

## Chapter 197

**(Senate Bill 398)**

AN ACT concerning

**Code Revision – Estates and Trusts**

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

BY repealing and reenacting, with amendments,

Article – Estates and Trusts

Section 1–101(b), (d), (f), (h), (i), (j), (k), (m), (q), (r), (s), (t), and (v), 1–103(e), 1–105(a), 1–202, 1–203, 1–206, 1–207, 1–208(b), 1–209(b), 1–210(b) and (c), 1–401, 2–102(a), 2–105(b), 2–106(a), (d), and (e), 2–107, 2–108(a)(3), (b), (c)(2), (d)(1)(ii) and (iii) and (2), (k), (l)(3), (m)(2), and (o) through (y), 2–202, 2–204, 2–205(e), 2–207, 2–208(b) through (k), 2–301(a) and (b), 2–302, 2–303(b) and (c), 3–101, 3–104, 3–106(a), 3–108, 3–109, 3–110, 3–203(b), 3–204, 3–205, 3–207(a), 3–208(b), 3–301(b), 3–302(a), 3–303, 4–101, 4–102, 4–104, 4–105, 4–201, 4–202, 4–401, 4–402, 4–405, 4–406, 4–409, 4–410, 5–102(b), 5–103, 5–105(c)(5), 5–106, 5–201, 5–204, 5–205(b) and (c), 5–207, 5–301, 5–302, 5–304, 5–401, 5–402, 5–403(a), 5–404(a), 5–502(a), 5–503(b) and (c), 5–504(a), 5–602, 5–603, 5–604(b) and (c), 6–101, 6–102(b), (d), (f), and (h)(1), 6–103, 6–105(a), 6–201, 6–203(b) and (c), 6–204, 6–302, 6–303, 6–304, 6–306(a), (c), and (e), 6–308, 6–401(a), 6–403, 6–404, 7–101, 7–102, 7–103, 7–103.1(a) and (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)] **(I)** A person named as executor in a will;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) “Property” refers to:

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

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

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

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

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

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

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

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

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

2. Meets the definition of a trust institution under 12 U.S.C. § 1841(c)(2)(D); or

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

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

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

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

2. Meets the definition of a trust institution under 12 U.S.C. § 1841(c)(2)(D); and

3. Is a direct or indirect subsidiary of a bank holding company that has a direct or indirect bank, trust company, or savings bank subsidiary that has an office in this State at which deposits are accepted; or

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

2. Accepts deposits at its office in this State.

1–103.

(e) **(1)** A person, including a guardian or a guardian ad litem, may waive notice by a writing signed by [him or his] **THE PERSON OR THE PERSON'S** attorney and filed in the proceeding.

**(2)** A personal representative is not required to give notice to himself **OR HERSELF**.

1-105.

(a) **(1)** The purpose of the estates of decedents law is to simplify the administration of estates, to reduce the expenses of administration, to clarify the law governing estates of decedents, and to eliminate any provisions of prior law which are archaic, often meaningless under modern procedure and no longer useful.

**(2)** This article shall be liberally construed and applied to promote its underlying purpose.

1-202.

**(A) A SURVIVING SPOUSE IS NOT:**

[(a)] **(1)** [No] A person who has received an absolute divorce from the decedent or whose marriage to the decedent has been validly annulled [is a surviving spouse.];

[(b)] **(2)** [No] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,** A person who has voluntarily appeared in a proceeding in which an absolute divorce between the decedent and the survivor, or an annulment of their marriage was obtained, even though not recognized as valid in this State[, is a surviving spouse. This subsection does not apply if the parties to the divorce or annulment subsequently remarry each other.];

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

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

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

1-203.

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

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

1–206.

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

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

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

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

1–207.

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

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

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

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

1–208.

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

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

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

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

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

1-209.

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

(1) A lineal descendant of the person; and

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

1-210.

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

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

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

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

1-401.

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

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

2–102.

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

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

**(II)** SUMMON witnesses.

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

2–105.

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

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

2–106.

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

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

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

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

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

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

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

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

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

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

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

2-107.

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

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

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

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

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

2-108.

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

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

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

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

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

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

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

(2) (I) The surviving spouse of every elected judge of the Court of Baltimore City shall be paid [one half] **ONE-HALF** of the pension to which [his] **THE**

**JUDGE'S** spouse was entitled at the time of **[his] THE JUDGE'S** death, or would have become entitled to by reason of attaining 60 years of age.

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

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

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

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

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

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

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

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

- (i)** \$12,000 for fiscal year 2019;
- (ii)** \$14,000 for fiscal year 2020;
- (iii)** \$16,000 for fiscal year 2021; and
- (iv)** \$18,000 for fiscal year 2022.

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

- (i)** \$13,500 for fiscal year 2019;
- (ii)** \$15,500 for fiscal year 2020;

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

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

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

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

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

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

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

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

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

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

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

(i) \$9,000 for the calendar year 2015;

(ii) \$9,000 for the calendar year 2016;

(iii) \$9,000 for the calendar year 2017; and

(iv) \$9,000 for the calendar year 2018.

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

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

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

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

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

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

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

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

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

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

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

**[(y)] (X)** (1) Except in Montgomery, Frederick, Carroll, Talbot, Cecil, Kent, Queen Anne's, Baltimore, Garrett, and Harford counties and Baltimore City, and except as provided in paragraphs (3) and (4) of this subsection, a county shall pay a pension, in the same manner as salaries are paid during active service, to each judge of the Orphans' Court who:

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

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

(i) \$1,200 annually; or

(ii) An annual amount calculated at the rate of [4 percent] 4% of the last annual amount of compensation multiplied by the number of years or partial years of service, not exceeding 12 years.

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

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

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

(i) \$1,200 annually; or

(ii) An annual amount calculated at the rate of [4 percent] 4% of the last annual amount of compensation multiplied by the number of years or partial years of service, not exceeding 20 years.

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

(i) \$1,200 annually; or

(ii) 1. Except as provided in item 2 of this subparagraph, an annual amount calculated at the rate of [4 percent] 4% of the last annual amount of compensation multiplied by the number of years of service, not exceeding 24 years; or

2. An annual amount equal to two-thirds of the last annual amount of compensation if the judge has more than 16 years of service.

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

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

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

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

2-204.

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

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

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

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

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

2-205.

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

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

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

2-207.

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

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

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

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

2–208.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2–301.

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

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

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

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

2–302.

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

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

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

2–303.

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

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

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

3–101.

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

3–104.

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

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

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

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

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

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

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

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

(I) **ONE–HALF:**

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

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

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

(II) **ONE–HALF:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3-108.

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

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

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

3-109.

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

3-110.

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

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

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

(B) If the time of death of the decedent or of the descendant, ancestor, or descendant of an ancestor of the decedent, who would otherwise be an heir, or the times of death of both, cannot be determined, so that it cannot be established that [he] **THE DESCENDANT, ANCESTOR, OR DESCENDANT OF AN ANCESTOR OF THE DECEDENT** has survived the decedent by 30 full days, [that person shall] **THE DESCENDANT, ANCESTOR, OR DESCENDANT OF AN ANCESTOR OF THE DECEDENT MAY** not be considered to have survived for the required period.

3–203.

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

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

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

3–204.

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

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

(2) IS not transferable; and [cannot]

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

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

3–205.

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

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

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

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

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

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

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

3–207.

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

(1) IN writing [and signed];

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

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

3–208.

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

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

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

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

3–301.

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

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

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

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

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

3–302.

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

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

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

3–303.

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

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

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

4–101.

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

4–102.

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

- (1) [in] **IN** writing[.];
- (2) [signed] **SIGNED** by the testator, or by some other person [for him] **FOR THE TESTATOR**, in [his] **THE TESTATOR’S** presence and by [his] **THE TESTATOR’S** express direction[.]; and
- (3) [attested] **ATTESTED** and signed by two or more credible witnesses in the presence of the testator.

4–104.

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

- (1) In writing;
- (2) Signed by the testator; and
- (3) Executed in conformity with [the]:
  - (I) **THE** provisions of § 4–102 of this subtitle[, or the];
  - (II) **THE** law of the domicile of the testator[.]; or [the]
  - (III) **THE** place where the will is executed.

4–105.

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

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

- (1) By provision in a subsequent, validly executed will [which] **THAT:**
  - (i) [revokes] **REVOKES** any prior will or part of it either expressly or by necessary implication[.]; or
  - (ii) [expressly] **EXPRESSLY** republishes an earlier will that had been revoked by an intermediate will but is still in existence;

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

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

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

4-201.

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

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

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

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

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

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

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

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

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

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

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

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

(1) **OPEN THE WILL;**

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

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

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

4-202.

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

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

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

4-401.

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

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

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

4-402.

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

4-405.

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

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

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

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

4-406.

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

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

4-409.

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

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

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

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

4-410.

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

(1) ["die] "**DIE** without issue"[, or];

(2) ["die] "**DIE** without leaving issue"[.]; or [other]

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

5-102.

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

5-103.

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

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

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

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

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

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

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

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

5–105.

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

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

5–106.

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

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

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

REVISOR'S NOTE: In subsection (a)(1) of this section, the reference to "subsection (b) of this section" is added for clarity.

5–201.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5–205.

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

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

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

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

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

5–207.

(a) (1) Regardless of whether a petition for probate has been filed, a verified petition to caveat a will may be filed at any time [prior to] **BEFORE** the expiration of [six]

**6** months following the first appointment of a personal representative under a will, even if there be a subsequent judicial probate or appointment of a personal representative.

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

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

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

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

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

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

5–301.

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

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

5–302.

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

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

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

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

5-304.

(a) **(1)** Unless a timely request for judicial probate has been filed pursuant to subsection (b) of this section, or unless a request has been filed pursuant to § 5-402 of this title within [six] **6** months of administrative probate, any action taken after administrative probate shall be final and binding as to all interested persons.

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

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

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

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

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

5-401.

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

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

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

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

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

5-402.

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

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

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

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

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

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

5–403.

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

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

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

5–404.

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

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

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

5-502.

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

5-503.

(b) A foreign personal representative shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5–504.

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

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

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

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

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

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

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

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

5-602.

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

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

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

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

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

5-603.

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

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

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

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

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

(b) (1) If the register directs a proceeding in accordance with subsection (a)(4) of this section, unless notice of the appointment of a personal representative appointed

under Subtitle 3 or Subtitle 4 of this title has been published one or more times, notice shall be given once in the form required by § 7–103 of this article, but the period within which objection must be made to the action is 30 days from the date of publication of notice and the period within which claims must be filed is the earlier of the following dates:

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

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

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

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

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

5–604.

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

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

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

6–101.

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

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

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

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

6-102.

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

(2) The bond shall be conditioned accordingly.

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

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

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

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

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

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

The condition of the above obligation is such, that if ..... shall well and truly perform the office of the personal representative of ....., late of ....., deceased, according to law, and shall in all respects discharge the duties required of [him] **THE PERSONAL REPRESENTATIVE** by law as personal representative without any injury or damage to any

person interested in the faithful performance of the office, then the above obligation shall be void; it is otherwise to be in full force and effect.

6–103.

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

(B) Letters shall contain:

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

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

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

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

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

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

6–105.

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

6–201.

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

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

6–203.

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

- (1) The act involved is receiving or receipting for property due the estate;
- (2) All personal representatives cannot readily be consulted in the time reasonably available for emergency action;
- (3) A personal representative has validly delegated to a copersonal representative [his] **THE PERSONAL REPRESENTATIVE'S** power to act; or
- (4) The will or a statute provides otherwise.

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

6–204.

Unless the will otherwise provides:

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

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

6–302.

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

6–303.

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

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

- (1) Unless otherwise ordered by the court, perform acts necessary to protect property belonging to the estate; and
- (2) Deliver the property to the successor representative.

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

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

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

6–304.

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

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

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

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

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

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

6–306.

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

- (1) Misrepresented material facts in the proceedings leading to **[his] THE PERSONAL REPRESENTATIVE'S** appointment;
- (2) Willfully disregarded an order of the court;
- (3) Is unable or incapable, with or without **[his] THE PERSONAL REPRESENTATIVE'S** own fault, to discharge **[his] THE PERSONAL REPRESENTATIVE'S** duties and powers effectively;
- (4) Has mismanaged property;
- (5) Has failed to maintain on file with the register a currently effective designation of an appropriate local agent for service of process as described in § 5–105(c)(6) of this article; or
- (6) Has failed, without reasonable excuse, to perform a material duty pertaining to the office.

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

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

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

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

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

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

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

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

6–308.

**(A)** A personal representative whose appointment is terminated may receive for **[his] THE PERSONAL REPRESENTATIVE'S** services the compensation awarded by the

court at the time of the termination of [his] **THE PERSONAL REPRESENTATIVE'S** appointment.

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

6–401.

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

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

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

6–403.

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

(B) A special administrator [shall]:

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

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

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

6–404.

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

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

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

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

7-101.

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

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

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

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

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

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

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

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

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

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

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

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

7-102.

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

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

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

7-103.

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

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

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

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

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

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

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

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

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

Any claim not filed on or before that date, or any extension provided by law, is

unenforceable thereafter.

.....  
Personal representative

Date of first publication:  
.....”.

7–  
103.1.

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

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

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

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

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

7–104.

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

7–105.

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

7–201.

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

(B) The inventory shall include:

(1) Real property;

(2) Tangible personal property, excluding:

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

and

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

(3) Corporate stocks;

(4) Debts owed to the decedent, including bonds and notes;

(5) Bank accounts, building, savings and loan association shares, and money;

(6) Debts owed to the decedent by the personal representative; and

(7) Any other interest in tangible or intangible property owned by the decedent which passes by testate or intestate succession.

7–203.

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

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

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

7-204.

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

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

7-205.

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

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

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

7-301.

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

7-306.

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

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

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

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

7-307.

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

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

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

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

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

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

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

7-401.

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

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

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

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

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

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

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

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

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

(2) An order of court.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7-402.

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

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

7-403.

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

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

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

7–404.

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

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

7–501.

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

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

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

7–502.

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

(2) The notice shall [state]:

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

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

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

7-601.

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

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

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

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

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

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

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

7-602.

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

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

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

7-603.

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

8-103.

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

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

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

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

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

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

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

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

8-104.

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

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

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

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

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

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

**"CLAIM AGAINST ESTATE OF DECEDENT**

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

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

\_\_\_\_\_  
(NAME OF CREDITOR)

\_\_\_\_\_  
(SIGNATURE OF CREDITOR OR PERSON

**AUTHORIZED TO MAKE VERIFICATION ON BEHALF OF CREDITOR)".**

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

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

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

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

**[CLAIM AGAINST ESTATE OF DECEDENT.**

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

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

.....  
(Name of Creditor)

.....  
(Signature of creditor or person authorized to make verification on behalf of creditor)]

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

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

8-105.

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

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

8–106.

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

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

8–107.

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

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

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

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

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

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

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

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

8–108.

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

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

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

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

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

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

8–109.

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

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

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

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

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

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

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

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

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

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

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

8–110.

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

(b) When a creditor holds a security for an allowable claim due at some future time [he] **THE CREDITOR** may rely on [his] **THE CREDITOR’S** rights under § 8–111 of this subtitle or may file [his] **A** claim as an unsecured claim not yet due, with the right of

withdrawing the claim [prior to] **BEFORE** the taking of action [upon] **ON** it, and rely on [his] **THE CREDITOR'S** rights as provided in § 8–111 of this subtitle after the withdrawal.

8–111.

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

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

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

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

8–112.

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

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

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

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

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

8–114.

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

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

9–102.

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

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

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

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

9–103.

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

(b) **(1)** Unless a contrary intent is expressed in the will and except as provided in §§ 3–208 and 3–303 of this article and subsection (c) of this section, shares of legatees abate without preference or priority as between real and personal property, in the **FOLLOWING** order [provided in this subsection.]:

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

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

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

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

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

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

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

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

9–104.

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

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

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

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

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

9–106.

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

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

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

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

9–107.

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

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

9–109.

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

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

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

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

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

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

(c) Whenever a personal representative is required to distribute tangible personal property to a person under **THE AGE OF** 18 years [of age] and there is no guardian of the minor, the personal representative may distribute it to the person whom the personal

representative, with the approval of the court, considers responsible and appropriate, and under the conditions set forth in the order of the court.

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

9-111.

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

9-112.

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

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

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

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

(d) **(1)** The personal representative shall give notice to all interested persons known to [him] **THE PERSONAL REPRESENTATIVE**, and shall publish a notice of the meeting once a week in [three] **3** successive weeks, in a newspaper of general circulation in the county of [his] **THE PERSONAL REPRESENTATIVE'S** appointment, stating the time, date, place, and purpose of the meeting which shall be held no sooner than 20 days after the first publication.

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

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

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

9–201.

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

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

9–202.

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

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

9–203.

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

9–204.

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

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

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

10–101.

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

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

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

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

10–102.

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

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

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

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

10–104.

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

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

11–101.

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

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

11-103.

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

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

11-105.

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

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

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

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

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

11-108.

(a) **(1)** Unless the instrument creating a power of appointment expressly provides to the contrary, the power may be wholly or partially released as to all or a portion

of the assets subject to it by an instrument signed by the person holding the power and attested by two witnesses.

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

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

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

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

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

12-102.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(II)** As to the estate of a decedent dying between October 1, 1964 and December 31, 1969, the provisions of Chapter 918 of the Acts of 1965 apply.

**[(k)] (7)** Section 11–108 of this article applies to any releases executed on or after January 1, 1970.

**[(l)]** Section 7–308 of the Tax – General Article applies to the estate of any decedent dying on or after June 1, 1965.]

**[(m)] (8)** Every provision of Title 11 of this article not specifically mentioned in this [section] **SUBSECTION** became applicable on January 1, 1970.

**(F) SECTION 7–308 OF THE TAX – GENERAL ARTICLE APPLIES TO THE ESTATE OF ANY DECEDENT DYING ON OR AFTER JUNE 1, 1965.**

REVISOR’S NOTE: In subsection (b)(2) of this section, the reference to “notice as required” is substituted for the former reference to “the notice” for clarity.

12–103.

Except as otherwise provided in this title[, the]:

**(1) THE** administration on or after July 1, 1974 of estates of persons who died before July 1, 1974 shall be governed by those statutes in effect before July 1, 1974[.]; and [the]

**(2) THE** administration on or after January 1, 1970 of estates of persons who died before January 1, 1970 shall be governed by those statutes in effect before January 1, 1970.

13–101.

**(g)** “Emergency” means that a person is living in conditions which present a substantial risk of death or immediate and serious physical harm to [himself] **THE PERSON** or others.

**(k) (1)** “Interested person” means the guardian, the heirs of the minor or disabled person, any governmental agency paying benefits to the minor or disabled person, or any person or agency eligible to serve as guardian of the disabled person under § 13–707 of this title.

**(2)** If an interested person is also a minor or a disabled person, [interested person] **“INTERESTED PERSON”** also includes a judicially appointed guardian, committee, conservator, or trustee for that person, or, if none, the parent or other person having assumed responsibility for that person.

13–102.

(A) The purposes of this title are [to]:

(1) **TO** simplify the administration of the estates of minors and disabled persons[, to];

(2) **TO** reduce the expenses of administration[, to];

(3) **TO** clarify the law governing the estates of minors and disabled persons[.]; and [to]

(4) **TO** eliminate certain provisions of existing law which are archaic, often meaningless under modern procedures, and no longer useful.

(B) This article shall be liberally construed and applied to promote its underlying purposes.

13–106.

(b) (1) The orphans' court, under the pretext of incidental power or constructive authority, may not exercise jurisdiction not expressly conferred by law.

(2) The orphans' court is governed by the provisions of §§ 2–102 through 2–105 of this article.

13–201.

(a) [Upon] **ON** petition, and after any notice or hearing prescribed by law or the Maryland Rules, the court may appoint a guardian of the property of a minor or a disabled person.

(b) A guardian shall be appointed if the court determines that:

(1) A minor owns or is entitled to property that requires management or protection; or

(2) Funds are needed for [his] **THE MINOR'S** support, care, welfare, and education and protection is necessary or desirable to obtain or provide funds.

(c) A guardian shall be appointed if the court determines that:

(1) The person is unable to manage [his] **EFFECTIVELY THE PERSON'S** property and affairs [effectively] because of physical or mental disability, disease, habitual

drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, detention by a foreign power, or disappearance; and

(2) The person has or may be entitled to property or benefits which require proper management.

13–203.

(a) (1) While a petition for appointment of a guardian or other protective order is pending, the court may preserve and apply the property of the alleged disabled person or minor as may be required.

(2) The court need not give notice to other persons.

(b) (1) The court may not exercise the power conferred by subsection (a) of this section unless it appears from specific facts shown by affidavit that immediate, substantial, and irreparable injury will result to the applicant or to the minor or disabled person before an adversary hearing can be held.

(2) The court may communicate informally with the minor or disabled person [prior to] **BEFORE** taking action.

(3) Any order shall be served immediately on the minor or disabled person.

13–205.

An adjudication under this subtitle shall have no bearing on the issue of [capacity of] **WHETHER** the alleged disabled person [to care for his own person] **HAS THE CAPACITY FOR SELF-CARE**.

REVISOR'S NOTE: The reference to the issue of "whether the alleged disabled person has the capacity for self-care" is substituted for the former reference to the issue of "capacity of the alleged disabled person to care for his own person" for clarity and to avoid the use of gender-specific terminology.

13–206.

(c) (1) (I) The appointment and qualification of a guardian vests in [him] **THE GUARDIAN** title to all property of the minor or protected person that is held at the time of appointment or acquired later.

(II) The appointment is not a transfer or alienation within the meaning of any federal or State statute or regulation, insurance policy, pension plan, contract, will, or trust instrument that imposes restrictions on or penalties for transfer or

alienation by the minor or disabled person of [his] **THE MINOR OR DISABLED PERSON'S** rights or interest.

(III) A guardian shall utilize powers conferred by this subtitle to perform [the] services, exercise [his] discretion, and discharge [his] **THE GUARDIAN'S** duties for the best interest of the minor or disabled person or [his] **THE MINOR OR DISABLED PERSON'S** dependents.

13-207.

(a) Persons are entitled to appointment as guardian for a minor or disabled person according to the following priorities:

(1) A conservator, committee, guardian of property, or other like fiduciary appointed by any appropriate court of any foreign jurisdiction in which the minor or disabled person resides;

(2) A person or corporation nominated by the minor or disabled person if [the]:

(I) **THE** designation was signed by the minor or disabled person [after his 16th birthday] **WHEN THE MINOR OR DISABLED PERSON WAS AT LEAST 16 YEARS OLD[,]; and[, in]**

(II) **IN** the opinion of the court, [he] **THE MINOR OR DISABLED PERSON** had sufficient mental capacity to make an intelligent choice at the time [he] **THE DESIGNATION WAS** executed [the designation];

(3) [His] **THE MINOR OR DISABLED PERSON'S** spouse;

(4) [His] **THE MINOR OR DISABLED PERSON'S** parents;

(5) A person or corporation nominated by the will of a deceased parent;

(6) [His] **THE MINOR OR DISABLED PERSON'S** children;

(7) The persons who would be [his] **THE MINOR OR DISABLED PERSON'S** heirs if [he] **THE MINOR OR DISABLED PERSON** were dead;

(8) A person or corporation nominated by a person [who], [or] institution, organization, or public agency [which,] **THAT** is caring for [him] **THE MINOR OR DISABLED PERSON**;

(9) A person or corporation nominated by a governmental agency [which] **THAT** is paying benefits to [him] **THE MINOR OR DISABLED PERSON**; and

(10) Any other person considered appropriate by the court.

(b) **(1)** A person specified in a priority in subsection (a)(1), (3), (4), (6) or (7) of this section may waive and nominate in writing a person or corporation to serve in [his] **THE SPECIFIED PERSON'S** stead.

**(2)** A nominee of a person holding a priority has the same priority as the person making the nomination.

(c) **(1)** Among persons with equal priority, the court shall select the one best qualified of those willing to serve.

**(2)** For good cause the court may pass over a person with priority and appoint a person with less priority or no priority.

(d) **(1)** [Nonresidence] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, NONRESIDENCE** does not disqualify any person from serving as guardian.

**(2)** Any nonresident who is appointed cannot qualify until [he has on file] **THE NONRESIDENT FILES** with the register or clerk an irrevocable designation by [him] **THE NONRESIDENT** of an appropriate person who resides in the State on whom service of process may be made in the same manner and with the effect as if it were served personally in the State on the nonresident.

(e) The court may not name an official or employee of a local department of social services, the State Department of Human Services, a local area agency on aging as defined in § 10–101 of the Human Services Article, or the Department of Aging as guardian of the estate.

13–208.

(e) **(1)** The penalty of the bond [shall] **MAY** not be greater than the aggregate value of the property of the estate under the control of the guardian, less the value of securities or money deposited in a financial institution as defined in § 13–301(h) of this title under arrangements requiring an order of the court for their removal, and the value of any land which the guardian, by express limitation of power, lacks power to sell or convey without court authorization.

**(2)** The court may, in lieu of sureties on a bond, accept other security for the performance of the bond, including a pledge of securities or a mortgage of land.

(3) The court may at any time, subject to the maximum penalty provided by this section, require the amount of the bond, or the type or value of security, to be changed.

(4) The approval of a new bond [shall] **MAY** not discharge a bond filed previously from any liability which may have accrued before approval.

13-211.

(b) Unless the alleged disabled person has **CHOSEN** counsel [of his own choice], the court shall appoint an attorney to represent [him] **THE ALLEGED DISABLED PERSON** in the proceeding.

13-212.

[In the administration of the estate and the exercise of his powers, a] **A** guardian shall exercise the care and skill of [a man] **A PERSON** of ordinary prudence dealing with [his] **THE PERSON'S** own property **IN THE ADMINISTRATION OF THE ESTATE AND THE EXERCISE OF THE GUARDIAN'S POWERS.**

13-214.

(b) (3) Income and principal also may be paid or applied [for]:

(I) **FOR** the benefit of persons legally dependent [upon] **ON** the minor or disabled person; and[, with]

(II) **WITH** the approval of the court, for the benefit of other persons maintained and supported in whole or in part by the disabled person [prior to] **BEFORE** the appointment of a guardian.

13-215.

(A) Any limitation on the powers of a guardian contained in a will or other instrument which nominated a guardian should ordinarily be imposed by the court on the guardian.

(B) If the court limits any power conferred on the guardian by § 13-214 of this subtitle or § 15-102 of this article, the limitation shall be endorsed [upon his] **ON THE** letters of appointment.

13-216.

(a) If the exercise of a power is improper, the guardian is liable for breach of [his] **THE GUARDIAN'S** fiduciary duty to the minor or disabled person or to interested persons for resulting damage or loss to the same extent as a trustee of an express trust.

(b) The rights of purchasers and others dealing with a guardian shall be determined as provided in § 13–219 of this subtitle and are not necessarily affected by [the fact that the guardian breached his] **THE GUARDIAN'S BREACH OF** fiduciary duty in the transaction.

13–217.

(a) **(1)** Letters of guardianship may be recorded in the land records of the county of residence of the minor or disabled person and of any other county where there is real estate in which the estate has an interest.

**(2)** The recordation has the same effect as notice as recording a conveyance from the minor or disabled person to the guardian.

13–218.

(a) **(1)** Except in unusual circumstances and as provided in subsection (b) of this section, the guardian is entitled to the same compensation and reimbursement for actual and necessary expenses as the trustee of a trust.

**(2)** No petition or hearing is required to entitle the guardian to compensation and expenses.

**(3)** [Upon] **ON** the petition of any interested person and [upon] **ON** a finding by the court that unusual circumstances exist, the court may increase or decrease compensation.

13–219.

**(A)** In the absence of actual knowledge or of reasonable cause to inquire whether the guardian is improperly exercising [his] **THE GUARDIAN'S** power, a person dealing with the guardian need not inquire whether the guardian is exercising it properly, and is protected as if the guardian properly exercised the power, except that every person is charged with actual knowledge of any limitations endorsed on the letters of guardianship.

**(B)** A person need not see to the proper application of estate assets paid or delivered to a guardian.

13–220.

(a) The appointment of a guardian terminates when the guardianship terminates under § 13–221 of this subtitle and may be terminated sooner by [his] **THE GUARDIAN’S** death, disability, resignation, or removal.

(b) Termination of appointment of a guardian has the effects provided in this section.

**(C)** (1) **(I)** Termination ends the right and power pertaining to the office of guardian.

**(II)** Unless otherwise ordered by the court, a guardian whose appointment has been terminated shall perform acts necessary to protect the estate and deliver the property to the successor guardian.

(2) Subject to the provisions of the Maryland Rules, termination does not discharge a guardian from liability for transactions or omissions occurring before termination, or relieve [him] **THE GUARDIAN** of the duty to preserve, account for, and deliver to [his] A successor property subject to [his] **THE GUARDIAN’S** control.

(3) All lawful acts of a guardian before the termination of [his] appointment shall remain valid and effective.

**[(c)] (D)** (1) The death of a guardian or the decree of a court of competent jurisdiction that [he] A **GUARDIAN** is under legal disability shall terminate [his] **THE GUARDIAN’S** appointment.

**(2)** The personal representative of a deceased guardian or the person appointed to protect the estate of a guardian under legal disability shall **[have]:**

**(I)** **HAVE** the duty to protect property belonging to the estate being administered by the deceased or disabled guardian[.];

**[(1)] (II)** [He shall have] **HAVE** the power to perform acts necessary for the protection of property[.];

**[(2)] (III)** [He shall immediately] **IMMEDIATELY** account for and deliver the property to a successor guardian[.]; **AND**

**[(3)] (IV)** [He shall apply] **APPLY** immediately to the court for the appointment of a successor guardian to carry on the administration of the estate which was being administered by the deceased or disabled guardian in accordance with the Maryland Rules.

[(d)] **(E)** A guardian who desires to resign [his] **THE GUARDIAN’S** office may do so in accordance with the provisions of the same Maryland Rules by which a fiduciary may resign [his] **THE FIDUCIARY’S** office.

13–221.

(a) The minor or disabled person, [his] **THE MINOR’S OR DISABLED PERSON’S** personal representative, the guardian, or any other interested person may petition the court to terminate the guardianship proceedings.

(b) A guardianship proceeding shall terminate [upon] **ON**:

- (1) The cessation of the minority or disability;
- (2) The death or presumptive death of the minor or disabled person;
- (3) Transfer of all the assets of the estate to a foreign fiduciary; or
- (4) Other good cause for termination as may be shown to the satisfaction of the court.

13–222.

(a) **(1)** A guardian, conservator, committee, or other similar fiduciary, appointed by the appropriate court of another jurisdiction to manage the property of a protected person who is a resident of that jurisdiction, may exercise in the State all powers of [his] **THE** office, including the power to [sell]:

**(I)** **SELL**, purchase, or mortgage real estate in the State[, collect];

**AND**

**(II)** **COLLECT**, receipt for, [and] take possession of [money], **AND REMOVE TO THE OTHER JURISDICTION**:

1. **MONEY** due[, tangible];
2. **TANGIBLE** personal property[.]; or [an]
3. **AN** instrument evidencing a debt, **AN** obligation, **A** stock, or **A** chose in action located in the State[, and remove it to the other jurisdiction].

**(2)** Subject to any statute or rule relating to nonresidents, [he] **THE GUARDIAN, CONSERVATOR, COMMITTEE, OR OTHER SIMILAR FIDUCIARY, APPOINTED BY THE APPROPRIATE COURT OF ANOTHER JURISDICTION**, may sue and be sued in the State.

(b) Before receiving actual notice of the pendency of a guardianship proceeding in the State, a person who has changed [his] **THE PERSON'S** position by relying on the powers granted by this section may not be prejudiced by the pendency of the proceeding.

13-302.

(a) This subtitle applies to a transfer that refers to [this subtitle] **THE MARYLAND UNIFORM TRANSFERS TO MINORS ACT** in the designation under § 13-309(a) of this subtitle by which the transfer is made if at the time of the transfer the transferor, the minor, or the custodian is a resident of this State or the custodial property is located in this State.

REVISOR'S NOTE: In subsection (a) of this section, the reference to "the Maryland Uniform Transfers to Minors Act" is substituted for the former reference to "this subtitle" for consistency with § 13-309(a) of this subtitle.

13-401.

(b) "Minor" means any person under 18 years of age:

(1) [who] **WHO** actually resided in the State at the time of the happening of the occurrence out of which the claim, action, or judgment arises[.]; or

(2) [who] **WHO** actually resides in the State at the time money is paid to [him] **THE MINOR** or to any person acting for [him] **THE MINOR** because of a claim, action, or judgment in tort.

(c) "Net sum" means [the]:

(1) **THE** net amount due the minor or to any person acting for [him] **THE MINOR** after the deduction of the fee of the attorney and expenses[.]; **OR**

(2) If the minor is not represented by an attorney, [it means] the amount due to the minor or to any person acting for [him] **THE MINOR**, by or on behalf of any person liable.

(d) "The person responsible for the payment of the money" means:

(1) The attorney, if the minor or any person acting for [him] **THE MINOR** is represented by an attorney; or

(2) Any defendant, insurer, or the State under the provisions of the [unsatisfied] **UNSATISFIED** Claim and Judgment Fund Law, if the minor or any person acting for [him] **THE MINOR** is not represented by an attorney.

13-405.

(a) Except [upon] **ON** the order of a circuit court, the financial institution specified in § 13-404(b) of this subtitle may not allow the withdrawal of any of the money except to pay it to the minor [upon his] **ON THE MINOR'S** attainment of the age of 18 years or to pay to the personal representative of [his] **THE MINOR'S** estate [upon] **ON** the death of the minor [prior to his] **BEFORE THE MINOR'S** attaining the age of 18 years.

(b) Payment by any institution or association in accordance with an order of the court, or to a minor on or after [his attaining the age of 18 years] **THE MINOR'S 18TH BIRTHDAY**, or to the personal representative after the death of the minor, is a complete discharge of liability of the institution or association for the money paid.

13-406.

(b) **(1)** The petition shall be verified and state in detail the purposes for which the withdrawal of the money is desired.

**(2)** [Upon] **ON** receiving a petition, the court shall make any inquiry necessary before granting or denying the petition in whole or in part.

(e) In its order [upon] **ON** a petition, the court may direct the institution where the funds of the minor are on deposit to make its check to the order of:

(1) The trustee for the use of the minor; or

(2) The person, firm, or organization which has performed or is to perform a service for or furnish goods to the minor.

13-407.

The trustee provided for in this subtitle need not file any accounts of [his] trusteeship with any court.

13-501.

(a) **(1)** Any person, including but not limited to a personal representative or trustee, who is under a duty to pay or deliver money or tangible personal property to a minor may perform the duty by paying or delivering the money or chattel to the guardian of the minor.

**(2)** If there is no guardian, or if [he] **THE GUARDIAN** is unknown, payment or delivery in amounts or values not exceeding \$5,000 per annum may be made to the parent or grandparent of the minor with whom [he] **THE MINOR** resides.

(3) If there is no guardian, parent, or grandparent with whom the minor resides, payment or delivery in amounts or values not exceeding \$5,000 per annum may be made to a parent or other person standing in loco parentis with the minor, or deposited in a financial institution described in § 13–301(h) of this title.

(4) The payor is not under a duty to inquire whether the minor has a guardian.

(b) (1) A deposit in a financial institution shall be in the sole name of the minor.

(2) The minor may not withdraw any funds [without]:

(I) **WITHOUT** an order of court; or [until he attains his]

(II) **UNTIL THE MINOR ATTAINS** majority.

(c) (1) Other than the minor or a financial institution, a person receiving money or property for a minor shall apply the money to the support and education of the minor.

(2) [He] **A PERSON RECEIVING MONEY OR PROPERTY FOR A MINOR** may not [pay himself] ~~RETAIN FUNDS OR HERSELF~~ except for reimbursement for out-of-pocket expenses for goods and services furnished by others which are necessary for the support of the minor.

(3) Any excess sums shall be preserved for future support of the minor, and any balance not so used and any tangible chattels received for the minor shall be turned over to the minor when [he] **THE MINOR** attains majority.

(d) (1) If a person owes money or property to a minor and pays or delivers it in accordance with this section [he], **THE PERSON** is not responsible for the proper application of the money or property.

(2) A release for any distribution signed by the distributee is a valid release.

~~REVISOR'S NOTE: In subsection (c)(2) of this section, the reference to a person "retain[ing] funds" is substituted for the former reference to a person "pay[ing] himself" for clarity and to avoid the use of gender-specific terminology.~~

(a) (1) A minor who holds title to property as a tenant by the entirety with a spouse who has reached the age of majority is authorized to join with the spouse in any deed as defined in § 1–101 of the Real Property Article, note, or financing statement in the same manner and effect as an adult.

(2) This subsection does not affect any right granted in subsection (b) of this section.

(b) A war veteran or member of the armed services, who is a minor, eligible for the benefits of the Servicemen's Readjustment Act of 1944, and amendments to it, for the purpose of obtaining the benefits of the Act, may [mortgage]:

(1) **MORTGAGE** real estate [owned by him, buy] **THE ELIGIBLE MINOR OWNS;**

(2) **BUY** real estate and execute a mortgage to cover the purchase money[, execute];

(3) **EXECUTE** a deed for the sale of real estate purchased, or execute notes [or make];

(4) **MAKE** other agreements and do other things as necessary to obtain the benefits of the Act, and amendments to it[.]; and [also may execute]

(5) **EXECUTE** releases of claims in the same manner and effect as an adult.

(c) (1) A minor who [has reached his 15th birthday may] **IS AT LEAST 15 YEARS OLD:**

(I) **MAY** contract for annuities and for life or health insurance on [his] **THE MINOR'S** own life or body, or on the person of another in whom the minor has an insurable interest[. He may];

(II) **MAY** exercise all rights and powers with respect to or under the contract for the annuity or for insurance [upon his] **ON THE MINOR'S** own life or body, or any contract the minor effected on the person of another issued to the minor as described as though of full legal age of 18 years[. He may surrender his];

(III) **MAY SURRENDER ANY** interest in the contract and give a valid discharge for any benefit accruing or money payable under it[. He is];

(IV) **IS** not entitled to rescind, avoid, or repudiate the contract, or any exercise of a right or privilege because of [his] minority[. He is]; **AND**

(v) **IS** not bound by any unperformed agreement to pay, by promissory note or otherwise, any premium on any insurance contract.

(2) If an estate of a minor is being administered by a guardian, no contract is binding [upon] **ON** the estate as to payment of premiums, unless consented to by the guardian.

(3) Any annuity contract or policy of life or health insurance shall be made payable either to the minor or to [his] **THE MINOR'S** estate or to a person having an insurable interest in the life of the minor.

(4) The provisions of this subsection also apply with respect to property, casualty, and surety insurance contracted for by a minor who [has reached his 15th birthday upon his] **IS AT LEAST 15 YEARS OLD ON THE MINOR'S** own property, liabilities, or other interests.

(d) The absence of specific mention in this subtitle of any power or right granted by law to a minor who [has reached his 15th birthday prior to] **IS AT LEAST 15 YEARS OLD BEFORE** the enactment of this subtitle is not intended to affect the existence of the power or right.

13-701.

(A) Unless prohibited by agreement or court order, the surviving parent of a minor may appoint by will one or more guardians and successor guardians of the person of an unmarried minor.

(B) The guardian need not be approved by or qualify in any court.

13-702.

(a) (2) If the minor [has attained his 14th birthday] **IS AT LEAST 14 YEARS OLD**, and if the person otherwise is qualified, the court shall appoint a person designated by the minor, unless the decision is not in the best interests of the minor.

13-703.

(A) The guardian of the person of a minor [shall] **MAY** not be required to post any bond or to file any accounts.

(B) Unless otherwise provided by the will appointing a guardian of the person, [he shall] **THE GUARDIAN OF THE PERSON MAY** not be entitled to any compensation for serving as guardian of the person.

13-705.

(b) A guardian of the person shall be appointed if the court determines from clear and convincing evidence that [a]:

(1) A person lacks sufficient understanding or capacity to make or communicate responsible **PERSONAL** decisions [concerning his person], including provisions for health care, food, clothing, or shelter, because of any mental disability, disease, habitual drunkenness, or addiction to drugs[.]; and [that no]

(2) **NO** less restrictive form of intervention is available [which] **THAT** is consistent with the person's welfare and safety.

(e) (1) (I) The person alleged to be disabled is entitled to be present at the hearing unless [he] **THE PERSON** has knowingly and voluntarily waived the right to be present or cannot be present because of physical or mental incapacity.

(II) Waiver or incapacity may not be presumed from nonappearance but shall be determined on the basis of factual information supplied to the court by counsel or a representative appointed by the court.

(2) The person alleged to be disabled is also entitled to present evidence and to cross-examine witnesses.

(3) The issue may be determined at a closed hearing without a jury if the person alleged to be disabled or [his] **THE PERSON'S** counsel so requests and all hearings herein shall be confidential and sealed unless otherwise ordered by a court of competent jurisdiction for good cause shown.

REVISOR'S NOTE: In subsection (b)(1) of this section, the reference to "personal decisions" is substituted for the former reference to "decisions concerning his person" for clarity and to avoid the use of gender-specific terminology.

13-707.

(a) Persons are entitled to appointment as guardian of the person according to the following priorities:

(10) (I) For adults less than 65 years old, the director of the local department of social services or, for adults 65 years old or older, the Secretary of Aging or the director of the area agency on aging, except in those cases where the department of social services has been appointed guardian of the person [prior to] **BEFORE** age 65[.]; **AND**

(II) [Upon] **ON** appointment as guardian **UNDER ITEM (I) OF THIS ITEM**, directors of local departments of social services, directors of area agencies on aging,

and the Secretary of Aging may delegate responsibilities of guardianship to staff persons whose names and positions have been registered with the court.

(b) (1) A person specified in a priority in subsection (a)(2), (3), (5), or (6) of this section may waive and nominate in writing a person, agency, or corporation to serve in [his] **THE PERSON'S** stead.

(2) A nominee of a person holding priority has the same priority as the person making the nomination.

(c) (1) (I) Among persons with equal priority the court shall select the one best qualified of those willing to serve.

(II) For good cause, the court may pass over a person with priority and appoint a person with a lower priority.

(2) If a guardian of the estate has been appointed, the court may select [him] **THE GUARDIAN OF THE ESTATE** to be guardian of the person, regardless of priority.

(d) (1) [Nonresidence] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, NONRESIDENCE** does not disqualify any person from serving as guardian of the person.

(2) [However, a] **A** nonresident who is appointed may not qualify until [he has on file] **THE NONRESIDENT FILES** with the register or clerk an irrevocable designation by [him] **THE NONRESIDENT** of an appropriate person who resides in the State on whom service of process may be made in the same manner and with the same effect as if it were served personally in the State on the nonresident.

13-708.

(b) Subject to subsection (a) of this section, the rights, duties, and powers [which] **THAT** the court may order include, but are not limited to:

(1) The same rights, powers, and duties that a parent has with respect to an unemancipated minor child, except that the guardian is not liable solely by reason of the guardianship to third persons for any act of the disabled person;

(2) The right to custody of the disabled person and to establish the disabled person's place of abode within and without the State, provided there is court authorization for any change in the classification of abode, except that, except as provided under § 10-611 of the Health – General Article, no one may be committed to a mental facility without an involuntary commitment proceeding as provided by law;

(3) The duty to provide for care, comfort, and maintenance, including social, recreational, and friendship requirements, and, if appropriate, for training and education of the disabled person;

(4) If it is in the best interest of the disabled person, the duty to foster and preserve family relationships including, as appropriate, assisting to arrange visitation and communication by telephone calls, personal mail, and electronic communications;

(5) The duty to take reasonable care of the clothing, furniture, vehicles, and other personal effects of the disabled person, and, if other property requires protection, the power to commence protective proceedings;

(6) If a guardian of the estate of the disabled person has not been appointed, the right to commence proceedings to compel performance by any person of **[his] THE PERSON'S** duty to support the disabled person, and to apply the estate to the support, care, and education of the disabled person, except that the guardian of the person may not obtain funds from the estate for room and board that the guardian, **[his] THE GUARDIAN'S** spouse, parent, or child provide without a court order approving the charge, and the duty to exercise care to conserve any excess estate for the needs of the disabled person;

(7) If a guardian of the estate has been appointed, the duty to control the custody and care of the disabled person, to receive reasonable sums for room and board provided to the disabled person, and to account to the guardian of the estate for funds expended, and the right to ask the guardian of the estate to expend the estate in payment of third persons for care and maintenance of the disabled person;

(8) **(I)** The duty to file an annual or biannual report with the court indicating the present place of residence and health status of the ward, the guardian's plan for preserving and maintaining the future well-being of the ward, and the need for continuance or cessation of the guardianship or for any alteration in the powers of the guardian~~[.]~~; **AND**

**(II) ON RECEIPT OF A REPORT UNDER ITEM (I) OF THIS ITEM:**

~~**(H)**~~ **1.** The ~~{court shall}~~ ~~**DUTY TO**~~ renew the appointment of the guardian if **[it] THE COURT** is satisfied that the grounds for the original appointment stated in § 13-705(b) of this subtitle continue to exist~~[.]~~;

**2.** If the court believes such grounds may not exist, **[it] THE COURT** shall ~~THE DUTY TO~~ hold a hearing, similar to that provided for in § 13-705 of this subtitle, at which the guardian shall be required to prove that such grounds exist~~[.]~~;

**3.** If the court does not make these findings, **[it] THE COURT** shall ~~THE DUTY TO~~ order the discontinuance of the guardianship of the person~~[.]~~; **AND**

4. If the guardian declines to participate in the hearing, the ~~court may~~ ~~POWER TO~~ appoint another guardian to replace [him] **THE GUARDIAN** pursuant to the priorities in § 13-707(a) of this subtitle; and

(9) The power to give necessary consent or approval for:

(i) Medical or other professional care, counsel, treatment, or service, including admission to a hospital or nursing home or transfer from one medical facility to another;

(ii) Withholding medical or other professional care, counsel, treatment, or service; and

(iii) Withdrawing medical or other professional care, counsel, treatment, or service.

13-709.

(a) **(1) [When] A LAW ENFORCEMENT OFFICER SHALL TRANSPORT AN ADULT TO AN APPROPRIATE MEDICAL FACILITY, WHICH SHALL IMMEDIATELY NOTIFY THE NEXT OF KIN AND THE DIRECTOR, WHEN, from personal observation of [a law enforcement] THE officer, it appears probable that [an]:**

**(I) THE** adult will suffer immediate and serious physical injury or death if not immediately placed in a health care facility[, that the];

**(II) THE** adult is incapable of giving consent[,]; and [that it]

**(III) IT** is not possible to follow the procedures of this section[, the officer shall transport the person to an appropriate medical facility which shall immediately notify the next of kin and the director].

**(2) [This] THE** medical care **PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION** may not be rendered in a State mental [hospital] **FACILITY** other than, in an appropriate case, the Walter P. Carter Community Mental Health and Retardation Center and the Highland Health Facility unless authorized by the courts in a civil commitment proceeding.

**(3) (I)** The director shall file a petition **FOR ANY ADULT TRANSFERRED UNDER THIS SUBSECTION** pursuant to subsection (b) of this section within 24 hours after the transfer of the person has taken place.

**(II)** The court shall hold a hearing on the petition and render its decision within 48 hours after the transfer has occurred.

(c) In issuing an emergency order, the court shall adhere to the following limitations:

(5) **(I)** Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, the court may extend the terms of the emergency order and the appointment of the temporary guardian until appointment of a guardian of the person pursuant to § 13–705 of this subtitle, [upon] **ON** petition of the temporary guardian, the director, or the Secretary of Aging, as appropriate, and after a showing that the conditions found to exist in subsection (b) of this section will probably continue beyond the expiration of the extended emergency order[. Such];

**(II)** A petition **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH** shall be filed before the expiration of the [six–day] **6–DAY** period provided for in paragraph (3) of this subsection and shall be accompanied by a petition for appointment of a guardian of the person pursuant to § 13–705 of this subtitle[. Such]; **AND**

**(III)** A petition for appointment of a guardian of the person **UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH** shall be heard on an expedited basis no more than 60 days after the filing of the petition;

(7) **(I)** To implement an emergency order, the court may authorize forcible entry of the premises of the person for the purpose of rendering protective services or transporting the person to another location for the provision of [such] **PROTECTIVE** services only after a showing to the court that attempts to gain voluntary access to the premises have failed and forcible entry is necessary[.]; **AND**

**(II)** Persons making authorized forcible entry **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH** shall be accompanied by a law enforcement officer, the director or [his] **THE DIRECTOR’S** representative, and if appropriate, a representative of the local department of health.

(d) The petition for an emergency order shall set forth [the]:

**(1)** **THE** name, address, and interest of the petitioner; [the]

**(2)** **THE** name, age, and address of the person in need of protective services; [the]

**(3)** **THE** nature of the person’s disability, if determinable; [the]

**(4)** **THE** proposed protective services; [the]

**(5)** **THE** petitioner’s reasonable belief, together with **SUPPORTIVE** facts [supportive thereof], as to the existence of the facts stated in subsection (b)(1) through (3) of this section; and [facts]

**(6) FACTS** showing **THE** petitioner's attempts to obtain the person's consent to the services and the outcomes of [such] **THE** attempts.

(e) **(1)** Notice of the filing of [such] **THE** petition **FOR AN EMERGENCY ORDER** shall be given as required in the Maryland Rules and to the director.

**(2)** [Such] **THE** notice shall be given in language reasonably understandable by the intended recipients at least 24 hours [prior to] **BEFORE** the hearing for emergency intervention.

**(3)** The court may waive the 24-hour notice requirement [upon] **ON** a showing that:

**[(1)] (I)** [immediate] **IMMEDIATE** and reasonably foreseeable physical harm to the person or others will result from the 24-hour delay[.]; and

**[(2)] (II)** [reasonable] **REASONABLE** attempts have been made to give [such] notice.

**(4)** Notice of the court's final order shall be given to the same parties **AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

(f) **(1)** The hearing on a petition for an emergency order for protective services shall be held under the following conditions:

(i) **1.** The person shall be present unless [he] **THE PERSON** has knowingly and voluntarily waived the right to be present or cannot be present because of physical or mental incapacity[.]; **AND**

**2.** Waiver or incapacity may not be presumed from nonappearance but shall be determined on the basis of factual information supplied to the court by counsel or a representative appointed by the court[.];

(ii) **1.** The person has the right to counsel whether or not [he] **THE PERSON** is present at the hearing[.];

**2.** Subject to paragraph (2) of this subsection, if the person is indigent or lacks the capacity to waive counsel, the court shall appoint counsel[.]; **AND**

**3.** [Where] **IF** the person is indigent, the State shall pay reasonable attorney's fees[.]; **AND**

(iii) 1. The person may present evidence and cross-examine witnesses[.]; AND

2. [This] **THE** hearing shall be held no earlier than 24 hours after the notice required in subsection (e) of this section has been given, unless such notice has been waived by the court.

(i) (1) [Where] **IF** protective services are rendered on the basis of an emergency order, the temporary guardian shall submit a report describing the circumstances including the name, place, date, and nature of the services, and the use of forcible entry, if any, to the court and the director.

(2) [This] **THE** report **UNDER THIS SUBSECTION** shall become part of the court record.

REVISOR'S NOTE: In subsection (a)(2) of this section, the reference to a State "mental facility" is substituted for the former reference to a State "mental hospital" to use the defined term for the title.

In subsection (a)(3)(i) of this section, the reference to filing a petition "for any adult transferred under this subsection" is added for clarity.

In subsection (e)(4) of this section, the reference to notice being given to the same parties "as required under paragraph (1) of this subsection" is added for clarity.

13-801.

(a) The [Administrator] **SECRETARY** of Veterans Affairs shall be an interested person in [any]:

(1) **ANY** proceeding for the appointment, removal, or discharge of any guardian who is receiving or expects to receive any money from the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** for a minor or disabled person who is a [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** beneficiary; and [in any]

(2) **ANY** suit or other proceeding affecting in any manner the administration by the guardian of the estate of any present or former beneficiary which includes assets derived in whole or in part from benefits paid by the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** to the guardian or [his] **THE GUARDIAN'S** predecessor for the beneficiary.

(b) Notice of a suit or proceeding shall be given to the office of the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** having jurisdiction over

the area in which the suit or proceeding is pending at least 15 days [prior to] **BEFORE** any hearing unless notice is waived in writing.

13–802.

If a petition is filed for the appointment of a guardian for a minor who is a [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** beneficiary, a certificate of the [Administrator] **SECRETARY** or [his] **THE SECRETARY’S** authorized representative, setting forth the age of the minor as shown by the records of the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** and the fact that appointment of a guardian is a condition precedent to the payment of any moneys due the minor from the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** shall be prima facie evidence of the necessity for the appointment.

13–803.

(a) [If the Veterans Administration] **THE COURT, ON THE REQUEST OF THE U.S. DEPARTMENT OF VETERANS AFFAIRS, SHALL REQUIRE A GUARDIAN, OTHER THAN A CORPORATE GUARDIAN, TO FURNISH A BOND, PREFERABLY A CORPORATE SURETY BOND WITH SURETIES APPROVED BY THE COURT, CONDITIONED ON FAITHFUL DISCHARGE OF ALL DUTIES OF THE GUARDIANSHIP ACCORDING TO LAW, IF:**

(1) **THE U.S. DEPARTMENT OF VETERANS AFFAIRS** is paying or planning to pay benefits to a person to be protected because of a legal disability; or [if the]

(2) **A person TO BE PROTECTED BECAUSE OF A LEGAL DISABILITY** has an estate [which] **THAT** includes assets derived in whole or in part from benefits paid by the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** to the guardian or [his] **THE GUARDIAN’S** predecessor for the benefit of the person[, the court, upon the request of the Veterans Administration, shall require a guardian, other than a corporate guardian, to furnish a bond, preferably a corporate surety bond with sureties approved by the court, conditioned upon faithful discharge of all duties of the guardianship according to law].

(b) (1) The amount of the bond may not be less than the estate derived from [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** benefits paid to the guardian or [his] **THE GUARDIAN’S** predecessor and anticipated income of the beneficiary from the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** during the ensuing year, less the value of securities or money deposited with an insured financial institution, as defined in § 13–301(h) of this title, under arrangements requiring an order of the court for their removal, and the value of any land which the guardian, by express limitation of power, lacks powers to sell or convey without court authorization.

(2) The court for good cause shown may require the amount of the bond to be changed.

(3) Bond premiums shall be charged against the estate of the beneficiary.

13-804.

(a) Every guardian of a beneficiary who is receiving benefits from the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** or whose estate includes assets derived in whole or in part from benefits paid by the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** to the guardian or [his] **THE GUARDIAN'S** predecessor for the beneficiary shall file:

(1) (I) Annual accounts with each interested person or with the court[.];

**OR**

(II) If [he] **THE GUARDIAN** does not file an accounting with the court, [he] **THE GUARDIAN** shall file with the court a written verification that [he] **THE GUARDIAN** has delivered the accounting to each interested person[.];

(2) A final account of [his] **THE GUARDIAN'S** administration with the court [upon his] **ON THE GUARDIAN'S** resignation or removal or [upon] **ON** the termination of the minority or disability[.]; **AND**

(3) Intermediate accounts at the times as the court may direct.

(b) (1) (I) The guardian, at the time of filing any account with the court, shall exhibit all securities or investments [held by him] **THE GUARDIAN HOLDS** to the judge or clerk of the court of [his] **THE GUARDIAN'S** appointment [who].

(II) **THE JUDGE OR CLERK OF THE COURT OF THE GUARDIAN'S APPOINTMENT** shall endorse on the account and copy a certificate that the securities or investments shown therein as held by the guardian were each exhibited to [him] **THE JUDGE OR CLERK OF THE COURT** and noting any omission or discrepancy.

(2) (I) The guardian may exhibit the securities or investments to an officer of the bank or other depository where the securities or investments are held for safekeeping, to the judge or clerk of a court of record in this State, to an authorized representative of the corporation which is surety on [his] **THE GUARDIAN'S** bond, or [upon] **ON** request of the guardian or other interested party, to any other reputable person designated by the court[, who].

**(II) ANY PERSON TO WHOM THE GUARDIAN EXHIBITED SECURITIES OR INVESTMENTS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH** shall certify in writing that [he] **THE PERSON** has examined the securities or investments and identified them with those described in the account and shall note any omission or discrepancies.

**(3)** The certificate, and the certificate of an official of the bank in which are deposited any funds for which the guardian is accountable, showing the amount on deposit, shall be prepared and signed in duplicate and one of each shall be filed by the guardian with [his] **THE GUARDIAN'S** account.

(c) **(1)** At the time of filing in the court any account, a certified copy of it and a signed duplicate of each certificate filed with the court shall be sent by the guardian to the office of the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** having jurisdiction over the area in which the court is located.

**(2)** A duplicate signed copy or a certified copy of any petition, motion or other pleading pertaining to an account, or to any matter other than an account which is filed in a guardianship proceeding, in which the [Administrator] **SECRETARY** of Veterans Affairs is an interested person, shall be furnished by the persons filing it to the proper office of the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS**.

13-805.

(a) Every guardian of a [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** beneficiary shall invest the surplus funds of the estate of the beneficiary derived from [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** benefits paid to the guardian or the guardian's predecessor for the beneficiary in securities or property authorized under the laws of this State but only upon prior order of the court.

(b) **[The] NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE** funds may be invested, without prior court authorization, in:

(1) Direct unconditional interest-bearing obligations of this State or of the United States;

(2) Banks and savings and loan associations whose deposits are federally insured;

(3) Obligations the interest and principal of which are unconditionally guaranteed by the United States; or

(4) Securities of, or other interests in, any no-load open-end management type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1, et seq., if:

(i) The portfolio of the no-load open-end management type investment company or investment trust is limited to obligations of the United States government and to repurchase agreements fully collateralized by United States government obligations;

(ii) The no-load open-end management type investment company or investment trust takes delivery of that collateral, either directly or through an authorized custodian; and

(iii) The no-load open-end management type investment company or investment trust does not impose a contingent deferred sales charge or distribution charge.

(c) A signed duplicate or certified copy of the petition for authority to invest shall be furnished the proper office of the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS**, and notice of hearing upon it shall be given the office.

13-806.

No commission or compensation may be allowed a guardian of a [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** beneficiary on the money or other assets received from a prior fiduciary nor [upon] **ON** the amount received from liquidation of loans or other investments if the money, assets, loans or investments were derived in whole or in part from benefits paid by the [Veterans Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** to the guardian or [his] **THE GUARDIAN'S** predecessor for the beneficiary.

#### GENERAL REVISOR'S NOTE TO SUBTITLE

Throughout this subtitle, the references to the "U.S. Department of Veterans Affairs" and the "Secretary" are substituted for the former references to the "Veterans Administration" and the "Administrator" to reflect the current name of the department and its head.

14-302.

(a) [If a trust for charity is or becomes illegal, or impossible or impracticable of enforcement or if a devise or bequest for charity, at the time it was intended to become effective, is illegal, or impossible or impracticable of enforcement, and if the settlor or testator manifested a general intention to devote the property to charity, a] **A** court of equity, on application of any trustee, or any interested person, or the Attorney General of the State, may order an administration of [the] **A** trust, devise or bequest as nearly as possible to fulfill the general charitable intention of the settlor or testator:

**(1) (I) IF THE TRUST FOR CHARITY IS OR BECOMES ILLEGAL OR IMPOSSIBLE OR IMPRACTICABLE OF ENFORCEMENT; OR**

**~~(2)~~ ~~(I)~~ (II) IF THE DEVISE OR BEQUEST FOR CHARITY, AT THE TIME IT WAS INTENDED TO BECOME EFFECTIVE, IS ILLEGAL OR IMPOSSIBLE OR IMPRACTICABLE OF ENFORCEMENT; AND**

**~~(II)~~ (2) IF THE SETTLOR OR TESTATOR MANIFESTED A GENERAL INTENTION TO DEVOTE THE PROPERTY TO CHARITY.**

14-304.

**(A)** Notwithstanding any provisions to the contrary in the governing instrument, the trustee or trustees of any charitable remainder trust created after July 31, 1969 with the consent of each beneficiary named in the governing instrument, without application to any court, may amend the governing instrument to conform to the provision of § 664 of the Internal Revenue Code by executing a written amendment to the trust for the purpose.

**(B)** Consent is not required as to individual named beneficiaries not living at the time of amendment.

**(C)** In the case of an individual beneficiary not competent to give consent, the consent of a guardian, appointed by a court of competent jurisdiction, shall be treated as consent of the beneficiary.

**(D)** In the case of any amendment to a trust created by will, the amendment, if provided in the amendment, may be considered to apply as of the date of death of the testator.

15-102.

**(c) [He] A FIDUCIARY** may invest in, sell, mortgage, exchange, or lease any property, real or personal.

**(d) [He] A FIDUCIARY** may borrow money for the purpose of protecting property and pledge property as security for the loan.

**(e) [He] A FIDUCIARY** may effect a fair and reasonable compromise with any debtor, obligor, creditor or obligee, or extend or renew any obligation by or to the fiduciary estate.

**(f) [He] A FIDUCIARY** may retain assets owned by the minor or disabled person, in the case of a guardian, or owned by the decedent or the grantor, in the case of a trustee or otherwise coming into the hands of the fiduciary pending distribution or liquidation,

including those in which the fiduciary is personally interested or which are otherwise improper for trust investment.

(g) [He] **A FIDUCIARY** may receive assets from any sources, including other fiduciaries.

(h) **(1)** [He] **A FIDUCIARY** may perform the contracts of the decedent or disabled person that continue as obligations of the fiduciary estate.

**(2)** In performing an enforceable contract to convey or lease land the fiduciary may execute and deliver a deed or conveyance for cash payment of all sums remaining due, or for the note of the purchaser for the sum remaining due secured by a mortgage or deed of trust on the land, as the contract may provide.

(i) [He] **A FIDUCIARY** may satisfy written charitable pledges of the disabled person or decedent.

(j) [He] **A FIDUCIARY** may deposit funds for the account of the fiduciary estate in checking accounts, in insured interest-bearing accounts, or in short-term loan arrangements.

(k) [He] **A FIDUCIARY** may vote securities in person or by general or limited proxy, or enter into or participate in a voting trust or agreement of shareholder.

(l) [He] **A FIDUCIARY** may insure the property of the fiduciary estate against damage, loss and liability, and himself **OR HERSELF**, as fiduciary against liability in respect to third persons.

(m) [He] **A FIDUCIARY** may pay taxes, assessments and other expenses incident to the administration of the fiduciary estate.

(n) [He] **A FIDUCIARY** may sell or exercise stock subscription, conversion or option rights, consent to or oppose, directly or through a committee or other agent, the reorganization, consolidation, merger, dissolution or liquidation of a corporation or other business enterprises.

(o) [He] **A FIDUCIARY** may employ for reasonable compensation agents, attorneys, auditors, investment advisors or other persons with special skills, to advise or assist the fiduciary in the performance of [his] **THE** administrative duties **OF THE FIDUCIARY**, but no attorney's fee in an amount exceeding \$50 shall be paid in a fiduciary estate administered under court jurisdiction unless the amount of the fee has been first approved by order of court.

(q) [He] **A FIDUCIARY** may continue as or become a limited partner in any partnership or a member in any limited liability company, including a single member limited liability company.

(r) [He] **A FIDUCIARY** may incorporate any business or venture which forms a part of the fiduciary estate.

(s) [He] **A FIDUCIARY** may convert a sole proprietorship the decedent was engaged in at the time of [his] **THE DECEDENT'S** death to a limited liability company.

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

(u) [He] **A FIDUCIARY** may pay any valid claim.

(v) If any assets of the fiduciary estate are encumbered by mortgage, pledge, lien, or other security interest, [he] **A FIDUCIARY** may pay the encumbrance or any part of it, renew, or extend an obligation secured by the encumbrance, or convey or transfer the assets to the creditor in satisfaction of [his] **THE** security interest **OF THE CREDITOR**, in whole or in part, if the act appears to be in the best interest of the fiduciary estate.

(w) [He] **A FIDUCIARY** may release or terminate any mortgage or security interest, if the obligation secured by the mortgage or security interest has been fully satisfied.

(y) [He] **A FIDUCIARY** may hold a security in the name of a nominee or in other form without disclosure of the interest of the fiduciary estate, but the fiduciary shall be liable for a wrongful act of the nominee in connection with the security so held.

15-103.

(a) Whenever [any] securities are deposited or exchanged, or tendered for deposit or exchanged by [any] **A** fiduciary under [any] **A** reorganization agreement or plan of reorganization, [any] **A** committee formulating, proposing, or carrying out [any] **A** plan or soliciting deposits or exchanges under [any] **AN** agreement or plan, any depositary with or through which the deposit or exchange of [any] securities may be made, solicited, requested or permitted, and [any] **A** person to whom or to which securities are to be delivered pursuant to [any] **AN** agreement or **A** plan, may accept, receive, hold and ultimately dispose of [any] **THE** securities in accordance with the authorization or instructions of the fiduciary depositing or exchanging securities or tendering them for deposit or exchange under [any] **A** reorganization agreement or plan of reorganization, without [any] **AN** obligation to

inquire whether [or not any] A fiduciary is authorized to make A deposit or exchange or is committing a breach of [his] THE obligation as fiduciary in so doing.

(b) No committee, depository, or ultimate recipient is liable in any way of any kind to [any] A person for [any] AN action taken, suffered, or permitted with respect to [any] securities in accordance with the authorization or instructions given by [any] A fiduciary depositing or exchanging [them] THE SECURITIES or tendering [them] THE SECURITIES for deposit or exchange, unless the committee, depository, or ultimate recipient has actual knowledge that [any] A fiduciary is committing a breach of [his] FIDUCIARY trust in making the deposit or exchange, or has knowledge of facts that the action or conduct of the committee, depository, or ultimate recipient amounts to bad faith.

15-104.

(a) (1) [Regardless of] NOTWITHSTANDING any other provision of law, [any] A fiduciary holding securities in [its] A fiduciary capacity, [any] A bank or trust company holding securities as a custodian or agent, and [any] A bank or trust company holding securities as custodian for a fiduciary, is authorized to deposit or arrange for the deposit of the securities in a securities clearing corporation, regardless of whether [or not] the depositor owns capital stock of the clearing corporation.

(2) When securities are [so] deposited IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of the clearing corporation with any other securities deposited in the clearing corporation by [any] A person regardless of the ownership of the securities, and certificates of small denomination may be merged into one or more certificates of larger denomination.

(3) The records of the fiduciary and the records of the bank or trust company acting as custodian, as agent or as custodian for a fiduciary shall show at all times the name of the party for whose account the securities are [so] deposited.

(4) Title to the securities may be transferred by bookkeeping entry on the books of the clearing corporation without physical delivery of certificates representing the securities.

(b) (1) A bank or trust company depositing securities pursuant to this section is subject to the rules and regulations as, in the case of State chartered institutions, the Commissioner of Financial Regulation and, in the case of national banking associations, the [comptroller of the currency] COMPTROLLER OF THE CURRENCY may issue from time to time.

(2) A bank or trust company acting as custodian for a fiduciary, on demand by the fiduciary, shall certify in writing to the fiduciary the securities [so] deposited IN

**ACCORDANCE WITH THIS SECTION** by the bank or trust company in the clearing corporation for the account of the fiduciary.

15-105.

(a) [Any] A fiduciary, or party of whom a bond, undertaking or other obligation is required, may agree or arrange with [his] A surety for a general or a special deposit for safekeeping of any money, assets and other property, for which [he] **THE FIDUCIARY** is or may be responsible, with a bank, savings bank, safe deposit or trust company authorized by law to do business and situate in the county in which [his] **THE FIDUCIARY'S** bond is filed.

(b) [The] A deposit shall be made in a manner as to prevent the withdrawal or alienation of money, assets, or other property, or any part of it, without the written consent of the surety, or an order of a court, made on notice to the surety as the court directs.

15-108.

(a) [Any] A fiduciary making A distribution or delivery of any property, in conformity to [any] A decree or order of court passed pursuant to the Maryland Rules, shall be protected from [any] A claim in respect to [it] **THE PROPERTY** by an absent or unknown beneficiary or life tenant proceeded against under the Maryland Rules, or [his] **THE** heirs, personal representatives, or assigns **OF AN ABSENT OR UNKNOWN BENEFICIARY OR LIFE TENANT**.

(b) Nothing in this section limits [any] A similar protection granted to fiduciaries by applicable laws in effect [prior to] **BEFORE** the passage of the Maryland Rules.

15-110.

(a) In addition to any other means of enforcing [its] A **COURT** order, the court [which] **THAT** has ordered a fiduciary to give countersecurity pursuant to the Maryland Rules may compel compliance with [its] **THE COURT** order by attachment and sequestration.

(b) If the fiduciary fails to give countersecurity within the time fixed by the court, and is removed:

(1) The register of wills may bring suit on the bond of the fiduciary to recover taxes and costs; and

(2) If the register does not bring suit on the bond, and a new fiduciary is appointed [in his place], the new fiduciary may bring suit on the bond of the removed fiduciary.

REVISOR'S NOTE: In subsection (b)(2) of this section, the former reference to a new fiduciary being appointed "in his place" is deleted as surplusage.

15-111.

The discharge of a fiduciary who has resigned [his] **THE FIDUCIARY'S** office pursuant to the Maryland Rules does not release the fiduciary, or [his] sureties **OF THE FIDUCIARY**, [if any,] from liability to any of the cestui que trustent, or other persons, for acts, defaults, or omissions of duty occurring while the fiduciary was in office.

15-112.

(a) (1) A court shall remove a fiduciary who has:

(i) Willfully misrepresented material facts leading to [his] **THE** appointment **OF THE FIDUCIARY** or to other action by the court in reference to the fiduciary estate;

(ii) Willfully disregarded an order of court;

(iii) Shown [himself] **TO BE** incapable, with or without fault to properly perform the duties of [his] **THE** office **OF FIDUCIARY**; or

(iv) Breached [his] **THE FIDUCIARY** duty of good faith or loyalty in the management of property of the fiduciary estate.

(2) A court may remove a fiduciary who has:

(i) Negligently failed to file a bond within the time required by rule or order of court;

(ii) Negligently failed to obey an order of court; or

(iii) Failed to perform any [of his duties as] fiduciary **DUTY**, or to competently administer the fiduciary estate.

(c) The provisions of this section [shall] **MAY** not apply to personal representatives.

15-202.

(A) A person who in good faith pays or transfers to a fiduciary any money or other property which the fiduciary is authorized to receive, is not responsible for the proper application of [it] **THE MONEY OR PROPERTY** by the fiduciary[; and any].

**(B)** A right or title **TO MONEY OR OTHER PROPERTY** acquired from [the] A fiduciary in consideration of payment or transfer is not invalid in consequence of a misapplication by the fiduciary.

15-203.

**(A)** [If] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF** any negotiable instrument payable or indorsed to a fiduciary is indorsed by the fiduciary, or if any negotiable instrument payable or indorsed to [his] **THE FIDUCIARY'S** principal is indorsed by a fiduciary empowered to indorse the instrument on behalf of [his] **THE** principal, the indorsee is not bound to inquire whether the fiduciary is committing a breach of [his] **THE** obligation as fiduciary in indorsing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of [his] **THE** obligation as fiduciary unless [he] **THE INDORSEE** takes the instrument with actual knowledge of the breach or with knowledge of the facts that [his] **THE** action **OF THE INDORSEE** in taking the instrument amounts to bad faith.

**(B)** If[, however, the] **AN** instrument is transferred by the fiduciary in payment of or as security for a personal debt of the fiduciary to the actual knowledge of the creditor, or is transferred in any transaction known by the transferee to be for the personal benefit of the fiduciary, the creditor or other transferee is liable to the principal if the fiduciary in fact commits a breach of [his] **THE** obligation as fiduciary in transferring the instrument.

15-204.

**(A)** [If] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF** a check or other bill of exchange is drawn by a fiduciary or in the name of [his] **THE FIDUCIARY'S** principal by a fiduciary empowered to draw the instrument in the name of [his] **THE** principal, the payee is not bound to inquire whether the fiduciary is committing a breach of [his] **THE** obligation as fiduciary in drawing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of [his] **THE** obligation as fiduciary unless [he] **THE PAYEE** takes the instrument with actual knowledge of the breach or with knowledge of the facts that [his] **THE** action **OF THE PAYEE** in taking the instrument amounts to bad faith.

**(B)** If[, however, the] **AN** instrument is payable to a personal creditor of the fiduciary and delivered to the creditor in payment of or as security for a personal debt of the fiduciary to the actual knowledge of the creditor, for the personal benefit of the fiduciary, the creditor or other payee is liable to the principal if the fiduciary in fact commits a breach of [his] **THE** obligation as fiduciary in drawing or delivering the instrument.

15-205.

If a check or other bill of exchange is drawn by a fiduciary or in the name of [his] **THE FIDUCIARY'S** principal by a fiduciary empowered to draw the instrument in the name of [his] **THE** principal, payable to the fiduciary personally, or payable to a third person and [by him] transferred **BY THE THIRD PERSON** to the fiduciary, and is thereafter transferred by the fiduciary, whether in payment of a personal debt of the fiduciary or otherwise, the transferee is not bound to inquire whether the fiduciary is committing a breach of [his] **THE** obligation as fiduciary in transferring the instrument, and is not chargeable with notice that the fiduciary is committing a breach of [his] **THE** obligation as fiduciary unless [he] **THE TRANSFEREE** takes the instrument with actual knowledge of the breach or with knowledge of the facts that [his] **THE** action **OF THE TRANSFEREE** in taking the instrument amounts to bad faith.

15-206.

(A) [If] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF** a deposit is made in a bank to the credit of a fiduciary, the bank is authorized to pay the amount of the deposit or any part of it [upon] **ON** the check of the fiduciary, signed with the name in which the deposit is entered, without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of [his] **THE** obligation as fiduciary in drawing the check or with knowledge of the facts that [its] **THE** action **OF THE BANK** in paying the check amounts to bad faith.

(B) If[, however, the] A check is payable to the drawee bank and is delivered to [it] **THE BANK** in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of [his] **THE** obligation as fiduciary in drawing or delivering the check.

15-207.

(A) [If] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF** a check is drawn [upon] **ON** the **BANK** account of [his] **THE** principal [in a bank] **OF A FIDUCIARY** by a fiduciary who is empowered to draw checks [upon] **ON** the account of the principal, the bank is authorized to pay the check without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of [his] **THE** obligation as fiduciary in drawing the check, or with knowledge of the facts that [its] **THE** action **OF THE BANK** in paying the check amounts to bad faith.

(B) If[, however, the] A check is payable to the drawee bank and is delivered to [it] **THE BANK** in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of [his] **THE** obligation as fiduciary in drawing or delivering the check.

15-208.

**(A) [If] THIS SECTION APPLIES IF** a fiduciary makes a deposit in a bank to [his] **THE FIDUCIARY'S** personal credit of [checks drawn by him upon]:

**(1) CHECKS DRAWN BY THE FIDUCIARY ON** an account in [his own] **THE** name **OF THE FIDUCIARY** as fiduciary[, or of checks];

**(2) CHECKS** payable to [him] **THE FIDUCIARY** as fiduciary[, or of checks];

**(3) CHECKS** drawn by [him upon] **THE FIDUCIARY ON** an account in the name of [his] **THE FIDUCIARY'S** principal, if [he] **THE FIDUCIARY** is empowered to draw checks [thereon] **ON THE ACCOUNT**[, or of checks];

**(4) CHECKS** payable to [his] **THE** principal **OF A FIDUCIARY** and indorsed by [him] **THE FIDUCIARY**, if [he] **THE FIDUCIARY** is empowered to indorse the checks[, if he otherwise makes a deposit of]; **OR**

**(5) OTHER** funds held by [him] **THE FIDUCIARY** as fiduciary[, the].

**(B) A** bank receiving [the] **A** deposit **IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION** may not be bound to inquire whether the fiduciary is committing [thereby] a breach of [his] **THE** obligation as fiduciary[;] and [the bank] is authorized to pay the amount of the deposit or any part [thereof upon] **OF THE DEPOSIT ON** the personal check of the fiduciary without being liable to the principal, unless the bank receives the deposit or pays the check with actual knowledge that the fiduciary is committing a breach of [his] **THE** obligation as fiduciary in making the deposit or in drawing the check, or with knowledge of the facts that [its] **THE** action **OF THE BANK** in receiving the deposit or paying the check amounts to bad faith.

15-301.

(c) "Claims" includes a claim of any interest by a legatee of a decedent, distributee, heir, or creditor, a beneficiary under a trust, a ward, a beneficial owner of a security registered in the name of a nominee, or a minor owner of a security registered in the name of a custodian, or a claim of any similar interest, whether the claim is asserted by the claimant or by a fiduciary or by any other authorized person on [his] behalf **OF THE CLAIMANT**, and includes a claim that the transfer would be in breach of fiduciary duties.

15-302.

A corporation or transfer agent registering a security in the name of a person who is a fiduciary or who is described as a fiduciary [is]:

**(1) IS** not bound to inquire into the existence, extent, or correct description of the fiduciary relationship; and [thereafter the corporation and its transfer agent may]

(2) **MAY** assume without inquiry that the newly registered owner continues to be the fiduciary until the corporation or transfer agent receives written notice that the fiduciary is no longer acting as [such] **THE FIDUCIARY** with respect to the particular security.

15-303.

Except as otherwise provided in this subtitle, a corporation or transfer agent making a transfer of a security pursuant to an assignment by a fiduciary:

(1) May assume without inquiry that the assignment, even though to the fiduciary [himself] or to [his] A nominee **OF THE FIDUCIARY**, is within [his] **THE** authority and capacity **OF THE FIDUCIARY** and is not in breach of [his fiduciary] **THE** duties **OF THE FIDUCIARY**;

15-304.

(A) A corporation or transfer agent making a transfer pursuant to an assignment by a fiduciary who is not the registered owner shall obtain the following evidence of appointment or incumbency:

(1) In the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within 60 days before the transfer; or

(2) In any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the corporation or transfer agent to be responsible or, in the absence of such a document or certificate, other evidence reasonably deemed by the corporation or transfer agent to be appropriate. [Corporations and transfer agents]

(B) **A CORPORATION OR TRANSFER AGENT** may adopt standards with respect to evidence of appointment or incumbency under [this] subsection (A) **OF THIS SECTION IF THE** [provided such] standards are not manifestly unreasonable.

(C) Neither the corporation nor transfer agent is charged with notice of the contents of [any] A document obtained pursuant to this [paragraph] **SECTION** except to the extent that the contents relate directly to the appointment or incumbency.

15-305.

(a) (1) A person asserting a claim of beneficial interest adverse to the transfer of a security pursuant to an assignment by a fiduciary may give the corporation or transfer agent written notice of the claim. [The]

**(2)** A corporation or transfer agent is not put on notice unless the written notice identifies the claimant, the registered owner, and the issue of which the security is a part, provides an address for communications directed to the claimant and is received before the transfer.

**(3)** Nothing in this subtitle relieves the corporation or transfer agent of any liability for making or refusing to make the transfer after it is so put on notice, unless it proceeds in the manner authorized in subsection (b) of this section.

(b) **(1)** As soon as practicable after the presentation of a security for transfer pursuant to an assignment by a fiduciary, a corporation or transfer agent which has received notice of a claim of beneficial interest adverse to the transfer may send notice of the presentation by registered or certified mail to the claimant at the address given by [him] **THE CLAIMANT.**

**(2)** If [the] A corporation or transfer agent [so] mails [such] a notice [it] **AS AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE CORPORATION OR TRANSFER AGENT** shall withhold the transfer for 30 days after the mailing and shall then make the transfer unless restrained by a court order.

15-502.

(b) **(1)** In exercising a discretionary power of administration regarding a matter within the scope of this subtitle, whether granted by the terms of a trust, a will, or this subtitle, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one or more of the beneficiaries.

**(2)** A determination in accordance with this subtitle is presumed to be fair and reasonable to all of the beneficiaries.

15-503.

**(A)** [After] **THE RULES IN SUBSECTIONS (B) THROUGH (E) OF THIS SECTION APPLY:**

**(1)** **IN THE CASE OF AN ESTATE, AFTER** a decedent dies[, in the case of an estate,]; or [after]

**(2)** **AFTER** an income interest in a trust ends[, the following rules apply:].

**(B)** **(1)** [(i)] A fiduciary of an estate or of a terminating income interest shall [determine]:

**(I) DETERMINE** the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in Parts III through V of this subtitle which apply to trustees and the rules in [paragraph (4)] **SUBSECTION (E)** of this section[. The fiduciary shall distribute]; **AND**

**(II) DISTRIBUTE** the net income and net principal receipts to the beneficiary who is to receive the specific property.

**[(ii)] (2) [1.]** If the income and principal receipts from the specific property are not sufficient to pay the taxes, ordinary repairs, and other expenses of management and operation relating to the property, or if there are no income or principal receipts, then expenses in excess of income and principal receipts shall be charged to and paid by the beneficiary who is to receive the specific property immediately [upon] **ON** written demand of the personal representative, or at the option of the beneficiary, charged against a share of the estate to which the beneficiary may be entitled.

**[2.] (3) (I)** If the beneficiary who is to receive the specific property fails to make payment to the personal representative within 15 days from the date of written demand, the personal representative may sell at either public or private sale the specific property to satisfy the excess charges, taxes, and expenses accrued.

**(II)** Proceeds of the sale in excess of the charges, taxes, and expenses, including the expenses of the sale, shall subsequently be distributed to the beneficiary in full satisfaction of the right to receive the specific property.

**(III)** If the proceeds of the sale are insufficient to satisfy charges, taxes, and expenses incident to the specific property, then the personal representative may pay the excess expenses, taxes, and other charges out of the residuary estate.

**[(2)] (C)** A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in Parts III through V of this subtitle which apply to trustees and by:

**[(i)] (1)** Including in net income all income from property used to discharge liabilities;

**[(ii)] (2)** Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and

**[(iii)] (3)** Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

**[(3)] (D)** A fiduciary shall distribute the remaining net income in the manner described in § 15-504 of this subtitle to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust, but excluding a beneficiary other than a surviving spouse who receives a pecuniary amount that is not in trust.

**[(4)] (E) (1)** A fiduciary may not reduce principal or income receipts from property described in **[paragraph (1)] SUBSECTION (B)** of this section because of a payment described in § 15-523 or § 15-524 of this subtitle to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party.

**(2)** The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due on or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

15-504.

(a) **(1)** Each beneficiary described in **[(§ 15-503(3))] § 15-503(D)** of this subtitle is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date.

**(2)** If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

(b) In determining a beneficiary's share of net income**[, the following rules apply]:**

(1) The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations**[,]**;

(2) The beneficiary's fractional interest in the undistributed principal assets shall be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust[.];

(3) The beneficiary's fractional interest in the undistributed principal assets shall be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation[.]; **AND**

(4) The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

15-505.

(a) **(1)** An income beneficiary is entitled to net income from the date on which the income interest begins.

**(2)** An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

15-506.

(a) A trustee shall allocate an income receipt or disbursement other than one to which [~~§ 15-503(1)~~] **§ 15-503(B)** of this subtitle applies to principal if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.

(b) **(1)** A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date.

**(2)** An income receipt or disbursement shall be treated as accruing from day to day if its due date is not periodic or it has no due date.

**(3)** The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins shall be allocated to principal and the balance shall be allocated to income.

(c) **(1)** An item of income or an obligation is due on the date the payer is required to make a payment.

**(2)** If a payment date is not stated, there is no due date for the purposes of this subtitle.

**(3)** Distributions to shareholders or other owners from an entity to which § 15–508 of this subtitle applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution.

**(4)** A due date is periodic for receipts or disbursements that must be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

15–507.

(b) **(1)** [When] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WHEN** a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust [unless the].

**(2)** **IF A** beneficiary has an unqualified power to revoke more than [5 percent] **5%** of the trust immediately before the income interest ends[. In the latter case], the undistributed income from the portion of the trust that may be revoked [must] **SHALL** be added to principal.

15–509.

**(A)** A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest, and shall allocate to principal an amount received as a distribution of principal from such a trust or estate.

**(B)** If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, § 15–508 or § 15–522 of this subtitle applies to a receipt from the trust.

15–510.

(b) **(1)** A trustee who accounts separately for a business or other activity may determine the extent to which its net cash receipts must be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records.

**(2)** If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount

received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.

15-512.

(A) To the extent that a trustee accounts for receipts from rental property pursuant to this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease.

(B) An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, [must] **SHALL** be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.

15-513.

(b) (1) A trustee shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the trustee more than 1 year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity.

(2) If the obligation matures within 1 year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust [must] **SHALL** be allocated to income.

15-514.

(a) Except as [otherwise] provided in subsection (b) of this section, a trustee shall [allocate]:

(1) **ALLOCATE** to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of, or loss of title to a trust asset[. The trustee shall allocate]; **AND**

(2) **ALLOCATE** dividends on an insurance policy:

(I) **IF THE PREMIUMS ON THE INSURANCE POLICY ARE PAID FROM INCOME**, to income [if the premiums on the policy are paid from income.]; and

(II) **IF THE PREMIUMS ON THE INSURANCE POLICY ARE PAID FROM PRINCIPAL**, to principal [if the premiums are paid from principal].

(d) (3) (I) The increment in value is distributable to the beneficiary who was the income beneficiary at the time of the increment from the first principal cash available or, if none is available, when realized by sale, redemption, or other disposition.

(II) Whenever unrealized increment is distributed as income, but out of principal, the principal shall be reimbursed for the increment when realized.

15-516.

(b) (1) To the extent that a payment is characterized as interest, a dividend, or a payment made in lieu of interest or a dividend, a trustee shall allocate the payment to income.

(2) The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(c) (1) If no part of a payment is characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income [10 percent] **10%** of the part that is required to be made during the accounting period and the balance to principal.

(2) If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal.

(3) For purposes of this subsection, a payment is not “required to be made” to the extent that it is made because the trustee exercises a right of withdrawal.

15-518.

(a) To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:

(1) If received as nominal delay rental or nominal annual rent on a lease, a receipt [must] **SHALL** be allocated to income[.];

(2) If received from a production payment, a receipt [must] **SHALL** be allocated [to income if]:

(I) **IF** and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent[.], **TO INCOME; AND**

(II) The balance [must] **SHALL** be allocated to principal[.];

(3) If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus, or delay rental is more than nominal, [90 percent must] **90% SHALL** be allocated to principal and the balance to income[.]; **AND**

(4) If an amount is received from a working interest or any other interest not provided for in paragraph (1), (2), or (3) of this subsection, [90 percent] **90%** of the net amount received [must] **SHALL** be allocated to principal and the balance to income.

(b) **(1)** An amount received on account of an interest in water that is renewable [must] **SHALL** be allocated to income.

**(2)** If the water is not renewable, [90 percent] **90%** of the amount [must] **SHALL** be allocated to principal and the balance to income.

(d) **(1)** If a trust owns an interest in minerals, water, or other natural resources on October 1, 2000, the trustee may allocate receipts from the interest as provided in this subtitle or in the manner used by the trustee before October 1, 2000.

**(2)** If the trust acquires an interest in minerals, water, or other natural resources after October 1, 2000, the trustee shall allocate receipts from the interest as provided in this subtitle.

15-519.

(d) **(1)** If a trust owns an interest in timberland on October 1, 2001, the trustee may allocate net receipts from the sale of timber and related products as provided in this subtitle or in the manner used by the trustee before October 1, 2000.

**(2)** If the trust acquires an interest in timberland after October 1, 2000, the trustee shall allocate net receipts from the sale of timber and related products as provided in this subtitle.

15-521.

(c) **(1)** If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option shall be allocated to principal.

**(2)** An amount paid to acquire the option shall be paid from principal.

**(3)** A gain or loss realized [upon] **ON** the exercise of an option, including an option granted to a settlor of the trust for services rendered, shall be allocated to principal.

15-522.

(c) **(1)** If a trust receives one or more payments in exchange for the trust's entire interest in an asset-backed security in one accounting period, the trustee shall allocate the payments to principal.

**(2)** If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one accounting period, the trustee shall allocate [10 percent] **10%** of the payment to income and the balance to principal.

15-523.

A trustee shall make the following disbursements from income to the extent that they are not disbursements to which [§ 15-503(2)(ii) or (iii)] **§ 15-503(C)(2) OR (3)** of this subtitle apply:

(1) Regular compensation of the trustee on income, if determined in accordance with § 14.5-708(b) of this article;

(2) That portion of the regular compensation of the trustee, if the compensation is determined in a manner other than in accordance with § 14.5-708(b) and (c) of this article, and that portion of the compensation of any person providing investment advisory or custodial services to the trustee, as the trustee determines is fair and reasonable in accordance with § 15-502(b) of this subtitle;

(3) One-half of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

(4) All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and

(5) Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

16-101.

(b) "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security [upon] **ON** the death of the owner.

(i) **(1)** “Security” means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer[, and].

**(2)** “SECURITY” includes a certificated security, an uncertificated security, and a security account.

(j) **(1)** “Security account” means:

(i) **[a]** A reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner’s death[.];

(ii) **[a]** A cash balance or other property held for or due to the owner of security as a replacement for or product of an account security, whether or not credited to the account before the owner’s death[.]; or

(iii) **[a]** A securities account maintained by a trust company for one or more customers.

**(2)** “Security account” does not include:

(i) **[an]** AN account as defined in § 1–204(b)(2) of the Financial Institutions Article[.]; or

(ii) **[a]** A securities account held by a trust company as a fiduciary as defined in § 15–101 of this article.

16–102.

**(A)** Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form.

**(B)** Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entireties, or as owners of community property held in survivorship form, and not as tenants in common.

16–103.

**(A)** A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity’s principal office, the office of its transfer agent or its office

making the registration, or by this or a similar statute of the law of the state listed as the owner's address at the time of registration.

**(B)** A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

16-106.

**(A)** The designation of a TOD beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death.

**(B)** A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners without the consent of the beneficiary.

16-107.

**(A)** On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners.

**(B)** On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners.

**(C)** Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common.

**(D)** If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

16-108.

**(a) (1)** A registering entity is not required to offer or to accept a request for security registration in beneficiary form.

**(2)** If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this title.

**(c) (1)** A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with § 16-107 of this title and does so in good faith reliance on:

(i) [the] **THE** registration[.];

(ii) [this] **THIS** title[.]; and

(iii) [information] **INFORMATION** provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity.

**(2)** The protections of this title do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form.

**(3)** No other notice or other information available to the registering entity affects its right to protection under this title.

16–110.

(a) **(1)** A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests **FOR:**

(i) [for registrations] **REGISTRATIONS** in beneficiary form[.]; and

(ii) [for implementation] **IMPLEMENTATION** of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary.

**(2)** The terms and conditions established under this subsection may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death.

**(3) (I)** Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes".

**(II)** This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate.

**(4)** Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate

implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

#### GENERAL REVISOR'S NOTE TO ARTICLE

Throughout this article, specific references are substituted for former references to "he", "him", and "his", because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable.

Also throughout this article, specific references are substituted for former references to "it" for clarity.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that this Act shall be construed as a nonsubstantive revision and may not otherwise be construed to render any substantive change in the law of the State.

SECTION 3. AND BE IT FURTHER ENACTED, That the Revisor's Notes contained in this Act are not law and may not be considered to have been enacted as part of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2019 that affects provisions enacted by this Act. The publisher shall adequately describe any correction in an editor's note following the section affected.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

**Approved by the Governor, April 18, 2019.**