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**By: Delegate Vallario**

Introduced and read first time: January 31, 1997

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

**2 Estates - Personal Representatives - Election for Modified Administration**

3 FOR the purpose of authorizing a personal representative of an estate to file for an  
4 election for modified administration under certain circumstances; prohibiting a  
5 Register of Wills or a court from extending certain time periods in this Act;  
6 providing certain duties for a personal representative on filing an election for  
7 modified administration; requiring that an election for modified administration  
8 contain certain information; requiring certain persons to consent, with notice of  
9 certain facts, to a modified administration; providing the circumstances under which  
10 a modified administration shall be revoked and the consequences of a revocation;  
11 providing a deadline for the closing of an estate under modified administration;  
12 providing the method by which the value of an estate shall be determined under a  
13 modified administration; providing the time for the assessment and collection of  
14 probate fees and inheritance tax due on estates under modified administration;  
15 defining a certain term; and generally relating to the election for modified  
16 administration by personal representatives for certain estates.

17 BY repealing and reenacting, with amendments,  
18 Article - Estates and Trusts  
19 Section 2-206  
20 Annotated Code of Maryland  
21 (1991 Replacement Volume and 1996 Supplement)

22 BY adding to  
23 Article - Estates and Trusts  
24 Section 5-701 through 5-709 to be under the new subtitle "Subtitle 7. Modified  
25 Administration"  
26 Annotated Code of Maryland  
27 (1991 Replacement Volume and 1996 Supplement)

28 BY repealing and reenacting, with amendments,  
29 Article - Tax - General  
30 Section 7-217  
31 Annotated Code of Maryland  
32 (1988 Volume and 1996 Supplement)

2

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

3 **Article - Estates and Trusts**

4 2-206.

5 (a) The registers of wills are entitled to charge and collect for the performance of  
6 their duties the fees in this section.

7 (b) (1) For taking probate of wills and furnishing 2 certified copies of the will  
8 and codicils, granting letters of administration and furnishing 12 certificates of letters,  
9 issuing warrants to appraise, entering on estate docket, filing elections of surviving  
10 spouses to take intestate shares, filing renunciations and disclaimers, filing and recording  
11 wills, bonds, inventories, accounts of sale, releases, administration accounts, petitions and  
12 orders, and other papers filed in the administration of decedents' estates not otherwise  
13 specified in subsections (c) through (l) of this section, the probate fees under paragraph  
14 (2) of this subsection.

15 (2) Probate fees shall be assessed on the value of the probate estate at the  
16 following rates:

17 BEGIN-TABLE;c=04:014:020:037:060

18 <Tr01 >

19 <Tc02 >If the Value

20 <Tc02 >of the

21 <Tc02 >Probate

22 <Tc02 >Estate Is

23 <Tc02 >At Least

24 <Tc03 >But Less

25 <Tc03 >Than

26 <Tc04 >The Fee

27 <Tc04 >Is

28 <Tr01 > (i)

29 <Tc02 > --

30 <Tc03 >\$ 10,000

31 <Tc04 >\$ 50

32 <Tr01 > (ii)

33 <Tc02 >\$ 10,000

34 <Tc03 >\$ 20,000

35 <Tc04 >\$ 100

36 <Tr01 > (iii)

37 <Tc02 >\$ 20,000

38 <Tc03 >\$ 50,000

39 <Tc04 >\$ 150

40 <Tr01 > (iv)

41 <Tc02 >\$ 50,000

42 <Tc03 >\$ 75,000

43 <Tc04 >\$ 200

44 <Tr01 > (v)

45 <Tc02 >\$ 75,000

46 <Tc03 >\$ 100,000

47 <Tc04 >\$ 300

48 <Tr01 > (vi)

49 <Tc02 >\$ 100,000

50 <Tc03 >\$ 250,000

51 <Tc04 >\$ 400

52 <Tr01 > (vii)

53 <Tc02 >\$ 250,000  
54 <Tc03 >\$ 500,000  
55 <Tc04 >\$ 500  
56 <Tr01 > (viii)  
57 <Tc02 >\$ 500,000  
58 <Tc03 >\$ 750,000  
59 <Tc04 >\$ 750  
60 <Tr01 > (ix)  
61 <Tc02 >\$ 750,000  
62 <Tc03 >\$1,000,000  
63 <Tc04 >\$1,000  
64 <Tr01 > (x)  
65 <Tc02 >\$1,000,000  
66 <Tc03 >\$2,000,000  
67 <Tc04 >\$1,500  
68 <Tr01 > (xi)  
69 <Tc02 >\$2,000,000  
70 <Tc03 >\$5,000,000  
71 <Tc04 >\$2,500  
72 <Tr01 > (xii)  
73 <Tc02 >\$5,000,000  
74 <Tc03 > --  
75 <Tc04 >\$2,500 plus  
76 <Tc04 >.02% of  
77 <Tc04 >excess over  
78 <Tc04 >\$5,000,000  
79 END-TABLE

80 (3) [For] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS  
81 SUBSECTION, FOR purposes of determinations under paragraph (2) of this subsection,  
82 the value of a probate estate is the amount, as reflected in the administration accounts  
83 filed in the proceedings, that equals:

3

1 (i) The sum of:

2 1. The value of all inventories filed in the proceedings;

3 2. All principal and income receipts; and

4 3. All increases realized on a disposition, other than a  
5 distribution to beneficiaries, of any probate asset; less

6 (ii) All decreases realized on a disposition, other than a distribution to  
7 beneficiaries, of any probate asset.

8 (4) IF AN ESTATE PROCEEDS THROUGH MODIFIED ADMINISTRATION,  
9 FOR THE PURPOSE OF DETERMINING THE APPROPRIATE FEE UNDER PARAGRAPH  
10 (2) OF THIS SUBSECTION, THE VALUE OF AN ESTATE IS THE GROSS VALUE OF THE  
11 PROBATE ASSETS REPORTED ON THE FINAL REPORT UNDER MODIFIED  
12 ADMINISTRATION.

13 [(4)] (5) (i) Except as provided in [subparagraph] SUBPARAGRAPHS  
14 (ii) AND (III) of this paragraph, the register shall assess and collect the probate fee when  
15 the first administration account is filed.

16 (ii) If there are any additions to the value of a probate estate, as  
17 reflected in any subsequent administration account, the register shall:

18 1. Assess an additional fee in an amount equal to the excess of:

19 A. The fee as determined under paragraph (2) of this subsection  
20 based on the value of the probate estate as reflected in the currently filed administration  
21 account; over

22 B. The fee as determined under paragraph (2) of this subsection  
23 based on the value of the probate estate as reflected in the most recent previously filed  
24 administration account; and

25 2. Collect the additional fee when the subsequent  
26 administration account is filed.

27 (III) IF AN ESTATE PROCEEDS THROUGH MODIFIED  
28 ADMINISTRATION, THE REGISTER SHALL ASSESS AND COLLECT THE PROBATE FEE  
29 WHEN THE PERSONAL REPRESENTATIVE FILES THE FINAL REPORT UNDER  
30 MODIFIED ADMINISTRATION.

31 (c) For furnishing additional certificates of letters, with seal.....\$1.00

32 (d) For affixing seal of office to a transcript or other paper, if expressly required  
33 by law or a person.....\$1.00

34 (e) For affixing seal of office to a certificate, transcript, or other paper  
35 exemplified under the act of Congress.....\$2.00

36 (f) For passing and entering every claim or voucher against an estate of a  
37 deceased person, and endorsing certificate on each claim or voucher when passed by the  
38 court or register, for each.....\$1.00

4

1 (g) For entering papers in caveat or other controversial matter, for each  
2 side.....\$5.00

3 (h) For transcribing papers filed in caveat or other controversial proceedings  
4 when taken to higher court, per page or part of a page.....\$2.00

5 (i) For recording papers filed in caveat or other controversial proceedings, when  
6 mandate of higher court is filed, per page or part of a page.....\$2.00

7 (j) For copies of a paper or record, including plain certification and seal, per  
8 page or part of a page.....\$2.00

9 (k) For photostatic or other artificially reproduced copies of a paper or record,  
10 per page or part of a page.....\$ .50

11 (l) For receiving a will for deposit during the lifetime of the testator.....\$1.00

12 (m) For entering the appointment of a guardian, approval of sureties, and filing  
13 and recording bonds and entering on docket for 1 minor.....\$6.50

14 For each additional minor.....\$ .75

15 (n) For filing and recording guardian accounts and petitions and orders per page  
16 or part of a page.....\$2.00

17 (o) For receiving and paying over an inheritance tax due the State, the register is  
18 allowed a commission of 25 percent of the inheritance tax.

19 (p) For providing a probate information booklet and materials.....\$2.00

20 SUBTITLE 7. MODIFIED ADMINISTRATION.

21 5-701.

22 IN THIS SUBTITLE, "DATE OF APPOINTMENT" MEANS THE DATE OF  
23 APPOINTMENT OF THE PERSONAL REPRESENTATIVE.

24 5-702.

25 AN ELECTION FOR MODIFIED ADMINISTRATION MAY BE FILED BY A PERSONAL  
26 REPRESENTATIVE OF AN ESTATE WITHIN 3 MONTHS FROM THE DATE OF  
27 APPOINTMENT, IF:

28 (1) ALL LEGATEES AND HEIRS OF THE DECEDENT ARE LIMITED TO THE  
29 DECEDENT'S:

30 (I) PERSONAL REPRESENTATIVE;

31 (II) SURVIVING SPOUSE; AND

32 (III) CHILDREN;

33 (2) THE ESTATE IS SOLVENT AND SUFFICIENT ASSETS EXIST TO SATISFY  
34 ALL TESTAMENTARY GIFTS;

5

1 (3) A VERIFIED FINAL REPORT UNDER MODIFIED ADMINISTRATION IS  
2 FILED WITHIN 10 MONTHS FROM THE DATE OF APPOINTMENT;

3 (4) FINAL DISTRIBUTION OF THE ESTATE CAN OCCUR WITHIN 12  
4 MONTHS FROM THE DATE OF APPOINTMENT; AND

5 (5) ALL LEGATEES AND HEIRS OF THE DECEDENT CONSENT TO A  
6 MODIFIED ADMINISTRATION AS REQUIRED UNDER § 5-706 OF THIS SUBTITLE.

7 5-703.

8 A REGISTER OF WILLS OR A COURT MAY NOT EXTEND THE TIME PERIODS  
9 ESTABLISHED UNDER THIS SUBTITLE.

10 5-704.

11 AFTER FILING AN ELECTION FOR MODIFIED ADMINISTRATION, THE PERSONAL  
12 REPRESENTATIVE SHALL:

13 (1) FILE A VERIFIED FINAL REPORT UNDER MODIFIED  
14 ADMINISTRATION NO LATER THAN 10 MONTHS FROM THE DATE OF APPOINTMENT  
15 INSTEAD OF FILING A FORMAL INVENTORY AND ACCOUNT; AND

16 (2) ON THE REQUEST OF ANY INTERESTED PERSON, PROVIDE A  
17 FORMAL INVENTORY AND ACCOUNT, AS REQUIRED UNDER TITLE 7 OF THIS  
18 ARTICLE, TO ALL INTERESTED PERSONS.

19 5-705.

20 AN ELECTION FOR MODIFIED ADMINISTRATION SHALL INCLUDE:

21 (1) A STATEMENT THAT THE ESTATE QUALIFIES FOR MODIFIED  
22 ADMINISTRATION;

23 (2) A BRIEF DESCRIPTION OF THE PROPERTY SUBJECT TO  
24 ADMINISTRATION; AND

25 (3) AN ACKNOWLEDGMENT THAT:

26 (I) A VERIFIED FINAL REPORT UNDER MODIFIED  
27 ADMINISTRATION SHALL BE FILED NO LATER THAN 10 MONTHS FROM THE DATE OF  
28 APPOINTMENT; AND

29 (II) DISTRIBUTION OF THE ESTATE SHALL OCCUR NO LATER THAN  
30 12 MONTHS FROM THE DATE OF APPOINTMENT.

31 5-706.

32 THE CONSENT REQUIRED UNDER § 5-702(5) OF THIS SUBTITLE SHALL STATE  
33 THAT THE SUBSCRIBING PERSON HAS NOTICE THAT:

34 (1) INSTEAD OF FILING A FORMAL INVENTORY AND ACCOUNT, THE  
35 PERSONAL REPRESENTATIVE SHALL FILE A VERIFIED FINAL REPORT UNDER  
36 MODIFIED ADMINISTRATION NO LATER THAN 10 MONTHS FROM THE DATE OF  
37 APPOINTMENT;

6

1 (2) ON REQUEST BY ANY LEGATEE OR HEIR NOT PAID IN FULL, A  
2 FORMAL INVENTORY AND ACCOUNT SHALL BE PROVIDED BY THE PERSONAL  
3 REPRESENTATIVE TO THE LEGATEES OR HEIRS;

4 (3) A WRITTEN OBJECTION TO MODIFIED ADMINISTRATION BY AN  
5 INTERESTED PERSON MAY BE FILED WITH THE REGISTER OF WILLS AT ANY TIME  
6 DURING ADMINISTRATION, WHICH SHALL REVOKE THE MODIFIED  
7 ADMINISTRATION;

8 (4) BY FILING A WRITTEN OBJECTION:

9 (I) THE MODIFIED ADMINISTRATION IS REVOKED;

10 (II) THE ESTATE SHALL BE ADMINISTERED UNDER  
11 ADMINISTRATIVE PROBATE; AND

12 (III) THE PERSONAL REPRESENTATIVE SHALL FILE A FORMAL  
13 INVENTORY AND ACCOUNT AS NEEDED UNTIL THE ESTATE IS CLOSED;

14 (5) UNLESS AN INTERESTED PERSON WAIVES NOTICE OF THE VERIFIED  
15 FINAL REPORT UNDER MODIFIED ADMINISTRATION, THE PERSONAL  
16 REPRESENTATIVE SHALL PROVIDE A COPY TO EACH INTERESTED PERSON WITHIN  
17 10 MONTHS FROM THE DATE OF THE APPOINTMENT; AND

18 (6) UNDER MODIFIED ADMINISTRATION, DISTRIBUTION TO ALL  
19 LEGATEES AND HEIRS SHALL BE MADE WITHIN 12 MONTHS FROM THE DATE OF  
20 APPOINTMENT.

21 5-707.

22 (A) A MODIFIED ADMINISTRATION SHALL BE REVOKED BY THE:

23 (1) FILING OF A TIMELY REQUEST FOR JUDICIAL PROBATE;

24 (2) FILING OF A WRITTEN OBJECTION BY AN INTERESTED PERSON;

25 (3) FILING OF A WITHDRAWAL OF THE ELECTION FOR MODIFIED  
26 ADMINISTRATION BY A PERSONAL REPRESENTATIVE;

27 (4) ORPHANS' COURT, ON ITS OWN INITIATIVE, OR FOR GOOD CAUSE  
28 SHOWN BY AN INTERESTED PERSON OR BY THE REGISTER OF WILLS;

29 (5) FAILURE TO TIMELY FILE THE FINAL REPORT UNDER MODIFIED  
30 ADMINISTRATION AND MAKE DISTRIBUTION WITHIN 12 MONTHS FROM THE DATE  
31 OF APPOINTMENT; OR

32 (6) FAILURE BY THE PERSONAL REPRESENTATIVE TO COMPLY WITH  
33 ANY PROVISION OF THIS SUBTITLE.

34 (B) THE REGISTER OF WILLS SHALL MAIL NOTICE OF ANY REVOCATION BY  
35 FIRST CLASS MAIL, POSTAGE PREPAID, TO EACH INTERESTED PERSON.

36 (C) IF A MODIFIED ADMINISTRATION IS REVOKED, THE PERSONAL  
37 REPRESENTATIVE SHALL:

7

1 (1) PROCEED UNDER ADMINISTRATIVE PROBATE; AND

2 (2) (I) FILE A FORMAL INVENTORY AND ACCOUNT WITH THE  
3 REGISTER OF WILLS WITHIN THE TIME PERIODS PROVIDED IN TITLE 7 OF THIS  
4 ARTICLE; OR

5 (II) IF THE DEADLINE HAS PASSED FOR FILING EITHER AN  
6 INVENTORY OR AN ACCOUNT, FILE THE LATE DOCUMENT WITHIN 30 DAYS FROM  
7 THE REGISTER'S NOTICE OF REVOCATION.

8 5-708.

9 AN ESTATE UNDER MODIFIED ADMINISTRATION SHALL CLOSE NOT LATER  
10 THAN 13 MONTHS FROM THE DATE OF APPOINTMENT, IF A VERIFIED FINAL REPORT  
11 UNDER MODIFIED ADMINISTRATION IS FILED AND ALL PROBATE FEES AND  
12 INHERITANCE TAXES ARE PAID.

13 5-709.

14 EXCEPT TO THE EXTENT INCONSISTENT WITH THIS SUBTITLE, ALL OTHER  
15 PROVISIONS OF THE LAW OF DECEDENTS' ESTATES SHALL APPLY TO A MODIFIED  
16 ADMINISTRATION.

17 **Article - Tax - General**

18 7-217.

19 (a) Except as provided in § 7-218 of this subtitle and subsections (c), (d), and (e)  
20 of this section, if an estate is administered subject to the jurisdiction of a court, the person  
21 responsible for paying the inheritance tax shall pay the tax when the register determines  
22 the amount due, at the time that the representative accounts for the distribution of  
23 property of the estate.

24 (B) EXCEPT AS PROVIDED IN § 7-218 OF THIS SUBTITLE AND SUBSECTIONS (C),  
25 (D), AND (E) OF THIS SECTION, IF AN ESTATE IS ADMINISTERED UNDER MODIFIED  
26 ADMINISTRATION, THE PERSON RESPONSIBLE FOR PAYING THE INHERITANCE TAX  
27 SHALL PAY THE TAX WHEN THE PERSONAL REPRESENTATIVE FILES THE FINAL  
28 REPORT UNDER MODIFIED ADMINISTRATION.

29 [(b)] (C) Except as provided in § 7-218 of this subtitle and subsections (c), (d),  
30 and (e) of this section, if there is no formal administration subject to the jurisdiction of a  
31 court for property that passes from a decedent, the person responsible for paying the  
32 inheritance tax shall pay the tax when the register determines the amount due.

33 [(c)] (D) Except as provided by subsection (d) of this section, if an interest in  
34 property is valued under § 7-209(d) or (e) or § 7-210 of this subtitle, the person  
35 responsible for paying the inheritance tax shall pay the tax within 30 days after the  
36 determination of the inheritance tax due on the interest.

37 [(d)] (E) If the inheritance tax on a subsequent interest in property is not prepaid,  
38 the person responsible for paying the tax shall pay the tax when the interest vests in  
39 possession.

8

1            [(e)] (F) If additional inheritance tax becomes due under § 7-221 of this subtitle,  
2 the person responsible for paying the tax shall pay the tax when the disqualifying event  
3 occurs.

4            SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 1997.