTE: In subsection (h)(2) of this section, the reference to the date "of
2 the meeting" is added for clarity.

3 8–110.

4 (a) [Upon] **ON** proof of an unsecured claim [which] **THAT** will become due at some
5 future time, and [which] **THAT** has not been compromised pursuant to § 7–401 of this
6 article or authority conferred by the will, the court shall direct the investment of an amount
7 [which] **THAT** will provide for the payment of the claim when it becomes due.

8 (b) When a creditor holds a security for an allowable claim due at some future
9 time [he] **THE CREDITOR** may rely on [his] **THE CREDITOR'S** rights under § 8–111 of this
10 subtitle or may file [his] **A** claim as an unsecured claim not yet due, with the right of
11 withdrawing the claim [prior to] **BEFORE** the taking of action [upon] **ON** it, and rely on
12 [his] **THE CREDITOR'S** rights as provided in § 8–111 of this subtitle after the withdrawal.

13 8–111.

14 (a) **(1)** Payment of a secured claim shall be [upon] **ON** the basis of the full
15 amount if the creditor shall surrender [his] **THE CREDITOR'S** security.

16 **(2)** If payment is not made on [this basis] **THE BASIS DESCRIBED IN**
17 **PARAGRAPH (1) OF THIS SUBSECTION**, it shall be made as provided in subsection (b) or
18 (c) of this section.

19 (b) If during administration, the creditor exhausts the security before receiving
20 payment, [he] **THE CREDITOR** is entitled to the full amount of [his] **THE CREDITOR'S**
21 allowed claim less the amount realized [upon] **ON** exhausting the security.

22 (c) If the creditor has not then exhausted, or does not have the right to exhaust
23 [his] **THE CREDITOR'S** security, [he] **THE CREDITOR** is entitled to the full amount of [his]
24 **THE CREDITOR'S** allowed claim less the value of the security determined by agreement, or
25 as the court determines.

26 8–112.

27 (a) **(1)** If a contingent claim becomes absolute before the distribution of the
28 estate, [it] **THE CONTINGENT CLAIM** shall be paid in the same manner as absolute claims
29 of the same class.

30 **(2)** In other cases, if a petition is filed with the court by the personal
31 representative or the claimant, the court may provide for payment in the manner provided
32 in subsections (b), (c), (d), or (e) of this section.

1 (b) The creditor and personal representative may determine, by agreement,
2 arbitration, or compromise, the value of the claim according to its probable present worth,
3 and, [upon] ON approval by the court, [it] **THE VALUE OF THE CLAIM** may be allowed and
4 paid in the same manner as an absolute claim.

5 (d) **(1)** The court may order distribution of the estate as though the contingent
6 claim did not exist, but the distributees are liable to the creditor to the extent of the estate
7 received by them, if the contingent claim becomes absolute.

8 **(2)** The court may require the distributees to give bond for the satisfaction
9 of their liability to the contingent creditor.

10 8–114.

11 (a) An execution or a levy [shall] **MAY** not issue nor be made against property of
12 the estate under a judgment against a decedent or a personal representative.

13 (b) The provisions of this section do not apply to the enforcement of mortgages,
14 pledges, liens, or other security interests [upon] ON property in an appropriate proceeding.

15 9–102.

16 (a) A trustee appointed by will to execute a trust contained in it may decline to
17 accept the appointment by filing a statement of renunciation with the register of the county
18 in which the will is admitted to probate before [he] **THE TRUSTEE** receives property or
19 performs an act pursuant to the trust.

20 (b) **(1)** Unless the will provides otherwise, the trust shall thereafter be
21 administered as if the trustee had not been appointed.

22 **(2)** The renunciation [shall] **MAY** not be construed to release or impair the
23 right of the person to a legacy under the will by which [he] **THE PERSON** was appointed
24 trustee, unless the legacy is expressly declared in the will to be compensation for [his] **THE**
25 **PERSON’S** services as trustee.

26 (c) Unless the will provides otherwise, in all cases not provided for in this section,
27 a trustee may renounce or resign [his] **THE TRUSTEE’S** trust only in accordance with the
28 Maryland Rules.

29 9–103.

30 (a) [As used in] **IN** this section, “legacy” or “legacies” [may] **DOES** not include
31 assets passing by the exercise of the decedent of a testamentary power of appointment.

32 (b) **(1)** Unless a contrary intent is expressed in the will and except as provided
33 in §§ 3–208 and 3–303 of this article and subsection (c) of this section, shares of legatees

1 abate without preference or priority as between real and personal property, in the
2 **FOLLOWING** order [provided in this subsection.]:

3 [(1)] (I) Property not disposed of by the will[.];

4 [(2)] (II) Residuary legacies[.];

5 [(3)] (III) General legacy, other than items [(4), (5), and (6) of this
6 subsection,] **(IV), (V), AND (VI) OF THIS PARAGRAPH;**

7 [(4)] (IV) General legacy to dependents of testator[.];

8 [(5)] (V) General legacy to creditor of testator in satisfaction of a just
9 debt[.];

10 [(6)] (VI) General legacy to surviving spouse of testator[.]; **AND**

11 [(7)] (VII) Specific and demonstrative legacies.

12 (2) Abatement within each classification is in proportion to the amounts of
13 property each of the legatees or heirs would have received, had full distribution of the
14 property been made in accordance with the terms of the will.

15 9–104.

16 (b) A specific legatee shall receive distribution of the legacy given to [him] **THE**
17 **SPECIFIC LEGATEE.**

18 (c) A family allowance or that [portion] **PART** of an intestate share, statutory
19 share, or legacy that is otherwise payable in cash may be satisfied by value in kind
20 provided:

21 (1) The person entitled to the payment has not demanded payment in cash;

22 (2) The property distributed in kind is valued at fair market value as of the
23 date of its distribution; and

24 (3) A residuary legatee has not requested that the asset in question remain
25 a part of the residue of the estate.

26 9–106.

27 (b) (1) Unless the distribution can no longer be questioned because of
28 adjudication or limitations, a distributee of property improperly distributed is liable to
29 return the property received if [he] **THE DISTRIBUTEE** has it or its value.

1 **(2)** If a distributee has disposed of property improperly distributed to [him
2 his] **THE DISTRIBUTEE, THE DISTRIBUTEE'S** liability is the lower of the value of the
3 property on the date of distribution or the value on the date of disposition.

4 (c) **(1)** If property distributed in kind is sold to a purchaser for value by a
5 distributee who has received an instrument or deed of distribution from the personal
6 representative, the purchaser takes good title free of claims of the estate and incurs no
7 personal liability to the estate.

8 **(2)** To be protected under [this provision] **PARAGRAPH (1) OF THIS**
9 **SUBSECTION**, a purchaser need not inquire whether a personal representative acted
10 properly in respect to a distribution in kind.

11 9–107.

12 (a) **(1)** When two or more heirs or legatees are entitled to distribution of
13 undivided interests in property of the estate, the personal representative or one or more of
14 the heirs or legatees may petition the court [prior to] **BEFORE** the formal or informal
15 closing of the estate, to make partition.

16 **(2)** After notice to the interested heirs or legatees, the court shall partition
17 the property in the same manner as provided by law for civil actions of partition.

18 9–109.

19 (a) **(1)** Whenever money is distributable by a personal representative to a
20 minor and there is no judicially appointed guardian of the property of the minor, the court
21 may order that the cash be deposited in a banking institution or insured savings and loan
22 association formed under the laws of the [state] **STATE** or in the [state] **STATE** under the
23 laws of the United States, in which it may draw interest, in the name of the minor, subject
24 to the further order of the court.

25 **(2)** The banking institution or association shall be named in the order.

26 **(3)** The personal representative shall deliver the account book to the person
27 or to such person, including the register, as the personal representative with the approval
28 of the court, considers responsible and appropriate.

29 **(4)** When the minor reaches the age of 18 or a guardian is appointed, the
30 funds deposited and the account book shall be delivered to the minor, or to the guardian.

31 (b) **(1)** In addition to the procedures in subsection (a) of this section, whenever
32 a personal representative is required to distribute property to a minor as defined in §
33 13–301(k) of this article, the personal representative, with the approval of the court, may
34 transfer the property to a custodian who shall hold or dispose of the property in accordance
35 with the provisions of the Maryland Uniform Transfers to Minors Act.

1 **(2)** The personal representative shall, subject to the approval of the court,
2 designate the custodian, who shall be an adult or a trust company.

3 (c) Whenever a personal representative is required to distribute tangible
4 personal property to a person under **THE AGE OF** 18 years [of age] and there is no guardian
5 of the minor, the personal representative may distribute it to the person whom the personal
6 representative, with the approval of the court, considers responsible and appropriate, and
7 under the conditions set forth in the order of the court.

8 (d) If a guardian has been appointed for a minor, payment may be made to the
9 guardian [upon] **ON** the filing of a copy of [his] **THE GUARDIAN'S** authority authenticated
10 pursuant to 28 U.S.C. § 1738.

11 9–111.

12 [Upon] **ON** making a distribution, a personal representative may, but is not required
13 to, obtain a verified release from the heir or legatee.

14 9–112.

15 (a) **(1)** If the personal representative cannot obtain agreement from all
16 interested persons entitled to share in the distribution of the property, [he] **THE**
17 **PERSONAL REPRESENTATIVE** may apply to the court to make distribution.

18 **(2)** The court shall designate a day and direct the giving of notice to all
19 interested persons concerned.

20 **(3)** The court may appoint two disinterested individuals, not related to the
21 interested persons to make an appropriate division for distribution, or recommend to the
22 court a sale of part or all of the property, and the court shall direct the distribution it
23 considers appropriate.

24 (c) [In the event] **IF** the personal representative has reason to believe that there
25 may be one or more interested persons whose names or addresses are not known to [him]
26 **THE PERSONAL REPRESENTATIVE**, or if it is not known to [him] **THE PERSONAL**
27 **REPRESENTATIVE** if an interested person is still surviving, [he] **THE PERSONAL**
28 **REPRESENTATIVE** may appoint a meeting of all interested persons to be held on a day the
29 court designates.

30 (d) **(1)** The personal representative shall give notice to all interested persons
31 known to [him] **THE PERSONAL REPRESENTATIVE**, and shall publish a notice of the
32 meeting once a week in [three] **3** successive weeks, in a newspaper of general circulation
33 in the county of [his] **THE PERSONAL REPRESENTATIVE'S** appointment, stating the time,

1 date, place, and purpose of the meeting which shall be held no sooner than 20 days after
2 the first publication.

3 **(2)** The personal representative shall also take other steps and make other
4 efforts to learn the names and addresses of additional interested persons as the court
5 considers appropriate under the circumstances.

6 **(e) (1)** On the date of the meeting, distribution of the net estate shall be made
7 under the direction and control of the court.

8 **(2)** Distribution by the personal representative in accordance with the
9 direction of the court at the meeting protects and indemnifies the personal representative
10 acting in obedience to it.

11 9–201.

12 **(b)** “Beneficiary designation” means an instrument, other than an instrument
13 creating a trust, naming the beneficiary of:

14 **(2)** An account with a designation for payment [upon] **ON** death;

15 9–202.

16 **(a) (2)** A person may disclaim the interest or power even if the creator imposed
17 a spendthrift provision or similar restriction [upon] **ON** transfer or a restriction or
18 limitation on the right to disclaim.

19 **(b) (2)** A fiduciary may disclaim the interest or power even if the creator
20 imposed a spendthrift provision or similar restriction [upon] **ON** transfer or a restriction or
21 limitation on the right to disclaim, or an instrument other than the instrument that created
22 the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

23 9–203.

24 **(e)** [Upon] **ON** the disclaimer of a preceding interest, a future interest held by a
25 person other than the disclaimant takes effect as if the disclaimant had died or ceased to
26 exist immediately before the time of distribution, but a future interest held by the
27 disclaimant is not accelerated in possession or enjoyment.

28 9–204.

29 **(a)** [Upon] **ON** the death of a holder of jointly held property, a surviving holder
30 may disclaim in whole or in part, the greater of:

1 (1) A fractional share of the property determined by dividing the number
2 one by the number of joint holders alive immediately before the death of the holder to whose
3 death the disclaimer relates; or

4 (2) All of the property except that part of the value of the entire interest
5 attributable to the contribution furnished by the disclaimant.

6 10–101.

7 (a) (1) The final approval of the final account automatically closes the estate.

8 (2) If the final account so requests, it also automatically terminates the
9 appointment of the personal representative.

10 (b) (1) If the appointment is not terminated by the final account, a personal
11 representative may, after the time has passed for presenting claims which arose [prior to]
12 **BEFORE** the death of the decedent, petition the court for an order to terminate [his] **THE**
13 **PERSONAL REPRESENTATIVE’S** appointment as personal representative.

14 (2) After notice to all interested persons including creditors who have
15 presented their claims and legatees who have not been paid in full, the court may enter an
16 appropriate order if a written request for a hearing has not been filed within 20 days.

17 10–102.

18 (A) After an estate has been closed, a claim not barred may be prosecuted against
19 one or more of the persons to whom property has been distributed.

20 (B) An heir or legatee shall not be liable to claimants for amounts in excess of the
21 value of [his] **THE HEIR’S OR LEGATEE’S** distribution, valued at the time of distribution
22 or the time of filing suit, whichever is lower.

23 (C) (1) An heir or legatee has a right of contribution against other heirs and
24 legatees[; between them].

25 (2) **BETWEEN THE HEIRS AND LEGATEES UNDER PARAGRAPH (1) OF**
26 **THIS SUBSECTION**, each shall bear the cost of satisfaction of unbarred claims as if the
27 claim had been satisfied before distribution.

28 10–104.

29 (A) If property is discovered after an estate has been closed and the appointment
30 of the personal representative has been terminated pursuant to § 10–101 of this subtitle,
31 the court, [upon] **ON** petition of an interested person and [upon] **ON** such notice as it may
32 direct, may appoint the same or a successor personal representative and make other
33 appropriate orders.

1 **(B)** Further proceedings shall be conducted pursuant to the provisions of the
2 estates of decedents law as may be applicable, but no claim previously barred may be
3 asserted in the reopened administration.

4 11-101.

5 **(A)** Any contingent remainder arising under any will or inter vivos transfer shall
6 be capable of taking effect, regardless of the determination of any preceding estate of
7 freehold, in the same manner and in all respects as if the determination had not happened.

8 **(B)** It is not necessary to appoint trustees to support the contingent remainder in
9 order to prevent the destruction of it.

10 11-103.

11 (a) **(1)** In applying the rule against perpetuities to an interest limited to take
12 effect at or after the termination of one or more life estates in, or lives of, persons in being
13 when the period of the rule commences to run, the validity of the interest shall be
14 determined on the basis of facts existing at the termination of one or more life estates or
15 lives.

16 **(2)** In this section an interest which must terminate not later than the
17 death of one or more persons is a "life estate" even though it may terminate at an earlier
18 date.

19 11-105.

20 (b) **(1)** Death benefits may be made payable to the trustee under a trust
21 agreement, or declaration of trust in existence at the time of the death of the insured,
22 employee, or annuitant.

23 **(2)** The death benefits shall be held and disposed of by the trustee in
24 accordance with the terms of the trust as they appear in writing on the date of the death of
25 the insured, employee, or annuitant.

26 **(3)** It is not necessary to the validity of a trust agreement or declaration of
27 trust, whether revocable or irrevocable, that it have a trust corpus other than the right of
28 the trustee to receive death benefits.

29 (c) **(1)** Death benefits may be made payable to the trustee named, or to be
30 named, in a will of the insured or the owner of the policy, or the employee covered by the
31 plan or contract whether or not the will is in existence at the time of the designation.

1 **(2)** [Upon] **ON** the admission of the will to probate, and the payment of the
2 benefits to the trustee, the benefits shall be held, administered, and disposed of in
3 accordance with the terms of the testamentary trust created by the will.

4 11–108.

5 (a) **(1)** Unless the instrument creating a power of appointment expressly
6 provides to the contrary, the power may be wholly or partially released as to all or a portion
7 of the assets subject to it by an instrument signed by the person holding the power and
8 attested by two witnesses.

9 **(2)** If the person is under 18 years of age or is otherwise under disability, a
10 release pursuant to this section may be executed by order of the court having jurisdiction
11 of the person or property of the person under disability.

12 (e) **(1)** The register or clerk shall [index]:

13 **(I)** **INDEX** and record the release in the same manner as the
14 instrument creating the power of appointment was recorded; and [shall make]

15 **(II)** **MAKE** a reference in the margin of the place of recording of the
16 original instrument of the date and place of recording of the release.

17 **(2)** The releases shall be subject to the usual fees for indexing and
18 recordation, but shall not be subject to a recordation tax now or hereafter imposed.

19 12–102.

20 (a) Unless otherwise specifically provided in another section of the estates of
21 decedents law, the provisions of the estates of decedents law apply as provided in this
22 section.

23 (b) **(1)** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
24 Titles 1, 3, 5, 6, 7, 8, 9, and 10 of this article apply to the estate of any decedent dying on or
25 after January 1, 1970[, except the].

26 **(2)** **THE** last sentence of § 7–502(a) of this article shall apply only if the
27 personal representative gives [the] notice **AS REQUIRED** after July 1, 1974.

28 (c) Title 2 of this article applies, in every instance, on and after January 1, 1970.

29 (d) **(1)** **(I)** **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
30 **PARAGRAPH,** Title 4 of this article applies to any will executed on or after 12:01 a.m. on
31 January 1, 1970[, except that §].

1 **(II)** SECTION 4–105 of this article applies to any act or acts of
2 revocation occurring on or after January 1, 1970.

3 **(2) (I)** [As] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
4 **PARAGRAPH, AS** to the rules relating to any will executed before January 1, 1970, the law
5 before January 1, 1970 shall be applicable[, except that §].

6 **(II)** SECTION 4–403 of this article applies to the legacy of any
7 testator who dies on or after July 1, 1983.

8 **(3) (I)** The provisions of § 4–411 of this article apply to a legacy made
9 by a testator living on June 1, 1959, or born after that date without regard to the date of
10 the execution of the will, the trust instrument, or an amendment to [it] **THE WILL OR**
11 **TRUST INSTRUMENT.**

12 **(II)** Section 4–411 of this article [shall] **MAY** not be construed as
13 casting doubt [upon] **ON** the validity of:

14 [(1)] **1.** [a] A legacy made by a testator who died [prior to] **BEFORE** June
15 1, 1959[.]; or

16 [(2)] **2.** [a] A legacy [which] **THAT** does not come within the provisions
17 of the section.

18 (e) **(1)** Section 11–101 of this article applies to a will or inter vivos transfer
19 executed on or after July 1, 1929.

20 [(f)] **(2)** Section 11–102(b)(2) of this article applies to a will or inter vivos
21 instrument executed on or after January 1, 1970.

22 [(g)] **(3)** Section 11–103 of this article applies to:

23 [(1)] **(I)** [an] **AN** inter vivos instrument [which] **THAT** took effect on or
24 after June 1, 1960;

25 [(2)] **(II)** [a] A will where the testator died after [that date] **JUNE 1,**
26 **1960;** or

27 [(3)] **(III)** [any] **ANY** appointment made after [that date] **JUNE 1, 1960,**
28 including an appointment by inter vivos instrument or will under powers created before
29 [that date] **JUNE 1, 1960.**

30 [(h)] **(4)** Section 11–104 of this article applies to a will or inter vivos conveyance
31 executed after May 31, 1912.

1 [(i)] (5) Section 11–106 of this article applies to the estate of any decedent dying
2 on or after June 1, 1967.

3 [(j)] (6) (I) Section 11–107 of this article applies to the estate of any decedent
4 dying on or after January 1, 1970.

5 (II) As to the estate of a decedent dying between October 1, 1964 and
6 December 31, 1969, the provisions of Chapter 918 of the Acts of 1965 apply.

7 [(k)] (7) Section 11–108 of this article applies to any releases executed on or
8 after January 1, 1970.

9 [(l)] Section 7–308 of the Tax – General Article applies to the estate of any decedent
10 dying on or after June 1, 1965.]

11 [(m)] (8) Every provision of Title 11 of this article not specifically mentioned in
12 this [section] SUBSECTION became applicable on January 1, 1970.

13 (F) SECTION 7–308 OF THE TAX – GENERAL ARTICLE APPLIES TO THE
14 ESTATE OF ANY DECEDENT DYING ON OR AFTER JUNE 1, 1965.

15 REVISOR’S NOTE: In subsection (b)(2) of this section, the reference to “notice as
16 required” is substituted for the former reference to “the notice” for clarity.

17 12–103.

18 Except as otherwise provided in this title[, the]:

19 (1) THE administration on or after July 1, 1974 of estates of persons who
20 died before July 1, 1974 shall be governed by those statutes in effect before July 1, 1974[.];
21 and [the]

22 (2) THE administration on or after January 1, 1970 of estates of persons
23 who died before January 1, 1970 shall be governed by those statutes in effect before
24 January 1, 1970.

25 13–101.

26 (g) “Emergency” means that a person is living in conditions which present a
27 substantial risk of death or immediate and serious physical harm to [himself] THE PERSON
28 or others.

29 (k) (1) “Interested person” means the guardian, the heirs of the minor or
30 disabled person, any governmental agency paying benefits to the minor or disabled person,

1 or any person or agency eligible to serve as guardian of the disabled person under § 13–707
2 of this title.

3 **(2)** If an interested person is also a minor or a disabled person, [interested
4 person] **“INTERESTED PERSON”** also includes a judicially appointed guardian, committee,
5 conservator, or trustee for that person, or, if none, the parent or other person having
6 assumed responsibility for that person.

7 13–102.

8 **(A)** The purposes of this title are [to]:

9 **(1)** **TO** simplify the administration of the estates of minors and disabled
10 persons[, to];

11 **(2)** **TO** reduce the expenses of administration[, to];

12 **(3)** **TO** clarify the law governing the estates of minors and disabled
13 persons[.]; and [to]

14 **(4)** **TO** eliminate certain provisions of existing law which are archaic, often
15 meaningless under modern procedures, and no longer useful.

16 **(B)** This article shall be liberally construed and applied to promote its underlying
17 purposes.

18 13–106.

19 (b) **(1)** The orphans’ court, under the pretext of incidental power or
20 constructive authority, may not exercise jurisdiction not expressly conferred by law.

21 **(2)** The orphans’ court is governed by the provisions of §§ 2–102 through
22 2–105 of this article.

23 13–201.

24 (a) [Upon] **ON** petition, and after any notice or hearing prescribed by law or the
25 Maryland Rules, the court may appoint a guardian of the property of a minor or a disabled
26 person.

27 (b) A guardian shall be appointed if the court determines that:

28 (1) A minor owns or is entitled to property that requires management or
29 protection; or

1 (2) Funds are needed for [his] **THE MINOR'S** support, care, welfare, and
2 education and protection is necessary or desirable to obtain or provide funds.

3 (c) A guardian shall be appointed if the court determines that:

4 (1) The person is unable to manage [his] **EFFECTIVELY THE PERSON'S**
5 property and affairs [effectively] because of physical or mental disability, disease, habitual
6 drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, detention by
7 a foreign power, or disappearance; and

8 (2) The person has or may be entitled to property or benefits which require
9 proper management.

10 13–203.

11 (a) **(1)** While a petition for appointment of a guardian or other protective order
12 is pending, the court may preserve and apply the property of the alleged disabled person or
13 minor as may be required.

14 **(2)** The court need not give notice to other persons.

15 (b) **(1)** The court may not exercise the power conferred by subsection (a) of this
16 section unless it appears from specific facts shown by affidavit that immediate, substantial,
17 and irreparable injury will result to the applicant or to the minor or disabled person before
18 an adversary hearing can be held.

19 **(2)** The court may communicate informally with the minor or disabled
20 person [prior to] **BEFORE** taking action.

21 **(3)** Any order shall be served immediately on the minor or disabled person.

22 13–205.

23 An adjudication under this subtitle shall have no bearing on the issue of [capacity
24 of] **WHETHER** the alleged disabled person [to care for his own person] **HAS THE CAPACITY**
25 **FOR SELF-CARE**.

26 **REVISOR'S NOTE:** The reference to the issue of “whether the alleged disabled
27 person has the capacity for self-care” is substituted for the former reference
28 to the issue of “capacity of the alleged disabled person to care for his own
29 person” for clarity and to avoid the use of gender-specific terminology.

30 13–206.

1 (c) (1) (I) The appointment and qualification of a guardian vests in [him]
2 **THE GUARDIAN** title to all property of the minor or protected person that is held at the
3 time of appointment or acquired later.

4 (II) The appointment is not a transfer or alienation within the
5 meaning of any federal or State statute or regulation, insurance policy, pension plan,
6 contract, will, or trust instrument that imposes restrictions on or penalties for transfer or
7 alienation by the minor or disabled person of [his] **THE MINOR OR DISABLED PERSON'S**
8 rights or interest.

9 (III) A guardian shall utilize powers conferred by this subtitle to
10 perform [the] services, exercise [his] discretion, and discharge [his] **THE GUARDIAN'S**
11 duties for the best interest of the minor or disabled person or [his] **THE MINOR OR**
12 **DISABLED PERSON'S** dependents.

13 13-207.

14 (a) Persons are entitled to appointment as guardian for a minor or disabled
15 person according to the following priorities:

16 (1) A conservator, committee, guardian of property, or other like fiduciary
17 appointed by any appropriate court of any foreign jurisdiction in which the minor or
18 disabled person resides;

19 (2) A person or corporation nominated by the minor or disabled person if
20 [the]:

21 (I) **THE** designation was signed by the minor or disabled person
22 [after his 16th birthday] **WHEN THE MINOR OR DISABLED PERSON WAS AT LEAST 16**
23 **YEARS OLD[,]; and[, in]**

24 (II) **IN** the opinion of the court, [he] **THE MINOR OR DISABLED**
25 **PERSON** had sufficient mental capacity to make an intelligent choice at the time [he] **THE**
26 **DESIGNATION WAS** executed [the designation];

27 (3) [His] **THE MINOR OR DISABLED PERSON'S** spouse;

28 (4) [His] **THE MINOR OR DISABLED PERSON'S** parents;

29 (5) A person or corporation nominated by the will of a deceased parent;

30 (6) [His] **THE MINOR OR DISABLED PERSON'S** children;

31 (7) The persons who would be [his] **THE MINOR OR DISABLED PERSON'S**
32 heirs if [he] **THE MINOR OR DISABLED PERSON** were dead;

1 (8) A person or corporation nominated by a person [who], [or] institution,
2 organization, or public agency [which,] **THAT** is caring for [him] **THE MINOR OR**
3 **DISABLED PERSON;**

4 (9) A person or corporation nominated by a governmental agency [which]
5 **THAT** is paying benefits to [him] **THE MINOR OR DISABLED PERSON;** and

6 (10) Any other person considered appropriate by the court.

7 (b) **(1)** A person specified in a priority in subsection (a)(1), (3), (4), (6) or (7) of
8 this section may waive and nominate in writing a person or corporation to serve in [his]
9 **THE SPECIFIED PERSON'S** stead.

10 **(2)** A nominee of a person holding a priority has the same priority as the
11 person making the nomination.

12 (c) **(1)** Among persons with equal priority, the court shall select the one best
13 qualified of those willing to serve.

14 **(2)** For good cause the court may pass over a person with priority and
15 appoint a person with less priority or no priority.

16 (d) **(1)** [Nonresidence] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**
17 **NONRESIDENCE** does not disqualify any person from serving as guardian.

18 **(2)** Any nonresident who is appointed cannot qualify until [he has on file]
19 **THE NONRESIDENT FILES** with the register or clerk an irrevocable designation by [him]
20 **THE NONRESIDENT** of an appropriate person who resides in the State on whom service of
21 process may be made in the same manner and with the effect as if it were served personally
22 in the State on the nonresident.

23 (e) The court may not name an official or employee of a local department of social
24 services, the State Department of Human Services, a local area agency on aging as defined
25 in § 10–101 of the Human Services Article, or the Department of Aging as guardian of the
26 estate.

27 13–208.

28 (e) **(1)** The penalty of the bond [shall] **MAY** not be greater than the aggregate
29 value of the property of the estate under the control of the guardian, less the value of
30 securities or money deposited in a financial institution as defined in § 13–301(h) of this title
31 under arrangements requiring an order of the court for their removal, and the value of any
32 land which the guardian, by express limitation of power, lacks power to sell or convey
33 without court authorization.

1 (2) The court may, in lieu of sureties on a bond, accept other security for
2 the performance of the bond, including a pledge of securities or a mortgage of land.

3 (3) The court may at any time, subject to the maximum penalty provided
4 by this section, require the amount of the bond, or the type or value of security, to be
5 changed.

6 (4) The approval of a new bond [shall] **MAY** not discharge a bond filed
7 previously from any liability which may have accrued before approval.

8 13-211.

9 (b) Unless the alleged disabled person has **CHOSEN** counsel [of his own choice],
10 the court shall appoint an attorney to represent [him] **THE ALLEGED DISABLED PERSON**
11 in the proceeding.

12 13-212.

13 [In the administration of the estate and the exercise of his powers, a] **A** guardian
14 shall exercise the care and skill of [a man] **A PERSON** of ordinary prudence dealing with
15 [his] **THE PERSON'S** own property **IN THE ADMINISTRATION OF THE ESTATE AND THE**
16 **EXERCISE OF THE GUARDIAN'S POWERS.**

17 13-214.

18 (b) (3) Income and principal also may be paid or applied [for]:

19 (I) **FOR** the benefit of persons legally dependent [upon] **ON** the
20 minor or disabled person; and[, with]

21 (II) **WITH** the approval of the court, for the benefit of other persons
22 maintained and supported in whole or in part by the disabled person [prior to] **BEFORE**
23 the appointment of a guardian.

24 13-215.

25 (A) Any limitation on the powers of a guardian contained in a will or other
26 instrument which nominated a guardian should ordinarily be imposed by the court on the
27 guardian.

28 (B) If the court limits any power conferred on the guardian by § 13-214 of this
29 subtitle or § 15-102 of this article, the limitation shall be endorsed [upon his] **ON THE**
30 letters of appointment.

31 13-216.

1 (a) If the exercise of a power is improper, the guardian is liable for breach of [his]
2 **THE GUARDIAN'S** fiduciary duty to the minor or disabled person or to interested persons
3 for resulting damage or loss to the same extent as a trustee of an express trust.

4 (b) The rights of purchasers and others dealing with a guardian shall be
5 determined as provided in § 13–219 of this subtitle and are not necessarily affected by [the
6 fact that the guardian breached his] **THE GUARDIAN'S BREACH OF** fiduciary duty in the
7 transaction.

8 13–217.

9 (a) **(1)** Letters of guardianship may be recorded in the land records of the
10 county of residence of the minor or disabled person and of any other county where there is
11 real estate in which the estate has an interest.

12 **(2)** The recordation has the same effect as notice as recording a conveyance
13 from the minor or disabled person to the guardian.

14 13–218.

15 (a) **(1)** Except in unusual circumstances and as provided in subsection (b) of
16 this section, the guardian is entitled to the same compensation and reimbursement for
17 actual and necessary expenses as the trustee of a trust.

18 **(2)** No petition or hearing is required to entitle the guardian to
19 compensation and expenses.

20 **(3)** [Upon] **ON** the petition of any interested person and [upon] **ON** a
21 finding by the court that unusual circumstances exist, the court may increase or decrease
22 compensation.

23 13–219.

24 **(A)** In the absence of actual knowledge or of reasonable cause to inquire whether
25 the guardian is improperly exercising [his] **THE GUARDIAN'S** power, a person dealing with
26 the guardian need not inquire whether the guardian is exercising it properly, and is
27 protected as if the guardian properly exercised the power, except that every person is
28 charged with actual knowledge of any limitations endorsed on the letters of guardianship.

29 **(B)** A person need not see to the proper application of estate assets paid or
30 delivered to a guardian.

31 13–220.

1 (a) The appointment of a guardian terminates when the guardianship terminates
2 under § 13–221 of this subtitle and may be terminated sooner by [his] **THE GUARDIAN’S**
3 death, disability, resignation, or removal.

4 (b) Termination of appointment of a guardian has the effects provided in this
5 section.

6 (c) (1) (I) Termination ends the right and power pertaining to the office of
7 guardian.

8 (II) Unless otherwise ordered by the court, a guardian whose
9 appointment has been terminated shall perform acts necessary to protect the estate and
10 deliver the property to the successor guardian.

11 (2) Subject to the provisions of the Maryland Rules, termination does not
12 discharge a guardian from liability for transactions or omissions occurring before
13 termination, or relieve [him] **THE GUARDIAN** of the duty to preserve, account for, and
14 deliver to [his] A successor property subject to [his] **THE GUARDIAN’S** control.

15 (3) All lawful acts of a guardian before the termination of [his]
16 appointment shall remain valid and effective.

17 [(c)] (D) (1) The death of a guardian or the decree of a court of competent
18 jurisdiction that [he] A **GUARDIAN** is under legal disability shall terminate [his] **THE**
19 **GUARDIAN’S** appointment.

20 (2) The personal representative of a deceased guardian or the person
21 appointed to protect the estate of a guardian under legal disability shall [have]:

22 (I) **HAVE** the duty to protect property belonging to the estate being
23 administered by the deceased or disabled guardian[.];

24 [(1)] (II) [He shall have] **HAVE** the power to perform acts necessary for
25 the protection of property[.];

26 [(2)] (III) [He shall immediately] **IMMEDIATELY** account for and deliver
27 the property to a successor guardian[.]; **AND**

28 [(3)] (IV) [He shall apply] **APPLY** immediately to the court for the
29 appointment of a successor guardian to carry on the administration of the estate which was
30 being administered by the deceased or disabled guardian in accordance with the Maryland
31 Rules.

1 **[(d)] (E)** A guardian who desires to resign **[his] THE GUARDIAN'S** office may do
 2 so in accordance with the provisions of the same Maryland Rules by which a fiduciary may
 3 resign **[his] THE FIDUCIARY'S** office.

4 13-221.

5 (a) The minor or disabled person, **[his] THE MINOR'S OR DISABLED PERSON'S**
 6 personal representative, the guardian, or any other interested person may petition the
 7 court to terminate the guardianship proceedings.

8 (b) A guardianship proceeding shall terminate **[upon] ON:**

9 (1) The cessation of the minority or disability;

10 (2) The death or presumptive death of the minor or disabled person;

11 (3) Transfer of all the assets of the estate to a foreign fiduciary; or

12 (4) Other good cause for termination as may be shown to the satisfaction
 13 of the court.

14 13-222.

15 (a) **(1)** A guardian, conservator, committee, or other similar fiduciary,
 16 appointed by the appropriate court of another jurisdiction to manage the property of a
 17 protected person who is a resident of that jurisdiction, may exercise in the State all powers
 18 of **[his] THE** office, including the power to **[sell]:**

19 **(I)** **SELL**, purchase, or mortgage real estate in the State**[, collect];**
 20 **AND**

21 **(II)** **COLLECT**, receipt for, **[and]** take possession of **[money], AND**
 22 **REMOVE TO THE OTHER JURISDICTION:**

23 1. **MONEY** due**[, tangible];**

24 2. **TANGIBLE** personal property**[,];** or **[an]**

25 3. **AN** instrument evidencing a debt, **AN** obligation, **A** stock,
 26 or **A** chose in action located in the State**[, and remove it to the other jurisdiction].**

27 **(2)** Subject to any statute or rule relating to nonresidents, **[he] THE**
 28 **GUARDIAN, CONSERVATOR, COMMITTEE, OR OTHER SIMILAR FIDUCIARY,**
 29 **APPOINTED BY THE APPROPRIATE COURT OF ANOTHER JURISDICTION,** may sue and
 30 be sued in the State.

1 (b) Before receiving actual notice of the pendency of a guardianship proceeding in
2 the State, a person who has changed [his] **THE PERSON'S** position by relying on the powers
3 granted by this section may not be prejudiced by the pendency of the proceeding.

4 13-302.

5 (a) This subtitle applies to a transfer that refers to [this subtitle] **THE**
6 **MARYLAND UNIFORM TRANSFERS TO MINORS ACT** in the designation under §
7 13-309(a) of this subtitle by which the transfer is made if at the time of the transfer the
8 transferor, the minor, or the custodian is a resident of this State or the custodial property
9 is located in this State.

10 REVISOR'S NOTE: In subsection (a) of this section, the reference to "the Maryland
11 Uniform Transfers to Minors Act" is substituted for the former reference to
12 "this subtitle" for consistency with § 13-309(a) of this subtitle.

13 13-401.

14 (b) "Minor" means any person under 18 years of age:

15 (1) [who] **WHO** actually resided in the State at the time of the happening
16 of the occurrence out of which the claim, action, or judgment arises[.]; or

17 (2) [who] **WHO** actually resides in the State at the time money is paid to
18 [him] **THE MINOR** or to any person acting for [him] **THE MINOR** because of a claim, action,
19 or judgment in tort.

20 (c) "Net sum" means [the]:

21 (1) **THE** net amount due the minor or to any person acting for [him] **THE**
22 **MINOR** after the deduction of the fee of the attorney and expenses[.]; **OR**

23 (2) If the minor is not represented by an attorney, [it means] the amount
24 due to the minor or to any person acting for [him] **THE MINOR**, by or on behalf of any
25 person liable.

26 (d) "The person responsible for the payment of the money" means:

27 (1) The attorney, if the minor or any person acting for [him] **THE MINOR**
28 is represented by an attorney; or

29 (2) Any defendant, insurer, or the State under the provisions of the
30 [unsatisfied] **UNSATISFIED** Claim and Judgment Fund Law, if the minor or any person
31 acting for [him] **THE MINOR** is not represented by an attorney.

1 13-405.

2 (a) Except [upon] **ON** the order of a circuit court, the financial institution
3 specified in § 13-404(b) of this subtitle may not allow the withdrawal of any of the money
4 except to pay it to the minor [upon his] **ON THE MINOR'S** attainment of the age of 18 years
5 or to pay to the personal representative of [his] **THE MINOR'S** estate [upon] **ON** the death
6 of the minor [prior to his] **BEFORE THE MINOR'S** attaining the age of 18 years.

7 (b) Payment by any institution or association in accordance with an order of the
8 court, or to a minor on or after [his attaining the age of 18 years] **THE MINOR'S 18TH**
9 **BIRTHDAY**, or to the personal representative after the death of the minor, is a complete
10 discharge of liability of the institution or association for the money paid.

11 13-406.

12 (b) **(1)** The petition shall be verified and state in detail the purposes for which
13 the withdrawal of the money is desired.

14 **(2)** [Upon] **ON** receiving a petition, the court shall make any inquiry
15 necessary before granting or denying the petition in whole or in part.

16 (e) In its order [upon] **ON** a petition, the court may direct the institution where
17 the funds of the minor are on deposit to make its check to the order of:

18 (1) The trustee for the use of the minor; or

19 (2) The person, firm, or organization which has performed or is to perform
20 a service for or furnish goods to the minor.

21 13-407.

22 The trustee provided for in this subtitle need not file any accounts of [his]
23 trusteeship with any court.

24 13-501.

25 (a) **(1)** Any person, including but not limited to a personal representative or
26 trustee, who is under a duty to pay or deliver money or tangible personal property to a
27 minor may perform the duty by paying or delivering the money or chattel to the guardian
28 of the minor.

29 **(2)** If there is no guardian, or if [he] **THE GUARDIAN** is unknown, payment
30 or delivery in amounts or values not exceeding \$5,000 per annum may be made to the
31 parent or grandparent of the minor with whom [he] **THE MINOR** resides.

1 **(3)** If there is no guardian, parent, or grandparent with whom the minor
2 resides, payment or delivery in amounts or values not exceeding \$5,000 per annum may be
3 made to a parent or other person standing in loco parentis with the minor, or deposited in
4 a financial institution described in § 13–301(h) of this title.

5 **(4)** The payor is not under a duty to inquire whether the minor has a
6 guardian.

7 **(b) (1)** A deposit in a financial institution shall be in the sole name of the
8 minor.

9 **(2)** The minor may not withdraw any funds [without]:

10 **(I)** **WITHOUT** an order of court; or [until he attains his]

11 **(II)** **UNTIL THE MINOR ATTAINS** majority.

12 **(c) (1)** Other than the minor or a financial institution, a person receiving
13 money or property for a minor shall apply the money to the support and education of the
14 minor.

15 **(2)** [He] **A PERSON RECEIVING MONEY OR PROPERTY FOR A MINOR**
16 may not [pay himself] ~~RETAIN FUNDS OR HERSELF~~ except for reimbursement for
17 out-of-pocket expenses for goods and services furnished by others which are necessary for
18 the support of the minor.

19 **(3)** Any excess sums shall be preserved for future support of the minor, and
20 any balance not so used and any tangible chattels received for the minor shall be turned
21 over to the minor when [he] **THE MINOR** attains majority.

22 **(d) (1)** If a person owes money or property to a minor and pays or delivers it in
23 accordance with this section [he], **THE PERSON** is not responsible for the proper
24 application of the money or property.

25 **(2)** A release for any distribution signed by the distributee is a valid
26 release.

27 ~~REVISOR'S NOTE: In subsection (c)(2) of this section, the reference to a person~~
28 ~~“retain[ing] funds” is substituted for the former reference to a person “pay[ing]~~
29 ~~himself” for clarity and to avoid the use of gender-specific terminology.~~

30 13–503.

31 **(a) (1)** A minor who holds title to property as a tenant by the entirety with a
32 spouse who has reached the age of majority is authorized to join with the spouse in any

1 deed as defined in § 1–101 of the Real Property Article, note, or financing statement in the
2 same manner and effect as an adult.

3 (2) This subsection does not affect any right granted in subsection (b) of
4 this section.

5 (b) A war veteran or member of the armed services, who is a minor, eligible for
6 the benefits of the Servicemen’s Readjustment Act of 1944, and amendments to it, for the
7 purpose of obtaining the benefits of the Act, may [mortgage]:

8 (1) **MORTGAGE** real estate [owned by him, buy] **THE ELIGIBLE MINOR**
9 **OWNS;**

10 (2) **BUY** real estate and execute a mortgage to cover the purchase money[,
11 execute];

12 (3) **EXECUTE** a deed for the sale of real estate purchased, or execute notes
13 [or make];

14 (4) **MAKE** other agreements and do other things as necessary to obtain the
15 benefits of the Act, and amendments to it[.]; and [also may execute]

16 (5) **EXECUTE** releases of claims in the same manner and effect as an adult.

17 (c) (1) A minor who [has reached his 15th birthday may] **IS AT LEAST 15**
18 **YEARS OLD:**

19 (I) **MAY** contract for annuities and for life or health insurance on
20 [his] **THE MINOR’S** own life or body, or on the person of another in whom the minor has an
21 insurable interest[. He may];

22 (II) **MAY** exercise all rights and powers with respect to or under the
23 contract for the annuity or for insurance [upon his] **ON THE MINOR’S** own life or body, or
24 any contract the minor effected on the person of another issued to the minor as described
25 as though of full legal age of 18 years[. He may surrender his];

26 (III) **MAY SURRENDER ANY** interest in the contract and give a valid
27 discharge for any benefit accruing or money payable under it[. He is];

28 (IV) **IS** not entitled to rescind, avoid, or repudiate the contract, or any
29 exercise of a right or privilege because of [his] minority[. He is]; **AND**

30 (V) **IS** not bound by any unperformed agreement to pay, by
31 promissory note or otherwise, any premium on any insurance contract.

1 (2) If an estate of a minor is being administered by a guardian, no contract
2 is binding [upon] **ON** the estate as to payment of premiums, unless consented to by the
3 guardian.

4 (3) Any annuity contract or policy of life or health insurance shall be made
5 payable either to the minor or to [his] **THE MINOR'S** estate or to a person having an
6 insurable interest in the life of the minor.

7 (4) The provisions of this subsection also apply with respect to property,
8 casualty, and surety insurance contracted for by a minor who [has reached his 15th
9 birthday upon his] **IS AT LEAST 15 YEARS OLD ON THE MINOR'S** own property, liabilities,
10 or other interests.

11 (d) The absence of specific mention in this subtitle of any power or right granted
12 by law to a minor who [has reached his 15th birthday prior to] **IS AT LEAST 15 YEARS OLD**
13 **BEFORE** the enactment of this subtitle is not intended to affect the existence of the power
14 or right.

15 13-701.

16 **(A)** Unless prohibited by agreement or court order, the surviving parent of a minor
17 may appoint by will one or more guardians and successor guardians of the person of an
18 unmarried minor.

19 **(B)** The guardian need not be approved by or qualify in any court.

20 13-702.

21 (a) (2) If the minor [has attained his 14th birthday] **IS AT LEAST 14 YEARS**
22 **OLD**, and if the person otherwise is qualified, the court shall appoint a person designated
23 by the minor, unless the decision is not in the best interests of the minor.

24 13-703.

25 **(A)** The guardian of the person of a minor [shall] **MAY** not be required to post any
26 bond or to file any accounts.

27 **(B)** Unless otherwise provided by the will appointing a guardian of the person, [he
28 shall] **THE GUARDIAN OF THE PERSON MAY** not be entitled to any compensation for
29 serving as guardian of the person.

30 13-705.

31 (b) A guardian of the person shall be appointed if the court determines from clear
32 and convincing evidence that [a]:

1 **(1)** A person lacks sufficient understanding or capacity to make or
2 communicate responsible **PERSONAL** decisions [concerning his person], including
3 provisions for health care, food, clothing, or shelter, because of any mental disability,
4 disease, habitual drunkenness, or addiction to drugs[.]; and [that no]

5 **(2)** **NO** less restrictive form of intervention is available [which] **THAT** is
6 consistent with the person's welfare and safety.

7 (e) **(1) (I)** The person alleged to be disabled is entitled to be present at the
8 hearing unless [he] **THE PERSON** has knowingly and voluntarily waived the right to be
9 present or cannot be present because of physical or mental incapacity.

10 **(II)** Waiver or incapacity may not be presumed from nonappearance
11 but shall be determined on the basis of factual information supplied to the court by counsel
12 or a representative appointed by the court.

13 **(2)** The person alleged to be disabled is also entitled to present evidence
14 and to cross-examine witnesses.

15 **(3)** The issue may be determined at a closed hearing without a jury if the
16 person alleged to be disabled or [his] **THE PERSON'S** counsel so requests and all hearings
17 herein shall be confidential and sealed unless otherwise ordered by a court of competent
18 jurisdiction for good cause shown.

19 REVISOR'S NOTE: In subsection (b)(1) of this section, the reference to "personal
20 decisions" is substituted for the former reference to "decisions concerning his
21 person" for clarity and to avoid the use of gender-specific terminology.

22 13-707.

23 (a) Persons are entitled to appointment as guardian of the person according to
24 the following priorities:

25 (10) **(I)** For adults less than 65 years old, the director of the local
26 department of social services or, for adults 65 years old or older, the Secretary of Aging or
27 the director of the area agency on aging, except in those cases where the department of
28 social services has been appointed guardian of the person [prior to] **BEFORE** age 65[.]; **AND**

29 **(II)** [Upon] **ON** appointment as guardian **UNDER ITEM (I) OF THIS**
30 **ITEM**, directors of local departments of social services, directors of area agencies on aging,
31 and the Secretary of Aging may delegate responsibilities of guardianship to staff persons
32 whose names and positions have been registered with the court.

33 (b) **(1)** A person specified in a priority in subsection (a)(2), (3), (5), or (6) of this
34 section may waive and nominate in writing a person, agency, or corporation to serve in
35 [his] **THE PERSON'S** stead.

1 **(2)** A nominee of a person holding priority has the same priority as the
2 person making the nomination.

3 (c) (1) **(I)** Among persons with equal priority the court shall select the one
4 best qualified of those willing to serve.

5 **(II)** For good cause, the court may pass over a person with priority
6 and appoint a person with a lower priority.

7 (2) If a guardian of the estate has been appointed, the court may select
8 **[him] THE GUARDIAN OF THE ESTATE** to be guardian of the person, regardless of priority.

9 (d) (1) **[Nonresidence] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**
10 **NONRESIDENCE** does not disqualify any person from serving as guardian of the person.

11 **(2)** **[However, a] A** nonresident who is appointed may not qualify until **[he**
12 **has on file] THE NONRESIDENT FILES** with the register or clerk an irrevocable designation
13 by **[him] THE NONRESIDENT** of an appropriate person who resides in the State on whom
14 service of process may be made in the same manner and with the same effect as if it were
15 served personally in the State on the nonresident.

16 13–708.

17 (b) Subject to subsection (a) of this section, the rights, duties, and powers **[which]**
18 **THAT** the court may order include, but are not limited to:

19 (1) The same rights, powers, and duties that a parent has with respect to
20 an unemancipated minor child, except that the guardian is not liable solely by reason of the
21 guardianship to third persons for any act of the disabled person;

22 (2) The right to custody of the disabled person and to establish the disabled
23 person's place of abode within and without the State, provided there is court authorization
24 for any change in the classification of abode, except that, except as provided under §
25 10–611 of the Health – General Article, no one may be committed to a mental facility
26 without an involuntary commitment proceeding as provided by law;

27 (3) The duty to provide for care, comfort, and maintenance, including
28 social, recreational, and friendship requirements, and, if appropriate, for training and
29 education of the disabled person;

30 (4) If it is in the best interest of the disabled person, the duty to foster and
31 preserve family relationships including, as appropriate, assisting to arrange visitation and
32 communication by telephone calls, personal mail, and electronic communications;

1 (5) The duty to take reasonable care of the clothing, furniture, vehicles, and
 2 other personal effects of the disabled person, and, if other property requires protection, the
 3 power to commence protective proceedings;

4 (6) If a guardian of the estate of the disabled person has not been
 5 appointed, the right to commence proceedings to compel performance by any person of [his]
 6 **THE PERSON'S** duty to support the disabled person, and to apply the estate to the support,
 7 care, and education of the disabled person, except that the guardian of the person may not
 8 obtain funds from the estate for room and board that the guardian, [his] **THE GUARDIAN'S**
 9 spouse, parent, or child provide without a court order approving the charge, and the duty
 10 to exercise care to conserve any excess estate for the needs of the disabled person;

11 (7) If a guardian of the estate has been appointed, the duty to control the
 12 custody and care of the disabled person, to receive reasonable sums for room and board
 13 provided to the disabled person, and to account to the guardian of the estate for funds
 14 expended, and the right to ask the guardian of the estate to expend the estate in payment
 15 of third persons for care and maintenance of the disabled person;

16 (8) (I) The duty to file an annual or biannual report with the court
 17 indicating the present place of residence and health status of the ward, the guardian's plan
 18 for preserving and maintaining the future well-being of the ward, and the need for
 19 continuance or cessation of the guardianship or for any alteration in the powers of the
 20 guardian[.]; AND

21 **(II) ON RECEIPT OF A REPORT UNDER ITEM (I) OF THIS ITEM:**

22 ~~(H)~~ 1. The ~~court shall~~ ~~DUTY TO~~ renew the appointment of the
 23 guardian if [it] **THE COURT** is satisfied that the grounds for the original appointment
 24 stated in § 13-705(b) of this subtitle continue to exist[.];

25 2. If the court believes such grounds may not exist, [it] **THE**
 26 **COURT** shall ~~THE DUTY TO~~ hold a hearing, similar to that provided for in § 13-705 of this
 27 subtitle, at which the guardian shall be required to prove that such grounds exist[.];

28 3. If the court does not make these findings, [it] **THE COURT**
 29 shall ~~THE DUTY TO~~ order the discontinuance of the guardianship of the person[.]; AND

30 4. If the guardian declines to participate in the hearing, the
 31 ~~court may~~ ~~POWER TO~~ appoint another guardian to replace [him] **THE GUARDIAN**
 32 pursuant to the priorities in § 13-707(a) of this subtitle; and

33 (9) The power to give necessary consent or approval for:

34 (i) Medical or other professional care, counsel, treatment, or service,
 35 including admission to a hospital or nursing home or transfer from one medical facility to
 36 another;

1 (ii) Withholding medical or other professional care, counsel,
2 treatment, or service; and

3 (iii) Withdrawing medical or other professional care, counsel,
4 treatment, or service.

5 13–709.

6 (a) **(1)** [When] **A LAW ENFORCEMENT OFFICER SHALL TRANSPORT AN**
7 **ADULT TO AN APPROPRIATE MEDICAL FACILITY, WHICH SHALL IMMEDIATELY**
8 **NOTIFY THE NEXT OF KIN AND THE DIRECTOR, WHEN**, from personal observation of [a
9 law enforcement] **THE** officer, it appears probable that [an]:

10 **(I)** **THE** adult will suffer immediate and serious physical injury or
11 death if not immediately placed in a health care facility[, that the];

12 **(II)** **THE** adult is incapable of giving consent[,]; and [that it]

13 **(III)** **IT** is not possible to follow the procedures of this section[, the
14 officer shall transport the person to an appropriate medical facility which shall immediately
15 notify the next of kin and the director].

16 **(2)** [This] **THE** medical care **PROVIDED UNDER PARAGRAPH (1) OF THIS**
17 **SUBSECTION** may not be rendered in a State mental [hospital] **FACILITY** other than, in
18 an appropriate case, the Walter P. Carter Community Mental Health and Retardation
19 Center and the Highland Health Facility unless authorized by the courts in a civil
20 commitment proceeding.

21 **(3)** **(I)** The director shall file a petition **FOR ANY ADULT**
22 **TRANSFERRED UNDER THIS SUBSECTION** pursuant to subsection (b) of this section
23 within 24 hours after the transfer of the person has taken place.

24 **(II)** The court shall hold a hearing on the petition and render its
25 decision within 48 hours after the transfer has occurred.

26 (c) In issuing an emergency order, the court shall adhere to the following
27 limitations:

28 **(5)** **(I)** Notwithstanding the provisions of paragraphs (3) and (4) of this
29 subsection, the court may extend the terms of the emergency order and the appointment of
30 the temporary guardian until appointment of a guardian of the person pursuant to §
31 13–705 of this subtitle, [upon] **ON** petition of the temporary guardian, the director, or the
32 Secretary of Aging, as appropriate, and after a showing that the conditions found to exist
33 in subsection (b) of this section will probably continue beyond the expiration of the extended
34 emergency order[. Such];

1 **(II)** A petition **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH**
 2 shall be filed before the expiration of the [six-day] **6-DAY** period provided for in paragraph
 3 (3) of this subsection and shall be accompanied by a petition for appointment of a guardian
 4 of the person pursuant to § 13-705 of this subtitle[. Such]; **AND**

5 **(III)** A petition for appointment of a guardian of the person **UNDER**
 6 **SUBPARAGRAPH (II) OF THIS PARAGRAPH** shall be heard on an expedited basis no more
 7 than 60 days after the filing of the petition;

8 **(7) (I)** To implement an emergency order, the court may authorize
 9 forcible entry of the premises of the person for the purpose of rendering protective services
 10 or transporting the person to another location for the provision of [such] **PROTECTIVE**
 11 services only after a showing to the court that attempts to gain voluntary access to the
 12 premises have failed and forcible entry is necessary[.]; **AND**

13 **(II)** Persons making authorized forcible entry **UNDER**
 14 **SUBPARAGRAPH (I) OF THIS PARAGRAPH** shall be accompanied by a law enforcement
 15 officer, the director or [his] **THE DIRECTOR'S** representative, and if appropriate, a
 16 representative of the local department of health.

17 (d) The petition for an emergency order shall set forth [the]:

18 **(1)** **THE** name, address, and interest of the petitioner; [the]

19 **(2)** **THE** name, age, and address of the person in need of protective services;
 20 [the]

21 **(3)** **THE** nature of the person's disability, if determinable; [the]

22 **(4)** **THE** proposed protective services; [the]

23 **(5)** **THE** petitioner's reasonable belief, together with **SUPPORTIVE** facts
 24 [supportive thereof], as to the existence of the facts stated in subsection (b)(1) through (3)
 25 of this section; and [facts]

26 **(6)** **FACTS** showing **THE** petitioner's attempts to obtain the person's
 27 consent to the services and the outcomes of [such] **THE** attempts.

28 (e) **(1)** Notice of the filing of [such] **THE** petition **FOR AN EMERGENCY**
 29 **ORDER** shall be given as required in the Maryland Rules and to the director.

30 **(2)** [Such] **THE** notice shall be given in language reasonably
 31 understandable by the intended recipients at least 24 hours [prior to] **BEFORE** the hearing
 32 for emergency intervention.

1 **(3)** The court may waive the 24-hour notice requirement [upon] **ON** a
2 showing that:

3 **[(1)] (I)** [immediate] **IMMEDIATE** and reasonably foreseeable physical
4 harm to the person or others will result from the 24-hour delay[.]; and

5 **[(2)] (II)** [reasonable] **REASONABLE** attempts have been made to give
6 [such] notice.

7 **(4)** Notice of the court's final order shall be given to the same parties **AS**
8 **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

9 (f) (1) The hearing on a petition for an emergency order for protective services
10 shall be held under the following conditions:

11 (i) 1. The person shall be present unless [he] **THE PERSON** has
12 knowingly and voluntarily waived the right to be present or cannot be present because of
13 physical or mental incapacity[.]; **AND**

14 2. Waiver or incapacity may not be presumed from
15 nonappearance but shall be determined on the basis of factual information supplied to the
16 court by counsel or a representative appointed by the court[.];

17 (ii) 1. The person has the right to counsel whether or not [he]
18 **THE PERSON** is present at the hearing[.];

19 2. Subject to paragraph (2) of this subsection, if the person is
20 indigent or lacks the capacity to waive counsel, the court shall appoint counsel[.]; **AND**

21 3. [Where] **IF** the person is indigent, the State shall pay
22 reasonable attorney's fees[.]; **AND**

23 (iii) 1. The person may present evidence and cross-examine
24 witnesses[.]; **AND**

25 2. [This] **THE** hearing shall be held no earlier than 24 hours
26 after the notice required in subsection (e) of this section has been given, unless such notice
27 has been waived by the court.

28 (i) **(1)** [Where] **IF** protective services are rendered on the basis of an
29 emergency order, the temporary guardian shall submit a report describing the
30 circumstances including the name, place, date, and nature of the services, and the use of
31 forcible entry, if any, to the court and the director.

1 **(2)** [This] **THE** report **UNDER THIS SUBSECTION** shall become part of the
2 court record.

3 REVISOR'S NOTE: In subsection (a)(2) of this section, the reference to a State
4 "mental facility" is substituted for the former reference to a State "mental
5 hospital" to use the defined term for the title.

6 In subsection (a)(3)(i) of this section, the reference to filing a petition "for any
7 adult transferred under this subsection" is added for clarity.

8 In subsection (e)(4) of this section, the reference to notice being given to the
9 same parties "as required under paragraph (1) of this subsection" is added for
10 clarity.

11 13-801.

12 (a) The [Administrator] **SECRETARY** of Veterans Affairs shall be an interested
13 person in [any]:

14 **(1)** **ANY** proceeding for the appointment, removal, or discharge of any
15 guardian who is receiving or expects to receive any money from the [Veterans
16 Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** for a minor or disabled
17 person who is a [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS**
18 beneficiary; and [in any]

19 **(2)** **ANY** suit or other proceeding affecting in any manner the
20 administration by the guardian of the estate of any present or former beneficiary which
21 includes assets derived in whole or in part from benefits paid by the [Veterans
22 Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** to the guardian or [his]
23 **THE GUARDIAN'S** predecessor for the beneficiary.

24 (b) Notice of a suit or proceeding shall be given to the office of the [Veterans
25 Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** having jurisdiction over
26 the area in which the suit or proceeding is pending at least 15 days [prior to] **BEFORE** any
27 hearing unless notice is waived in writing.

28 13-802.

29 If a petition is filed for the appointment of a guardian for a minor who is a [Veterans
30 Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** beneficiary, a certificate of
31 the [Administrator] **SECRETARY** or [his] **THE SECRETARY'S** authorized representative,
32 setting forth the age of the minor as shown by the records of the [Veterans Administration]
33 **U.S. DEPARTMENT OF VETERANS AFFAIRS** and the fact that appointment of a guardian
34 is a condition precedent to the payment of any moneys due the minor from the [Veterans

1 Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** shall be prima facie
2 evidence of the necessity for the appointment.

3 13-803.

4 (a) [If the Veterans Administration] **THE COURT, ON THE REQUEST OF THE**
5 **U.S. DEPARTMENT OF VETERANS AFFAIRS, SHALL REQUIRE A GUARDIAN, OTHER**
6 **THAN A CORPORATE GUARDIAN, TO FURNISH A BOND, PREFERABLY A CORPORATE**
7 **SURETY BOND WITH SURETIES APPROVED BY THE COURT, CONDITIONED ON**
8 **FAITHFUL DISCHARGE OF ALL DUTIES OF THE GUARDIANSHIP ACCORDING TO LAW,**
9 **IF:**

10 (1) **THE U.S. DEPARTMENT OF VETERANS AFFAIRS** is paying or
11 planning to pay benefits to a person to be protected because of a legal disability; or [if the]

12 (2) **A person TO BE PROTECTED BECAUSE OF A LEGAL DISABILITY** has
13 an estate [which] **THAT** includes assets derived in whole or in part from benefits paid by
14 the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** to the
15 guardian or [his] **THE GUARDIAN'S** predecessor for the benefit of the person[, the court,
16 upon the request of the Veterans Administration, shall require a guardian, other than a
17 corporate guardian, to furnish a bond, preferably a corporate surety bond with sureties
18 approved by the court, conditioned upon faithful discharge of all duties of the guardianship
19 according to law].

20 (b) (1) The amount of the bond may not be less than the estate derived from
21 [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** benefits paid to
22 the guardian or [his] **THE GUARDIAN'S** predecessor and anticipated income of the
23 beneficiary from the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS**
24 **AFFAIRS** during the ensuing year, less the value of securities or money deposited with an
25 insured financial institution, as defined in § 13-301(h) of this title, under arrangements
26 requiring an order of the court for their removal, and the value of any land which the
27 guardian, by express limitation of power, lacks powers to sell or convey without court
28 authorization.

29 (2) The court for good cause shown may require the amount of the bond to
30 be changed.

31 (3) Bond premiums shall be charged against the estate of the beneficiary.

32 13-804.

33 (a) Every guardian of a beneficiary who is receiving benefits from the [Veterans
34 Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** or whose estate includes
35 assets derived in whole or in part from benefits paid by the [Veterans Administration] **U.S.**

1 **DEPARTMENT OF VETERANS AFFAIRS** to the guardian or [his] **THE GUARDIAN'S**
2 predecessor for the beneficiary shall file:

3 (1) (I) Annual accounts with each interested person or with the court[.];
4 **OR**

5 (II) If [he] **THE GUARDIAN** does not file an accounting with the
6 court, [he] **THE GUARDIAN** shall file with the court a written verification that [he] **THE**
7 **GUARDIAN** has delivered the accounting to each interested person[.];

8 (2) A final account of [his] **THE GUARDIAN'S** administration with the court
9 [upon his] **ON THE GUARDIAN'S** resignation or removal or [upon] **ON** the termination of
10 the minority or disability[.]; **AND**

11 (3) Intermediate accounts at the times as the court may direct.

12 (b) (1) (I) The guardian, at the time of filing any account with the court,
13 shall exhibit all securities or investments [held by him] **THE GUARDIAN HOLDS** to the
14 judge or clerk of the court of [his] **THE GUARDIAN'S** appointment [who].

15 (II) **THE JUDGE OR CLERK OF THE COURT OF THE GUARDIAN'S**
16 **APPOINTMENT** shall endorse on the account and copy a certificate that the securities or
17 investments shown therein as held by the guardian were each exhibited to [him] **THE**
18 **JUDGE OR CLERK OF THE COURT** and noting any omission or discrepancy.

19 (2) (I) The guardian may exhibit the securities or investments to an
20 officer of the bank or other depository where the securities or investments are held for
21 safekeeping, to the judge or clerk of a court of record in this State, to an authorized
22 representative of the corporation which is surety on [his] **THE GUARDIAN'S** bond, or [upon]
23 **ON** request of the guardian or other interested party, to any other reputable person
24 designated by the court[, who].

25 (II) **ANY PERSON TO WHOM THE GUARDIAN EXHIBITED**
26 **SECURITIES OR INVESTMENTS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH** shall
27 certify in writing that [he] **THE PERSON** has examined the securities or investments and
28 identified them with those described in the account and shall note any omission or
29 discrepancies.

30 (3) The certificate, and the certificate of an official of the bank in which are
31 deposited any funds for which the guardian is accountable, showing the amount on deposit,
32 shall be prepared and signed in duplicate and one of each shall be filed by the guardian
33 with [his] **THE GUARDIAN'S** account.

34 (c) (1) At the time of filing in the court any account, a certified copy of it and
35 a signed duplicate of each certificate filed with the court shall be sent by the guardian to

1 the office of the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS**
2 having jurisdiction over the area in which the court is located.

3 **(2)** A duplicate signed copy or a certified copy of any petition, motion or
4 other pleading pertaining to an account, or to any matter other than an account which is
5 filed in a guardianship proceeding, in which the [Administrator] **SECRETARY** of Veterans
6 Affairs is an interested person, shall be furnished by the persons filing it to the proper office
7 of the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS**.

8 13-805.

9 (a) Every guardian of a [Veterans Administration] **U.S. DEPARTMENT OF**
10 **VETERANS AFFAIRS** beneficiary shall invest the surplus funds of the estate of the
11 beneficiary derived from [Veterans Administration] **U.S. DEPARTMENT OF VETERANS**
12 **AFFAIRS** benefits paid to the guardian or the guardian's predecessor for the beneficiary in
13 securities or property authorized under the laws of this State but only upon prior order of
14 the court.

15 (b) [The] **NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE** funds
16 may be invested, without prior court authorization, in:

17 (1) Direct unconditional interest-bearing obligations of this State or of the
18 United States;

19 (2) Banks and savings and loan associations whose deposits are federally
20 insured;

21 (3) Obligations the interest and principal of which are unconditionally
22 guaranteed by the United States; or

23 (4) Securities of, or other interests in, any no-load open-end management
24 type investment company or investment trust registered under the provisions of the federal
25 Investment Company Act of 1940, 15 U.S.C. § 80a-1, et seq., if:

26 (i) The portfolio of the no-load open-end management type
27 investment company or investment trust is limited to obligations of the United States
28 government and to repurchase agreements fully collateralized by United States
29 government obligations;

30 (ii) The no-load open-end management type investment company or
31 investment trust takes delivery of that collateral, either directly or through an authorized
32 custodian; and

33 (iii) The no-load open-end management type investment company or
34 investment trust does not impose a contingent deferred sales charge or distribution charge.

1 (c) A signed duplicate or certified copy of the petition for authority to invest shall
 2 be furnished the proper office of the [Veterans Administration] **U.S. DEPARTMENT OF**
 3 **VETERANS AFFAIRS**, and notice of hearing upon it shall be given the office.

4 13-806.

5 No commission or compensation may be allowed a guardian of a [Veterans
 6 Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** beneficiary on the money
 7 or other assets received from a prior fiduciary nor [upon] **ON** the amount received from
 8 liquidation of loans or other investments if the money, assets, loans or investments were
 9 derived in whole or in part from benefits paid by the [Veterans Administration] **U.S.**
 10 **DEPARTMENT OF VETERANS AFFAIRS** to the guardian or [his] **THE GUARDIAN'S**
 11 predecessor for the beneficiary.

12 GENERAL REVISOR'S NOTE TO SUBTITLE

13 Throughout this subtitle, the references to the "U.S. Department of Veterans
 14 Affairs" and the "Secretary" are substituted for the former references to the
 15 "Veterans Administration" and the "Administrator" to reflect the current
 16 name of the department and its head.

17 14-302.

18 (a) [If a trust for charity is or becomes illegal, or impossible or impracticable of
 19 enforcement or if a devise or bequest for charity, at the time it was intended to become
 20 effective, is illegal, or impossible or impracticable of enforcement, and if the settlor or
 21 testator manifested a general intention to devote the property to charity, a] **A** court of
 22 equity, on application of any trustee, or any interested person, or the Attorney General of
 23 the State, may order an administration of [the] **A** trust, devise or bequest as nearly as
 24 possible to fulfill the general charitable intention of the settlor or testator:

25 **(1) (I) IF THE TRUST FOR CHARITY IS OR BECOMES ILLEGAL OR**
 26 **IMPOSSIBLE OR IMPRACTICABLE OF ENFORCEMENT; OR**

27 ~~(2)~~ ~~(I)~~ **(II) IF THE DEVISE OR BEQUEST FOR CHARITY, AT THE**
 28 **TIME IT WAS INTENDED TO BECOME EFFECTIVE, IS ILLEGAL OR IMPOSSIBLE OR**
 29 **IMPRACTICABLE OF ENFORCEMENT; AND**

30 ~~(II)~~ **(2) IF THE SETTLOR OR TESTATOR MANIFESTED A**
 31 **GENERAL INTENTION TO DEVOTE THE PROPERTY TO CHARITY.**

32 14-304.

33 **(A)** Notwithstanding any provisions to the contrary in the governing instrument,
 34 the trustee or trustees of any charitable remainder trust created after July 31, 1969 with

1 the consent of each beneficiary named in the governing instrument, without application to
2 any court, may amend the governing instrument to conform to the provision of § 664 of the
3 Internal Revenue Code by executing a written amendment to the trust for the purpose.

4 (B) Consent is not required as to individual named beneficiaries not living at the
5 time of amendment.

6 (C) In the case of an individual beneficiary not competent to give consent, the
7 consent of a guardian, appointed by a court of competent jurisdiction, shall be treated as
8 consent of the beneficiary.

9 (D) In the case of any amendment to a trust created by will, the amendment, if
10 provided in the amendment, may be considered to apply as of the date of death of the
11 testator.

12 15–102.

13 (c) [He] A FIDUCIARY may invest in, sell, mortgage, exchange, or lease any
14 property, real or personal.

15 (d) [He] A FIDUCIARY may borrow money for the purpose of protecting property
16 and pledge property as security for the loan.

17 (e) [He] A FIDUCIARY may effect a fair and reasonable compromise with any
18 debtor, obligor, creditor or obligee, or extend or renew any obligation by or to the fiduciary
19 estate.

20 (f) [He] A FIDUCIARY may retain assets owned by the minor or disabled person,
21 in the case of a guardian, or owned by the decedent or the grantor, in the case of a trustee
22 or otherwise coming into the hands of the fiduciary pending distribution or liquidation,
23 including those in which the fiduciary is personally interested or which are otherwise
24 improper for trust investment.

25 (g) [He] A FIDUCIARY may receive assets from any sources, including other
26 fiduciaries.

27 (h) (1) [He] A FIDUCIARY may perform the contracts of the decedent or
28 disabled person that continue as obligations of the fiduciary estate.

29 (2) In performing an enforceable contract to convey or lease land the
30 fiduciary may execute and deliver a deed or conveyance for cash payment of all sums
31 remaining due, or for the note of the purchaser for the sum remaining due secured by a
32 mortgage or deed of trust on the land, as the contract may provide.

33 (i) [He] A FIDUCIARY may satisfy written charitable pledges of the disabled
34 person or decedent.

- 1 (j) [He] **A FIDUCIARY** may deposit funds for the account of the fiduciary estate
2 in checking accounts, in insured interest-bearing accounts, or in short-term loan
3 arrangements.
- 4 (k) [He] **A FIDUCIARY** may vote securities in person or by general or limited
5 proxy, or enter into or participate in a voting trust or agreement of shareholder.
- 6 (l) [He] **A FIDUCIARY** may insure the property of the fiduciary estate against
7 damage, loss and liability, and himself **OR HERSELF**, as fiduciary against liability in
8 respect to third persons.
- 9 (m) [He] **A FIDUCIARY** may pay taxes, assessments and other expenses incident
10 to the administration of the fiduciary estate.
- 11 (n) [He] **A FIDUCIARY** may sell or exercise stock subscription, conversion or
12 option rights, consent to or oppose, directly or through a committee or other agent, the
13 reorganization, consolidation, merger, dissolution or liquidation of a corporation or other
14 business enterprises.
- 15 (o) [He] **A FIDUCIARY** may employ for reasonable compensation agents,
16 attorneys, auditors, investment advisors or other persons with special skills, to advise or
17 assist the fiduciary in the performance of [his] **THE** administrative duties **OF THE**
18 **FIDUCIARY**, but no attorney's fee in an amount exceeding \$50 shall be paid in a fiduciary
19 estate administered under court jurisdiction unless the amount of the fee has been first
20 approved by order of court.
- 21 (q) [He] **A FIDUCIARY** may continue as or become a limited partner in any
22 partnership or a member in any limited liability company, including a single member
23 limited liability company.
- 24 (r) [He] **A FIDUCIARY** may incorporate any business or venture which forms a
25 part of the fiduciary estate.
- 26 (s) [He] **A FIDUCIARY** may convert a sole proprietorship the decedent was
27 engaged in at the time of [his] **THE DECEDENT'S** death to a limited liability company.
- 28 (t) [He] **A FIDUCIARY** may exercise options, rights and privileges contained in a
29 life insurance policy, annuity, or endowment contract constituting property of the fiduciary
30 estate, including the right to obtain the cash surrender value, convert a policy to another
31 type of policy, revoke any mode of settlement, and pay any part or all of the premiums on
32 the policy or contract.
- 33 (u) [He] **A FIDUCIARY** may pay any valid claim.

1 (v) If any assets of the fiduciary estate are encumbered by mortgage, pledge, lien,
2 or other security interest, [he] **A FIDUCIARY** may pay the encumbrance or any part of it,
3 renew, or extend an obligation secured by the encumbrance, or convey or transfer the assets
4 to the creditor in satisfaction of [his] **THE** security interest **OF THE CREDITOR**, in whole
5 or in part, if the act appears to be in the best interest of the fiduciary estate.

6 (w) [He] **A FIDUCIARY** may release or terminate any mortgage or security
7 interest, if the obligation secured by the mortgage or security interest has been fully
8 satisfied.

9 (y) [He] **A FIDUCIARY** may hold a security in the name of a nominee or in other
10 form without disclosure of the interest of the fiduciary estate, but the fiduciary shall be
11 liable for a wrongful act of the nominee in connection with the security so held.

12 15–103.

13 (a) Whenever [any] securities are deposited or exchanged, or tendered for deposit
14 or exchanged by [any] **A** fiduciary under [any] **A** reorganization agreement or plan of
15 reorganization, [any] **A** committee formulating, proposing, or carrying out [any] **A** plan or
16 soliciting deposits or exchanges under [any] **AN** agreement or plan, any depository with or
17 through which the deposit or exchange of [any] securities may be made, solicited, requested
18 or permitted, and [any] **A** person to whom or to which securities are to be delivered
19 pursuant to [any] **AN** agreement or **A** plan, may accept, receive, hold and ultimately dispose
20 of [any] **THE** securities in accordance with the authorization or instructions of the fiduciary
21 depositing or exchanging securities or tendering them for deposit or exchange under [any]
22 **A** reorganization agreement or plan of reorganization, without [any] **AN** obligation to
23 inquire whether [or not any] **A** fiduciary is authorized to make **A** deposit or exchange or is
24 committing a breach of [his] **THE** obligation as fiduciary in so doing.

25 (b) No committee, depository, or ultimate recipient is liable in any way of any
26 kind to [any] **A** person for [any] **AN** action taken, suffered, or permitted with respect to
27 [any] securities in accordance with the authorization or instructions given by [any] **A**
28 fiduciary depositing or exchanging [them] **THE SECURITIES** or tendering [them] **THE**
29 **SECURITIES** for deposit or exchange, unless the committee, depository, or ultimate
30 recipient has actual knowledge that [any] **A** fiduciary is committing a breach of [his]
31 **FIDUCIARY** trust in making the deposit or exchange, or has knowledge of facts that the
32 action or conduct of the committee, depository, or ultimate recipient amounts to bad faith.

33 15–104.

34 (a) (1) [Regardless of] **NOTWITHSTANDING** any other provision of law, [any]
35 **A** fiduciary holding securities in [its] **A** fiduciary capacity, [any] **A** bank or trust company
36 holding securities as a custodian or agent, and [any] **A** bank or trust company holding
37 securities as custodian for a fiduciary, is authorized to deposit or arrange for the deposit of

1 the securities in a securities clearing corporation, regardless of whether [or not] the
2 depositor owns capital stock of the clearing corporation.

3 (2) When securities are [so] deposited **IN ACCORDANCE WITH**
4 **PARAGRAPH (1) OF THIS SUBSECTION**, certificates representing securities of the same
5 class of the same issuer may be merged and held in bulk in the name of the nominee of the
6 clearing corporation with any other securities deposited in the clearing corporation by [any]
7 A person regardless of the ownership of the securities, and certificates of small
8 denomination may be merged into one or more certificates of larger denomination.

9 (3) The records of the fiduciary and the records of the bank or trust
10 company acting as custodian, as agent or as custodian for a fiduciary shall show at all times
11 the name of the party for whose account the securities are [so] deposited.

12 (4) Title to the securities may be transferred by bookkeeping entry on the
13 books of the clearing corporation without physical delivery of certificates representing the
14 securities.

15 (b) (1) A bank or trust company depositing securities pursuant to this section
16 is subject to the rules and regulations as, in the case of State chartered institutions, the
17 Commissioner of Financial Regulation and, in the case of national banking associations,
18 the [comptroller of the currency] **COMPTROLLER OF THE CURRENCY** may issue from
19 time to time.

20 (2) A bank or trust company acting as custodian for a fiduciary, on demand
21 by the fiduciary, shall certify in writing to the fiduciary the securities [so] deposited **IN**
22 **ACCORDANCE WITH THIS SECTION** by the bank or trust company in the clearing
23 corporation for the account of the fiduciary.

24 15–105.

25 (a) [Any] A fiduciary, or party of whom a bond, undertaking or other obligation
26 is required, may agree or arrange with [his] A surety for a general or a special deposit for
27 safekeeping of any money, assets and other property, for which [he] **THE FIDUCIARY** is or
28 may be responsible, with a bank, savings bank, safe deposit or trust company authorized
29 by law to do business and situate in the county in which [his] **THE FIDUCIARY'S** bond is
30 filed.

31 (b) [The] A deposit shall be made in a manner as to prevent the withdrawal or
32 alienation of money, assets, or other property, or any part of it, without the written consent
33 of the surety, or an order of a court, made on notice to the surety as the court directs.

34 15–108.

1 (a) [Any] A fiduciary making A distribution or delivery of any property, in
2 conformity to [any] A decree or order of court passed pursuant to the Maryland Rules, shall
3 be protected from [any] A claim in respect to [it] **THE PROPERTY** by an absent or unknown
4 beneficiary or life tenant proceeded against under the Maryland Rules, or [his] **THE** heirs,
5 personal representatives, or assigns **OF AN ABSENT OR UNKNOWN BENEFICIARY OR**
6 **LIFE TENANT**.

7 (b) Nothing in this section limits [any] A similar protection granted to fiduciaries
8 by applicable laws in effect [prior to] **BEFORE** the passage of the Maryland Rules.

9 15–110.

10 (a) In addition to any other means of enforcing [its] **A COURT** order, the court
11 [which] **THAT** has ordered a fiduciary to give countersecurity pursuant to the Maryland
12 Rules may compel compliance with [its] **THE COURT** order by attachment and
13 sequestration.

14 (b) If the fiduciary fails to give countersecurity within the time fixed by the court,
15 and is removed:

16 (1) The register of wills may bring suit on the bond of the fiduciary to
17 recover taxes and costs; and

18 (2) If the register does not bring suit on the bond, and a new fiduciary is
19 appointed [in his place], the new fiduciary may bring suit on the bond of the removed
20 fiduciary.

21 REVISOR'S NOTE: In subsection (b)(2) of this section, the former reference to a new
22 fiduciary being appointed "in his place" is deleted as surplusage.

23 15–111.

24 The discharge of a fiduciary who has resigned [his] **THE FIDUCIARY'S** office
25 pursuant to the Maryland Rules does not release the fiduciary, or [his] sureties **OF THE**
26 **FIDUCIARY**, [if any,] from liability to any of the cestui que trustent, or other persons, for
27 acts, defaults, or omissions of duty occurring while the fiduciary was in office.

28 15–112.

29 (a) (1) A court shall remove a fiduciary who has:

30 (i) Willfully misrepresented material facts leading to [his] **THE**
31 appointment **OF THE FIDUCIARY** or to other action by the court in reference to the
32 fiduciary estate;

33 (ii) Willfully disregarded an order of court;

1 (iii) Shown [himself] **TO BE** incapable, with or without fault to
2 properly perform the duties of [his] **THE** office **OF FIDUCIARY**; or

3 (iv) Breached [his] **THE FIDUCIARY** duty of good faith or loyalty in
4 the management of property of the fiduciary estate.

5 (2) A court may remove a fiduciary who has:

6 (i) Negligently failed to file a bond within the time required by rule
7 or order of court;

8 (ii) Negligently failed to obey an order of court; or

9 (iii) Failed to perform any [of his duties as] fiduciary **DUTY**, or to
10 competently administer the fiduciary estate.

11 (c) The provisions of this section [shall] **MAY** not apply to personal
12 representatives.

13 15–202.

14 (A) A person who in good faith pays or transfers to a fiduciary any money or other
15 property which the fiduciary is authorized to receive, is not responsible for the proper
16 application of [it] **THE MONEY OR PROPERTY** by the fiduciary[; and any].

17 (B) A right or title **TO MONEY OR OTHER PROPERTY** acquired from [the] A
18 fiduciary in consideration of payment or transfer is not invalid in consequence of a
19 misapplication by the fiduciary.

20 15–203.

21 (A) [If] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF** any
22 negotiable instrument payable or indorsed to a fiduciary is indorsed by the fiduciary, or if
23 any negotiable instrument payable or indorsed to [his] **THE FIDUCIARY'S** principal is
24 indorsed by a fiduciary empowered to indorse the instrument on behalf of [his] **THE**
25 principal, the indorsee is not bound to inquire whether the fiduciary is committing a breach
26 of [his] **THE** obligation as fiduciary in indorsing or delivering the instrument, and is not
27 chargeable with notice that the fiduciary is committing a breach of [his] **THE** obligation as
28 fiduciary unless [he] **THE INDORSEE** takes the instrument with actual knowledge of the
29 breach or with knowledge of the facts that [his] **THE** action **OF THE INDORSEE** in taking
30 the instrument amounts to bad faith.

31 (B) If[, however, the] **AN** instrument is transferred by the fiduciary in payment of
32 or as security for a personal debt of the fiduciary to the actual knowledge of the creditor, or
33 is transferred in any transaction known by the transferee to be for the personal benefit of

1 the fiduciary, the creditor or other transferee is liable to the principal if the fiduciary in fact
2 commits a breach of [his] **THE** obligation as fiduciary in transferring the instrument.

3 15-204.

4 (A) [If] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF** a
5 check or other bill of exchange is drawn by a fiduciary or in the name of [his] **THE**
6 **FIDUCIARY'S** principal by a fiduciary empowered to draw the instrument in the name of
7 [his] **THE** principal, the payee is not bound to inquire whether the fiduciary is committing
8 a breach of [his] **THE** obligation as fiduciary in drawing or delivering the instrument, and
9 is not chargeable with notice that the fiduciary is committing a breach of [his] **THE**
10 obligation as fiduciary unless [he] **THE PAYEE** takes the instrument with actual knowledge
11 of the breach or with knowledge of the facts that [his] **THE action OF THE PAYEE** in taking
12 the instrument amounts to bad faith.

13 (B) If[, however, the] **AN** instrument is payable to a personal creditor of the
14 fiduciary and delivered to the creditor in payment of or as security for a personal debt of
15 the fiduciary to the actual knowledge of the creditor, for the personal benefit of the
16 fiduciary, the creditor or other payee is liable to the principal if the fiduciary in fact commits
17 a breach of [his] **THE** obligation as fiduciary in drawing or delivering the instrument.

18 15-205.

19 If a check or other bill of exchange is drawn by a fiduciary or in the name of [his]
20 **THE FIDUCIARY'S** principal by a fiduciary empowered to draw the instrument in the name
21 of [his] **THE** principal, payable to the fiduciary personally, or payable to a third person and
22 [by him] transferred **BY THE THIRD PERSON** to the fiduciary, and is thereafter transferred
23 by the fiduciary, whether in payment of a personal debt of the fiduciary or otherwise, the
24 transferee is not bound to inquire whether the fiduciary is committing a breach of [his]
25 **THE** obligation as fiduciary in transferring the instrument, and is not chargeable with
26 notice that the fiduciary is committing a breach of [his] **THE** obligation as fiduciary unless
27 [he] **THE TRANSFEREE** takes the instrument with actual knowledge of the breach or with
28 knowledge of the facts that [his] **THE action OF THE TRANSFEREE** in taking the
29 instrument amounts to bad faith.

30 15-206.

31 (A) [If] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF** a
32 deposit is made in a bank to the credit of a fiduciary, the bank is authorized to pay the
33 amount of the deposit or any part of it [upon] **ON** the check of the fiduciary, signed with
34 the name in which the deposit is entered, without being liable to the principal, unless the
35 bank pays the check with actual knowledge that the fiduciary is committing a breach of
36 [his] **THE** obligation as fiduciary in drawing the check or with knowledge of the facts that
37 [its] **THE action OF THE BANK** in paying the check amounts to bad faith.

1 (B) If[, however, the] A check is payable to the drawee bank and is delivered to
 2 [it] **THE BANK** in payment of or as security for a personal debt of the fiduciary to it, the
 3 bank is liable to the principal if the fiduciary in fact commits a breach of [his] **THE**
 4 obligation as fiduciary in drawing or delivering the check.

5 15–207.

6 (A) [If] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF** a
 7 check is drawn [upon] **ON** the **BANK** account of [his] **THE** principal [in a bank] **OF A**
 8 **FIDUCIARY** by a fiduciary who is empowered to draw checks [upon] **ON** the account of the
 9 principal, the bank is authorized to pay the check without being liable to the principal,
 10 unless the bank pays the check with actual knowledge that the fiduciary is committing a
 11 breach of [his] **THE** obligation as fiduciary in drawing the check, or with knowledge of the
 12 facts that [its] **THE** action **OF THE BANK** in paying the check amounts to bad faith.

13 (B) If[, however, the] A check is payable to the drawee bank and is delivered to
 14 [it] **THE BANK** in payment of or as security for a personal debt of the fiduciary to it, the
 15 bank is liable to the principal if the fiduciary in fact commits a breach of [his] **THE**
 16 obligation as fiduciary in drawing or delivering the check.

17 15–208.

18 (A) [If] **THIS SECTION APPLIES IF** a fiduciary makes a deposit in a bank to [his]
 19 **THE FIDUCIARY'S** personal credit of [checks drawn by him upon]:

20 (1) **CHECKS DRAWN BY THE FIDUCIARY ON** an account in [his own] **THE**
 21 name **OF THE FIDUCIARY** as fiduciary[, or of checks];

22 (2) **CHECKS** payable to [him] **THE FIDUCIARY** as fiduciary[, or of checks];

23 (3) **CHECKS** drawn by [him upon] **THE FIDUCIARY ON** an account in the
 24 name of [his] **THE FIDUCIARY'S** principal, if [he] **THE FIDUCIARY** is empowered to draw
 25 checks [thereon] **ON THE ACCOUNT**[, or of checks];

26 (4) **CHECKS** payable to [his] **THE** principal **OF A FIDUCIARY** and indorsed
 27 by [him] **THE FIDUCIARY**, if [he] **THE FIDUCIARY** is empowered to indorse the checks[, if
 28 he otherwise makes a deposit of]; **OR**

29 (5) **OTHER** funds held by [him] **THE FIDUCIARY** as fiduciary[, the].

30 (B) A bank receiving [the] A deposit **IN ACCORDANCE WITH SUBSECTION (A)**
 31 **OF THIS SECTION** may not be bound to inquire whether the fiduciary is committing
 32 [thereby] a breach of [his] **THE** obligation as fiduciary[:] and [the bank] is authorized to
 33 pay the amount of the deposit or any part [thereof upon] **OF THE DEPOSIT ON** the personal

1 check of the fiduciary without being liable to the principal, unless the bank receives the
2 deposit or pays the check with actual knowledge that the fiduciary is committing a breach
3 of [his] **THE** obligation as fiduciary in making the deposit or in drawing the check, or with
4 knowledge of the facts that [its] **THE** action **OF THE BANK** in receiving the deposit or
5 paying the check amounts to bad faith.

6 15-301.

7 (c) "Claims" includes a claim of any interest by a legatee of a decedent,
8 distributee, heir, or creditor, a beneficiary under a trust, a ward, a beneficial owner of a
9 security registered in the name of a nominee, or a minor owner of a security registered in
10 the name of a custodian, or a claim of any similar interest, whether the claim is asserted
11 by the claimant or by a fiduciary or by any other authorized person on [his] behalf **OF THE**
12 **CLAIMANT**, and includes a claim that the transfer would be in breach of fiduciary duties.

13 15-302.

14 A corporation or transfer agent registering a security in the name of a person who is
15 a fiduciary or who is described as a fiduciary [is]:

16 (1) **IS** not bound to inquire into the existence, extent, or correct description
17 of the fiduciary relationship; and [thereafter the corporation and its transfer agent may]

18 (2) **MAY** assume without inquiry that the newly registered owner
19 continues to be the fiduciary until the corporation or transfer agent receives written notice
20 that the fiduciary is no longer acting as [such] **THE FIDUCIARY** with respect to the
21 particular security.

22 15-303.

23 Except as otherwise provided in this subtitle, a corporation or transfer agent making
24 a transfer of a security pursuant to an assignment by a fiduciary:

25 (1) May assume without inquiry that the assignment, even though to the
26 fiduciary [himself] or to [his] A nominee **OF THE FIDUCIARY**, is within [his] **THE** authority
27 and capacity **OF THE FIDUCIARY** and is not in breach of [his fiduciary] **THE** duties **OF THE**
28 **FIDUCIARY**;

29 15-304.

30 (A) A corporation or transfer agent making a transfer pursuant to an assignment
31 by a fiduciary who is not the registered owner shall obtain the following evidence of
32 appointment or incumbency:

1 (1) In the case of a fiduciary appointed or qualified by a court, a certificate
2 issued by or under the direction or supervision of that court or an officer thereof and dated
3 within 60 days before the transfer; or

4 (2) In any other case, a copy of a document showing the appointment or a
5 certificate issued by or on behalf of a person reasonably believed by the corporation or
6 transfer agent to be responsible or, in the absence of such a document or certificate, other
7 evidence reasonably deemed by the corporation or transfer agent to be appropriate.
8 **[Corporations and transfer agents]**

9 **(B) A CORPORATION OR TRANSFER AGENT** may adopt standards with respect
10 to evidence of appointment or incumbency under **[this]** subsection **(A) OF THIS SECTION**
11 **IF THE [provided such]** standards are not manifestly unreasonable.

12 **(C)** Neither the corporation nor transfer agent is charged with notice of the
13 contents of **[any]** A document obtained pursuant to this **[paragraph]** **SECTION** except to
14 the extent that the contents relate directly to the appointment or incumbency.

15 15-305.

16 (a) **(1)** A person asserting a claim of beneficial interest adverse to the transfer
17 of a security pursuant to an assignment by a fiduciary may give the corporation or transfer
18 agent written notice of the claim. **[The]**

19 **(2)** A corporation or transfer agent is not put on notice unless the written
20 notice identifies the claimant, the registered owner, and the issue of which the security is
21 a part, provides an address for communications directed to the claimant and is received
22 before the transfer.

23 **(3)** Nothing in this subtitle relieves the corporation or transfer agent of any
24 liability for making or refusing to make the transfer after it is so put on notice, unless it
25 proceeds in the manner authorized in subsection (b) of this section.

26 (b) **(1)** As soon as practicable after the presentation of a security for transfer
27 pursuant to an assignment by a fiduciary, a corporation or transfer agent which has
28 received notice of a claim of beneficial interest adverse to the transfer may send notice of
29 the presentation by registered or certified mail to the claimant at the address given by
30 **[him]** **THE CLAIMANT.**

31 **(2)** If **[the]** A corporation or transfer agent **[so]** mails **[such]** a notice **[it]**
32 **AS AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE CORPORATION**
33 **OR TRANSFER AGENT** shall withhold the transfer for 30 days after the mailing and shall
34 then make the transfer unless restrained by a court order.

35 15-502.

1 (b) (1) In exercising a discretionary power of administration regarding a
2 matter within the scope of this subtitle, whether granted by the terms of a trust, a will, or
3 this subtitle, a fiduciary shall administer a trust or estate impartially, based on what is fair
4 and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or
5 the will clearly manifest an intention that the fiduciary shall or may favor one or more of
6 the beneficiaries.

7 (2) A determination in accordance with this subtitle is presumed to be fair
8 and reasonable to all of the beneficiaries.

9 15-503.

10 (A) [After] **THE RULES IN SUBSECTIONS (B) THROUGH (E) OF THIS SECTION**
11 **APPLY:**

12 (1) **IN THE CASE OF AN ESTATE, AFTER** a decedent dies[, in the case of
13 an estate,]; or [after]

14 (2) **AFTER** an income interest in a trust ends[, the following rules apply:].

15 (B) (1) [(i)] A fiduciary of an estate or of a terminating income interest shall
16 [determine]:

17 (I) **DETERMINE** the amount of net income and net principal
18 receipts received from property specifically given to a beneficiary under the rules in Parts
19 III through V of this subtitle which apply to trustees and the rules in [paragraph (4)]
20 **SUBSECTION (E)** of this section[. The fiduciary shall distribute]; **AND**

21 (II) **DISTRIBUTE** the net income and net principal receipts to the
22 beneficiary who is to receive the specific property.

23 [(ii)] (2) [1.] If the income and principal receipts from the
24 specific property are not sufficient to pay the taxes, ordinary repairs, and other expenses of
25 management and operation relating to the property, or if there are no income or principal
26 receipts, then expenses in excess of income and principal receipts shall be charged to and
27 paid by the beneficiary who is to receive the specific property immediately [upon] **ON**
28 written demand of the personal representative, or at the option of the beneficiary, charged
29 against a share of the estate to which the beneficiary may be entitled.

30 [2.] (3) (I) If the beneficiary who is to receive the
31 specific property fails to make payment to the personal representative within 15 days from
32 the date of written demand, the personal representative may sell at either public or private
33 sale the specific property to satisfy the excess charges, taxes, and expenses accrued.

1 **(II)** Proceeds of the sale in excess of the charges, taxes, and expenses,
2 including the expenses of the sale, shall subsequently be distributed to the beneficiary in
3 full satisfaction of the right to receive the specific property.

4 **(III)** If the proceeds of the sale are insufficient to satisfy charges,
5 taxes, and expenses incident to the specific property, then the personal representative may
6 pay the excess expenses, taxes, and other charges out of the residuary estate.

7 **[(2)] (C)** A fiduciary shall determine the remaining net income of a
8 decedent's estate or a terminating income interest under the rules in Parts III through V
9 of this subtitle which apply to trustees and by:

10 **[(i)] (1)** Including in net income all income from property used to
11 discharge liabilities;

12 **[(ii)] (2)** Paying from income or principal, in the fiduciary's
13 discretion, fees of attorneys, accountants, and fiduciaries; court costs and other expenses of
14 administration; and interest on death taxes, but the fiduciary may pay those expenses from
15 income of property passing to a trust for which the fiduciary claims an estate tax marital
16 or charitable deduction only to the extent that the payment of those expenses from income
17 will not cause the reduction or loss of the deduction; and

18 **[(iii)] (3)** Paying from principal all other disbursements made or
19 incurred in connection with the settlement of a decedent's estate or the winding up of a
20 terminating income interest, including debts, funeral expenses, disposition of remains,
21 family allowances, and death taxes and related penalties that are apportioned to the estate
22 or terminating income interest by the will, the terms of the trust, or applicable law.

23 **[(3)] (D)** A fiduciary shall distribute the remaining net income in the
24 manner described in § 15-504 of this subtitle to all other beneficiaries, including a
25 beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an
26 unqualified power to withdraw assets from the trust or other presently exercisable general
27 power of appointment over the trust, but excluding a beneficiary other than a surviving
28 spouse who receives a pecuniary amount that is not in trust.

29 **[(4)] (E) (1)** A fiduciary may not reduce principal or income receipts
30 from property described in **[paragraph (1)] SUBSECTION (B)** of this section because of a
31 payment described in § 15-523 or § 15-524 of this subtitle to the extent that the will, the
32 terms of the trust, or applicable law requires the fiduciary to make the payment from assets
33 other than the property or to the extent that the fiduciary recovers or expects to recover the
34 payment from a third party.

35 **(2)** The net income and principal receipts from the property are determined
36 by including all of the amounts the fiduciary receives or pays with respect to the property,
37 whether those amounts accrued or became due on or after the date of a decedent's death or
38 an income interest's terminating event, and by making a reasonable provision for amounts

1 that the fiduciary believes the estate or terminating income interest may become obligated
2 to pay after the property is distributed.

3 15-504.

4 (a) (1) Each beneficiary described in [§ 15-503(3)] **§ 15-503(D)** of this subtitle
5 is entitled to receive a portion of the net income equal to the beneficiary's fractional interest
6 in undistributed principal assets, using values as of the distribution date.

7 (2) If a fiduciary makes more than one distribution of assets to
8 beneficiaries to whom this section applies, each beneficiary, including one who does not
9 receive part of the distribution, is entitled, as of each distribution date, to the net income
10 the fiduciary has received after the date of death or terminating event or earlier
11 distribution date but has not distributed as of the current distribution date.

12 (b) In determining a beneficiary's share of net income[, the following rules apply]:

13 (1) The beneficiary is entitled to receive a portion of the net income equal
14 to the beneficiary's fractional interest in the undistributed principal assets immediately
15 before the distribution date, including assets that later may be sold to meet principal
16 obligations[.];

17 (2) The beneficiary's fractional interest in the undistributed principal
18 assets shall be calculated without regard to property specifically given to a beneficiary and
19 property required to pay pecuniary amounts not in trust[.];

20 (3) The beneficiary's fractional interest in the undistributed principal
21 assets shall be calculated on the basis of the aggregate value of those assets as of the
22 distribution date without reducing the value by any unpaid principal obligation[.]; AND

23 (4) The distribution date for purposes of this section may be the date as of
24 which the fiduciary calculates the value of the assets if that date is reasonably near the
25 date on which assets are actually distributed.

26 15-505.

27 (a) (1) An income beneficiary is entitled to net income from the date on which
28 the income interest begins.

29 (2) An income interest begins on the date specified in the terms of the trust
30 or, if no date is specified, on the date an asset becomes subject to a trust or successive
31 income interest.

32 15-506.

1 (a) A trustee shall allocate an income receipt or disbursement other than one to
2 which [~~§ 15–503(1)~~] **§ 15–503(B)** of this subtitle applies to principal if its due date occurs
3 before a decedent dies in the case of an estate or before an income interest begins in the
4 case of a trust or successive income interest.

5 (b) **(1)** A trustee shall allocate an income receipt or disbursement to income if
6 its due date occurs on or after the date on which a decedent dies or an income interest
7 begins and it is a periodic due date.

8 **(2)** An income receipt or disbursement shall be treated as accruing from
9 day to day if its due date is not periodic or it has no due date.

10 **(3)** The portion of the receipt or disbursement accruing before the date on
11 which a decedent dies or an income interest begins shall be allocated to principal and the
12 balance shall be allocated to income.

13 (c) **(1)** An item of income or an obligation is due on the date the payer is
14 required to make a payment.

15 **(2)** If a payment date is not stated, there is no due date for the purposes of
16 this subtitle.

17 **(3)** Distributions to shareholders or other owners from an entity to which
18 § 15–508 of this subtitle applies are deemed to be due on the date fixed by the entity for
19 determining who is entitled to receive the distribution or, if no date is fixed, on the
20 declaration date for the distribution.

21 **(4)** A due date is periodic for receipts or disbursements that must be paid
22 at regular intervals under a lease or an obligation to pay interest or if an entity customarily
23 makes distributions at regular intervals.

24 15–507.

25 (b) **(1)** **[When] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
26 **SUBSECTION, WHEN** a mandatory income interest ends, the trustee shall pay to a
27 mandatory income beneficiary who survives that date, or the estate of a deceased
28 mandatory income beneficiary whose death causes the interest to end, the beneficiary's
29 share of the undistributed income that is not disposed of under the terms of the trust
30 **[unless the].**

31 **(2)** **IF** A beneficiary has an unqualified power to revoke more than **[5**
32 **percent] 5%** of the trust immediately before the income interest ends**[. In the latter case],**
33 the undistributed income from the portion of the trust that may be revoked **[must] SHALL**
34 be added to principal.

35 15–509.

1 **(A)** A trustee shall allocate to income an amount received as a distribution of
2 income from a trust or an estate in which the trust has an interest other than a purchased
3 interest, and shall allocate to principal an amount received as a distribution of principal
4 from such a trust or estate.

5 **(B)** If a trustee purchases an interest in a trust that is an investment entity, or a
6 decedent or donor transfers an interest in such a trust to a trustee, § 15–508 or § 15–522 of
7 this subtitle applies to a receipt from the trust.

8 15–510.

9 **(b) (1)** A trustee who accounts separately for a business or other activity may
10 determine the extent to which its net cash receipts must be retained for working capital,
11 the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of
12 the business or activity, and the extent to which the remaining net cash receipts are
13 accounted for as principal or income in the trust’s general accounting records.

14 **(2)** If a trustee sells assets of the business or other activity, other than in
15 the ordinary course of the business or activity, the trustee shall account for the net amount
16 received as principal in the trust’s general accounting records to the extent the trustee
17 determines that the amount received is no longer required in the conduct of the business.

18 15–512.

19 **(A)** To the extent that a trustee accounts for receipts from rental property
20 pursuant to this section, the trustee shall allocate to income an amount received as rent of
21 real or personal property, including an amount received for cancellation or renewal of a
22 lease.

23 **(B)** An amount received as a refundable deposit, including a security deposit or a
24 deposit that is to be applied as rent for future periods, **[must] SHALL** be added to principal
25 and held subject to the terms of the lease and is not available for distribution to a
26 beneficiary until the trustee’s contractual obligations have been satisfied with respect to
27 that amount.

28 15–513.

29 **(b) (1)** A trustee shall allocate to principal an amount received from the sale,
30 redemption, or other disposition of an obligation to pay money to the trustee more than 1
31 year after it is purchased or acquired by the trustee, including an obligation whose purchase
32 price or value when it is acquired is less than its value at maturity.

33 **(2)** If the obligation matures within 1 year after it is purchased or acquired
34 by the trustee, an amount received in excess of its purchase price or its value when acquired
35 by the trust **[must] SHALL** be allocated to income.

1 15-514.

2 (a) Except as [otherwise] provided in subsection (b) of this section, a trustee shall
3 [allocate]:

4 (1) **ALLOCATE** to principal the proceeds of a life insurance policy or other
5 contract in which the trust or its trustee is named as beneficiary, including a contract that
6 insures the trust or its trustee against loss for damage to, destruction of, or loss of title to
7 a trust asset[. The trustee shall allocate]; **AND**

8 (2) **ALLOCATE** dividends on an insurance policy:

9 (I) **IF THE PREMIUMS ON THE INSURANCE POLICY ARE PAID**
10 **FROM INCOME**, to income [if the premiums on the policy are paid from income.]; and

11 (II) **IF THE PREMIUMS ON THE INSURANCE POLICY ARE PAID**
12 **FROM PRINCIPAL**, to principal [if the premiums are paid from principal].

13 (d) (3) (I) The increment in value is distributable to the beneficiary who
14 was the income beneficiary at the time of the increment from the first principal cash
15 available or, if none is available, when realized by sale, redemption, or other disposition.

16 (II) Whenever unrealized increment is distributed as income, but out
17 of principal, the principal shall be reimbursed for the increment when realized.

18 15-516.

19 (b) (1) To the extent that a payment is characterized as interest, a dividend,
20 or a payment made in lieu of interest or a dividend, a trustee shall allocate the payment to
21 income.

22 (2) The trustee shall allocate to principal the balance of the payment and
23 any other payment received in the same accounting period that is not characterized as
24 interest, a dividend, or an equivalent payment.

25 (c) (1) If no part of a payment is characterized as interest, a dividend, or an
26 equivalent payment, and all or part of the payment is required to be made, a trustee shall
27 allocate to income [10 percent] **10%** of the part that is required to be made during the
28 accounting period and the balance to principal.

29 (2) If no part of a payment is required to be made or the payment received
30 is the entire amount to which the trustee is entitled, the trustee shall allocate the entire
31 payment to principal.

1 **(3)** For purposes of this subsection, a payment is not “required to be made”
2 to the extent that it is made because the trustee exercises a right of withdrawal.

3 15–518.

4 (a) To the extent that a trustee accounts for receipts from an interest in minerals
5 or other natural resources pursuant to this section, the trustee shall allocate them as
6 follows:

7 (1) If received as nominal delay rental or nominal annual rent on a lease,
8 a receipt [must] **SHALL** be allocated to income[.];

9 (2) If received from a production payment, a receipt [must] **SHALL** be
10 allocated [to income if]:

11 **(I)** **IF** and to the extent that the agreement creating the production
12 payment provides a factor for interest or its equivalent[.], **TO INCOME; AND**

13 **(II)** The balance [must] **SHALL** be allocated to principal[.];

14 (3) If an amount received as a royalty, shut-in-well payment, take-or-pay
15 payment, bonus, or delay rental is more than nominal, [90 percent must] **90% SHALL** be
16 allocated to principal and the balance to income[.]; **AND**

17 (4) If an amount is received from a working interest or any other interest
18 not provided for in paragraph (1), (2), or (3) of this subsection, [90 percent] **90%** of the net
19 amount received [must] **SHALL** be allocated to principal and the balance to income.

20 (b) **(1)** An amount received on account of an interest in water that is renewable
21 [must] **SHALL** be allocated to income.

22 **(2)** If the water is not renewable, [90 percent] **90%** of the amount [must]
23 **SHALL** be allocated to principal and the balance to income.

24 (d) **(1)** If a trust owns an interest in minerals, water, or other natural
25 resources on October 1, 2000, the trustee may allocate receipts from the interest as provided
26 in this subtitle or in the manner used by the trustee before October 1, 2000.

27 **(2)** If the trust acquires an interest in minerals, water, or other natural
28 resources after October 1, 2000, the trustee shall allocate receipts from the interest as
29 provided in this subtitle.

30 15–519.

1 (d) (1) If a trust owns an interest in timberland on October 1, 2001, the trustee
2 may allocate net receipts from the sale of timber and related products as provided in this
3 subtitle or in the manner used by the trustee before October 1, 2000.

4 (2) If the trust acquires an interest in timberland after October 1, 2000, the
5 trustee shall allocate net receipts from the sale of timber and related products as provided
6 in this subtitle.

7 15-521.

8 (c) (1) If a trustee grants an option to buy property from the trust, whether or
9 not the trust owns the property when the option is granted, grants an option that permits
10 another person to sell property to the trust, or acquires an option to buy property for the
11 trust or an option to sell an asset owned by the trust, and the trustee or other owner of the
12 asset is required to deliver the asset if the option is exercised, an amount received for
13 granting the option shall be allocated to principal.

14 (2) An amount paid to acquire the option shall be paid from principal.

15 (3) A gain or loss realized [upon] ON the exercise of an option, including an
16 option granted to a settlor of the trust for services rendered, shall be allocated to principal.

17 15-522.

18 (c) (1) If a trust receives one or more payments in exchange for the trust's
19 entire interest in an asset-backed security in one accounting period, the trustee shall
20 allocate the payments to principal.

21 (2) If a payment is one of a series of payments that will result in the
22 liquidation of the trust's interest in the security over more than one accounting period, the
23 trustee shall allocate [10 percent] 10% of the payment to income and the balance to
24 principal.

25 15-523.

26 A trustee shall make the following disbursements from income to the extent that
27 they are not disbursements to which [§ 15-503(2)(ii) or (iii)] § 15-503(C)(2) OR (3) of this
28 subtitle apply:

29 (1) Regular compensation of the trustee on income, if determined in
30 accordance with § 14.5-708(b) of this article;

31 (2) That portion of the regular compensation of the trustee, if the
32 compensation is determined in a manner other than in accordance with § 14.5-708(b) and
33 (c) of this article, and that portion of the compensation of any person providing investment
34 advisory or custodial services to the trustee, as the trustee determines is fair and

1 reasonable in accordance with § 15–502(b) of this subtitle;

2 (3) One-half of all expenses for accountings, judicial proceedings, or other
3 matters that involve both the income and remainder interests;

4 (4) All of the other ordinary expenses incurred in connection with the
5 administration, management, or preservation of trust property and the distribution of
6 income, including interest, ordinary repairs, regularly recurring taxes assessed against
7 principal, and expenses of a proceeding or other matter that concerns primarily the income
8 interest; and

9 (5) Recurring premiums on insurance covering the loss of a principal asset
10 or the loss of income from or use of the asset.

11 16–101.

12 (b) “Beneficiary form” means a registration of a security which indicates the
13 present owner of the security and the intention of the owner regarding the person who will
14 become the owner of the security [upon] **ON** the death of the owner.

15 (i) **(1)** “Security” means a share, participation, or other interest in property,
16 in a business, or in an obligation of an enterprise or other issuer[, and].

17 **(2)** “**SECURITY**” includes a certificated security, an uncertificated
18 security, and a security account.

19 (j) (1) “Security account” means:

20 (i) [a] **A** reinvestment account associated with a security, a
21 securities account with a broker, a cash balance in a brokerage account, cash, interest,
22 earnings, or dividends earned or declared on a security in an account, a reinvestment
23 account, or a brokerage account, whether or not credited to the account before the owner’s
24 death[.];

25 (ii) [a] **A** cash balance or other property held for or due to the owner
26 of security as a replacement for or product of an account security, whether or not credited
27 to the account before the owner’s death[.]; or

28 (iii) [a] **A** securities account maintained by a trust company for one
29 or more customers.

30 (2) “Security account” does not include:

31 (i) [an] **AN** account as defined in § 1–204(b)(2) of the Financial
32 Institutions Article[.]; or

1 (ii) [a] A securities account held by a trust company as a fiduciary
2 as defined in § 15–101 of this article.

3 16–102.

4 (A) Only individuals whose registration of a security shows sole ownership by one
5 individual or multiple ownership by two or more with right of survivorship, rather than as
6 tenants in common, may obtain registration in beneficiary form.

7 (B) Multiple owners of a security registered in beneficiary form hold as joint
8 tenants with right of survivorship, as tenants by the entireties, or as owners of community
9 property held in survivorship form, and not as tenants in common.

10 16–103.

11 (A) A security may be registered in beneficiary form if the form is authorized by
12 this or a similar statute of the state of organization of the issuer or registering entity, the
13 location of the registering entity's principal office, the office of its transfer agent or its office
14 making the registration, or by this or a similar statute of the law of the state listed as the
15 owner's address at the time of registration.

16 (B) A registration governed by the law of a jurisdiction in which this or similar
17 legislation is not in force or was not in force when a registration in beneficiary form was
18 made is nevertheless presumed to be valid and authorized as a matter of contract law.

19 16–106.

20 (A) The designation of a TOD beneficiary on a registration in beneficiary form has
21 no effect on ownership until the owner's death.

22 (B) A registration of a security in beneficiary form may be canceled or changed at
23 any time by the sole owner or all then surviving owners without the consent of the
24 beneficiary.

25 16–107.

26 (A) On death of a sole owner or the last to die of all multiple owners, ownership of
27 securities registered in beneficiary form passes to the beneficiary or beneficiaries who
28 survive all owners.

29 (B) On proof of death of all owners and compliance with any applicable
30 requirements of the registering entity, a security registered in beneficiary form may be
31 reregistered in the name of the beneficiary or beneficiaries who survived the death of all
32 owners.

1 (C) Until division of the security after the death of all owners, multiple
2 beneficiaries surviving the death of all owners hold their interests as tenants in common.

3 (D) If no beneficiary survives the death of all owners, the security belongs to the
4 estate of the deceased sole owner or the estate of the last to die of all multiple owners.

5 16–108.

6 (a) (1) A registering entity is not required to offer or to accept a request for
7 security registration in beneficiary form.

8 (2) If a registration in beneficiary form is offered by a registering entity,
9 the owner requesting registration in beneficiary form assents to the protections given to
10 the registering entity by this title.

11 (c) (1) A registering entity is discharged from all claims to a security by the
12 estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the
13 security in accordance with § 16–107 of this title and does so in good faith reliance on:

14 (i) [the] **THE** registration[.];

15 (ii) [this] **THIS** title[.]; and

16 (iii) [information] **INFORMATION** provided to it by affidavit of the
17 personal representative of the deceased owner, or by the surviving beneficiary or by the
18 surviving beneficiary’s representatives, or other information available to the registering
19 entity.

20 (2) The protections of this title do not extend to a reregistration or payment
21 made after a registering entity has received written notice from any claimant to any
22 interest in the security objecting to implementation of a registration in beneficiary form.

23 (3) No other notice or other information available to the registering entity
24 affects its right to protection under this title.

25 16–110.

26 (a) (1) A registering entity offering to accept registrations in beneficiary form
27 may establish the terms and conditions under which it will receive requests **FOR:**

28 (i) [for registrations] **REGISTRATIONS** in beneficiary form[.]; and

29 (ii) [for implementation] **IMPLEMENTATION** of registrations in
30 beneficiary form, including requests for cancellation of previously registered TOD
31 beneficiary designations and requests for reregistration to effect a change of beneficiary.

1 **(2)** The terms and conditions established under this subsection may
2 provide for proving death, avoiding or resolving any problems concerning fractional shares,
3 designating primary and contingent beneficiaries, and substituting a named beneficiary's
4 descendants to take in the place of the named beneficiary in the event of the beneficiary's
5 death.

6 **(3) (I)** Substitution may be indicated by appending to the name of the
7 primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes".

8 **(II)** This designation substitutes a deceased beneficiary's
9 descendants who survive the owner for a beneficiary who fails to so survive, the
10 descendants to be identified and to share in accordance with the law of the beneficiary's
11 domicile at the owner's death governing inheritance by descendants of an intestate.

12 **(4)** Other forms of identifying beneficiaries who are to take on one or more
13 contingencies, and rules for providing proofs and assurances needed to satisfy reasonable
14 concerns by registering entities regarding conditions and identities relevant to accurate
15 implementation of registrations in beneficiary form, may be contained in a registering
16 entity's terms and conditions.

17 GENERAL REVISOR'S NOTE TO ARTICLE

18 Throughout this article, specific references are substituted for former
19 references to "he", "him", and "his", because SG § 2-1238 requires the use of
20 words that are neutral as to gender to the extent practicable.

21 Also throughout this article, specific references are substituted for former
22 references to "it" for clarity.

23 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intention of the
24 General Assembly that this Act shall be construed as a nonsubstantive revision and may
25 not otherwise be construed to render any substantive change in the law of the State.

26 SECTION 3. AND BE IT FURTHER ENACTED, That the Revisor's Notes contained
27 in this Act are not law and may not be considered to have been enacted as part of this Act.

28 SECTION 4. AND BE IT FURTHER ENACTED, That the publisher of the
29 Annotated Code of Maryland, in consultation with and subject to the approval of the
30 Department of Legislative Services, shall correct, with no further action required by the
31 General Assembly, cross-references and terminology rendered incorrect by this Act or by
32 any other Act of the General Assembly of 2019 that affects provisions enacted by this Act.
33 The publisher shall adequately describe any correction in an editor's note following the
34 section affected.

35 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 2019.