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1997 Regular Session  
7r1910

CF 7r1909

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**By: Delegate Vallario**

Introduced and read first time: January 31, 1997

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 1997

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CHAPTER \_\_\_\_\_

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 requiring a final report under modified administration to include certain  
12 information; providing a deadline for the closing of an estate under modified  
13 administration; providing the method by which the value of an estate shall be  
14 determined under a modified administration; providing for a certain period of  
15 limitations for certain claims or demands under certain circumstances; providing the  
16 time for the assessment and collection of probate fees and inheritance tax due on  
17 estates under modified administration; defining a certain term; and generally  
18 relating to the election for modified administration by personal representatives for  
19 certain estates.

20 BY repealing and reenacting, with amendments,

21 Article - Estates and Trusts

22 Section 2-206 and 10-103(a)

23 Annotated Code of Maryland

24 (1991 Replacement Volume and 1996 Supplement)

25 BY adding to

26 Article - Estates and Trusts

2

1 Section 5-701 through ~~5-709~~ 5-710 to be under the new subtitle "Subtitle 7.  
 2 Modified Administration"  
 3 Annotated Code of Maryland  
 4 (1991 Replacement Volume and 1996 Supplement)

5 BY repealing and reenacting, with amendments,  
 6 Article - Tax - General  
 7 Section 7-217  
 8 Annotated Code of Maryland  
 9 (1988 Volume and 1996 Supplement)

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

12 **Article - Estates and Trusts**

13 2-206.

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

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

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

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

27 <Tr01 >

28 <Tc02 >If the Value

29 <Tc02 >of the

30 <Tc02 >Probate

31 <Tc02 >Estate Is

32 <Tc02 >At Least

33 <Tc03 >But Less

34 <Tc03 >Than

35 <Tc04 >The Fee

36 <Tc04 >Is

37 <Tr01 > (i)

38 <Tc02 > --

39 <Tc03 >\$ 10,000

40 <Tc04 >\$ 50

41 <Tr01 > (ii)

42 <Tc02 >\$ 10,000

43 <Tc03 >\$ 20,000

44 <Tc04 >\$ 100

45 <Tr01 > (iii)

46 <Tc02 >\$ 20,000

47 <Tc03 >\$ 50,000

48 <Tc04 >\$ 150

49 <Tr01 > (iv)

50 <Tc02 >\$ 50,000

51 <Tc03 >\$ 75,000

HOUSE BILL 993

52 <Tc04 >\$ 200  
53 <Tr01 > (v)  
54 <Tc02 >\$ 75,000  
55 <Tc03 >\$ 100,000  
56 <Tc04 >\$ 300  
57 <Tr01 > (vi)  
58 <Tc02 >\$ 100,000  
59 <Tc03 >\$ 250,000  
60 <Tc04 >\$ 400  
61 <Tr01 > (vii)  
62 <Tc02 >\$ 250,000  
63 <Tc03 >\$ 500,000  
64 <Tc04 >\$ 500  
65 <Tr01 > (viii)  
66 <Tc02 >\$ 500,000  
67 <Tc03 >\$ 750,000  
68 <Tc04 >\$ 750  
69 <Tr01 > (ix)  
70 <Tc02 >\$ 750,000  
71 <Tc03 >\$1,000,000  
72 <Tc04 >\$1,000  
73 <Tc04 >

3

1 <Tr01 > (x)  
 2 <Tc02 >\$1,000,000  
 3 <Tc03 >\$2,000,000  
 4 <Tc04 >\$1,500  
 5 <Tr01 > (xi)  
 6 <Tc02 >\$2,000,000  
 7 <Tc03 >\$5,000,000  
 8 <Tc04 >\$2,500  
 9 <Tr01 > (xii)  
 10 <Tc02 >\$5,000,000  
 11 <Tc03 > --  
 12 <Tc04 >\$2,500 plus  
 13 <Tc04 >.02% of  
 14 <Tc04 >excess over  
 15 <Tc04 >\$5,000,000  
 16 END-TABLE

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

21 (i) The sum of:

- 22 1. The value of all inventories filed in the proceedings;
- 23 2. All principal and income receipts; and
- 24 3. All increases realized on a disposition, other than a  
 25 distribution to beneficiaries, of any probate asset; less

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

28 (4) IF AN ESTATE PROCEEDS THROUGH MODIFIED ADMINISTRATION,  
 29 FOR THE PURPOSE OF DETERMINING THE APPROPRIATE FEE UNDER PARAGRAPH  
 30 (2) OF THIS SUBSECTION, THE VALUE OF AN ESTATE IS THE GROSS VALUE OF THE  
 31 PROBATE ASSETS REPORTED ON THE FINAL REPORT UNDER MODIFIED  
 32 ADMINISTRATION.

33 [(4)] (5) (i) Except as provided in [subparagraph] SUBPARAGRAPHS  
 34 (ii) AND (III) of this paragraph, the register shall assess and collect the probate fee when  
 35 the first administration account is filed.

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

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

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

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

45 2. Collect the additional fee when the subsequent

46 administration account is filed.

47 (III) IF AN ESTATE PROCEEDS THROUGH MODIFIED  
48 ADMINISTRATION, THE REGISTER SHALL ASSESS AND COLLECT THE PROBATE FEE

4

1 WHEN THE PERSONAL REPRESENTATIVE FILES THE FINAL REPORT UNDER  
2 MODIFIED ADMINISTRATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 SUBTITLE 7. MODIFIED ADMINISTRATION.

31 5-701.

32 IN THIS SUBTITLE, "DATE OF APPOINTMENT" MEANS THE DATE OF  
33 APPOINTMENT OF THE PERSONAL REPRESENTATIVE.

5

1 5-702.

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

5 (1) ~~ALL LEGATEES AND HEIRS OF THE~~ RESIDUARY LEGATEES OF A  
6 TESTATE DECEDENT AND THE HEIRS AT LAW OF AN INTESTATE DECEDENT ARE  
7 LIMITED TO THE DECEDENT'S:

8 (I) PERSONAL REPRESENTATIVE;

9 (II) SURVIVING SPOUSE; AND

10 (III) CHILDREN;

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

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

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

17 (5) ~~ALL LEGATEES AND HEIRS OF THE~~ RESIDUARY LEGATEES OF A  
18 TESTATE DECEDENT AND THE HEIRS AT LAW OF AN INTESTATE DECEDENT  
19 CONSENT TO A MODIFIED ADMINISTRATION AS REQUIRED UNDER § 5-706 OF THIS  
20 SUBTITLE.

21 5-703.

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

24 5-704.

25 AFTER FILING AN ELECTION FOR MODIFIED ADMINISTRATION, THE PERSONAL  
26 REPRESENTATIVE SHALL:

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

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

33 5-705.

34 AN ELECTION FOR MODIFIED ADMINISTRATION SHALL INCLUDE:

35 (1) A STATEMENT THAT THE ESTATE QUALIFIES FOR MODIFIED  
36 ADMINISTRATION;

6

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

3 (3) AN ACKNOWLEDGMENT THAT:

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

7 (II) DISTRIBUTION OF THE ESTATE SHALL OCCUR NO LATER THAN  
8 12 MONTHS FROM THE DATE OF APPOINTMENT.

9 5-706.

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

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

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

19 (3) A WRITTEN OBJECTION TO MODIFIED ADMINISTRATION BY AN  
20 INTERESTED PERSON MAY BE FILED WITH THE REGISTER OF WILLS AT ANY TIME  
21 DURING ADMINISTRATION, WHICH SHALL REVOKE THE MODIFIED  
22 ADMINISTRATION;

23 (4) BY FILING A WRITTEN OBJECTION:

24 (I) THE MODIFIED ADMINISTRATION IS REVOKED;

25 (II) THE ESTATE SHALL BE ADMINISTERED UNDER  
26 ADMINISTRATIVE PROBATE; AND

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

29 (5) UNLESS AN INTERESTED PERSON WAIVES NOTICE OF THE VERIFIED  
30 FINAL REPORT UNDER MODIFIED ADMINISTRATION, THE PERSONAL  
31 REPRESENTATIVE SHALL PROVIDE A COPY TO EACH INTERESTED PERSON WITHIN  
32 10 MONTHS FROM THE DATE OF THE APPOINTMENT; AND

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

7

1 ~~5-707.~~

2 A FINAL REPORT UNDER MODIFIED ADMINISTRATION SHALL INCLUDE:

3 (1) A STATEMENT REPRESENTING THE CONTINUED QUALIFICATION  
4 FOR MODIFIED ADMINISTRATION;

5 (2) AN ITEMIZED SCHEDULE OF THE DECEDENT'S PROPERTY AND THE  
6 BASIS OF ITS VALUATION;

7 (3) AN ITEMIZED SCHEDULE OF LIENS, DEBTS, TAXES AND FUNERAL  
8 EXPENSES OF THE DECEDENT AND ADMINISTRATION EXPENSES OF THE ESTATE;  
9 AND

10 (4) SCHEDULES SETTING FORTH DISTRIBUTIVE SHARES OF THE ESTATE  
11 AND THE APPLICABLE INHERITANCE TAX.

12 ~~5-707~~ 5-708.

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

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

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

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

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

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

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

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

27 (C) IF A MODIFIED ADMINISTRATION IS REVOKED, THE PERSONAL  
28 REPRESENTATIVE SHALL:

29 (1) PROCEED UNDER ADMINISTRATIVE PROBATE; AND

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

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

8

1 ~~5-708~~ 5-709.

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

6 ~~5-709~~ 5-710.

7 EXCEPT TO THE EXTENT INCONSISTENT WITH THIS SUBTITLE, ALL OTHER  
8 PROVISIONS OF THE LAW OF DECEDENTS' ESTATES SHALL APPLY TO A MODIFIED  
9 ADMINISTRATION.

10 10-103.

11 (a) (1) If no action or proceeding involving the personal representative is  
12 pending one year after the close of the estate pursuant to § 5-709 OF THIS ARTICLE OR  
13 § 10-101 OF THIS SUBTITLE, the personal representative shall be discharged from any  
14 claim or demand of any interested person.

15 (2) The rights so barred do not include rights to recover from a personal  
16 representative for fraud, material mistake, or substantial irregularity.

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.

9

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.