
By: Senator Baker

Introduced and read first time: January 30, 1997

Assigned to: Judicial Proceedings and Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Estates - Taxation, Fees, and Procedures**

3 FOR the purpose of changing certain fees charged for the administration of an estate in
4 probate and for guardianship proceedings; altering the fee for administration of
5 certain estates by a foreign personal representative; establishing net value of an
6 asset rather than gross value of an asset as the method of valuation used for small
7 estates; eliminating the authority of the Motor Vehicle Administration to transfer
8 title of certain motor vehicles under certain circumstances; authorizing payment,
9 without court approval, of certain commissions and fees for the administration of
10 certain estates under certain circumstances; exempting certain assets from
11 inheritance taxation; changing the inheritance tax rate for property passing to
12 certain persons; making certain stylistic changes; and generally relating to fees and
13 procedures for the administration of and taxation of estates.

14 BY repealing and reenacting, without amendments,
15 Article - Estates and Trusts
16 Section 2-206(a)
17 Annotated Code of Maryland
18 (1991 Replacement Volume and 1996 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Estates and Trusts
21 Section 2-206(c) through (p), 5-206, 5-601, 7-202, and 8-106
22 Annotated Code of Maryland
23 (1991 Replacement Volume and 1996 Supplement)

24 BY repealing
25 Article - Estates and Trusts
26 Section 5-608
27 Annotated Code of Maryland
28 (1991 Replacement Volume and 1996 Supplement)

29 BY adding to
30 Article - Estates and Trusts
31 Section 7-604

2

1 Annotated Code of Maryland
2 (1991 Replacement Volume and 1996 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Tax - General
5 Section 7-203(g) and 7-204
6 Annotated Code of Maryland
7 (1988 Volume and 1996 Supplement)

8 BY adding to
9 Article - Tax - General
10 Section 7-203(k)
11 Annotated Code of Maryland
12 (1988 Volume and 1996 Supplement)

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

15 **Article - Estates and Trusts**

16 2-206.

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

19 (c) For furnishing additional certificates of letters, with seal.....[\$1.00] \$1

20 (d) For affixing seal of office to a transcript or other paper, if expressly required
21 by law or a person[\$1.00] \$1

22 (e) For affixing seal of office to a certificate, transcript, or other paper
23 exemplified under the act of Congress..... [\$2.00] \$2

24 (f) For passing and entering every claim or voucher against an estate of a
25 deceased person, and endorsing certificate on each claim or voucher when passed by the
26 court or register, for each.....[\$1.00] \$3

27 (g) For entering papers in caveat or other controversial matter, for each
28 side.....[\$5.00] \$10

29 (h) For transcribing papers filed in caveat or other controversial proceedings
30 when taken to higher court, per page or part of a page.....[\$2.00] \$2

31 (i) For recording papers filed in caveat or other controversial proceedings, when
32 mandate of higher court is filed, per page or part of a page.....[\$2.00] \$2

33 (j) For copies of a paper or record, including plain certification and seal, per
34 page or part of a page[\$2.00] \$2

35 (k) For photostatic or other artificially reproduced copies of a paper or record,
36 per page or part of a page[\$.50] 50 CENTS

3

1 (l) For receiving a will for deposit during the lifetime of the testator.....[\$1.00] \$5

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

4 For each additional minor\$.75]

5 FOR ALL FILING AND ENTRIES REGARDING A GUARDIANSHIP PROCEEDING, A
6 SINGLE FEE OF..... \$20

7 [(n) For filing and recording guardian accounts and petitions and orders per page
8 or part of a page\$2.00]

9 [(o)] (N) For receiving and paying over an inheritance tax due the State, the
10 register is allowed a commission of [25 percent] 25% of the inheritance tax.

11 [(p)] (O) For providing a probate information booklet and materials[\$2.00] \$2

12 (P) FOR ALL PROCEEDINGS INVOLVING A FOREIGN PERSONAL
13 REPRESENTATIVE, A SINGLE FEE OF 1% OF THE GROSS VALUE OF THE ESTATE, NOT
14 TO EXCEED \$100.

15 5-206.

16 In a proceeding for administrative or judicial probate the petition for probate shall
17 be in substantially the following form:

18 [In the Matter of
19
20 Deceased

21 Before the Register of Wills for
22 InDnT.....

23 PETITION FOR PROBATE

24 The Petition of shows:

25 1., the decedent, who resided at in County, State of
26 died at on

27 2. The decedent died (with) (without) a will.

28 3. Petitioner is entitled to be appointed personal representative of the
29 decedent's estate under § 5-104 of the Estates and Trusts Article of the Maryland Code
30 for the following reasons:

31

32

33 4. This is the proper office in which to file the Petition because:

34

35

4

1 5. The Petitioner has made a diligent search for a will of the decedent and, to the
2 best of the knowledge of the Petitioner, (the will accompanying this Petition dated
3 is the decedent's latest will, and said will came into Petitioner's hands in the
4 following manner) (none exists):

5

6

7 6. If the decedent died with a will, the names and addresses of all witnesses are:

8

9

10 7. All other proceedings regarding the decedent's estate are as follows:

11

12

13 8. The reason why any information required to be furnished by §§ 5-201 and
14 5-202 of the Estates and Trusts Article has not been furnished, is as follows:

15

16

17 WHEREFORE, the Petitioner prays that he be granted letters appointing him
18 personal representative of the decedent's estate and that the will, if any, be admitted to
19 (administrative) (judicial) probate, and that the following additional relief be granted:

20 I (we) do hereby solemnly declare and affirm under the penalties of perjury that the
21 information and representations contained in the Petition are true and correct according
22 to my (our) knowledge, information, and belief.
23 InDnT(Signature)]

24 IN THE ORPHANS' COURT FOR

25 (OR) _____, MARYLAND

26 BEFORE THE REGISTER OF WILLS FOR

27 IN THE ESTATE OF:

28 _____ ESTATE NO. _____

29 -
30 -
31 -
32 -
33 -
34 -
35 -

See printed bill for table.

36 THE PETITION OF:

5

1 _____
2 NAME ADDRESS

3 InDnT_____

4 _____
5 NAME ADDRESS

6 InDnT_____

7 _____
8 NAME ADDRESS

9 InDnT_____

10 EACH OF US STATES:

11 1. I AM (A) AT LEAST 18 YEARS OF AGE AND EITHER A CITIZEN OF THE UNITED
12 STATES OR A PERMANENT RESIDENT ALIEN SPOUSE OF THE DECEDENT OR (B) A
13 TRUST COMPANY OR ANY OTHER CORPORATION AUTHORIZED BY LAW TO ACT
14 AS A PERSONAL REPRESENTATIVE.

15 2. THE DECEDENT, _____, WAS DOMICILED
16 IN _____ COUNTY, STATE OF _____ AND
17 DIED ON THE _____ DAY OF
_____ 19_____,
18 AT _____.

19 3. IF THE DECEDENT WAS NOT DOMICILED IN THIS COUNTY AT THE TIME OF
20 DEATH, THIS IS THE PROPER OFFICE IN WHICH TO FILE THIS PETITION BECAUSE:
21 _____.

22 4. I AM ENTITLED TO PRIORITY OF APPOINTMENT AS PERSONAL REPRESENTATIVE
23 OF THE DECEDENT'S ESTATE PURSUANT TO § 5-104 OF THE ESTATES AND TRUSTS
24 ARTICLE, ANNOTATED CODE OF MARYLAND BECAUSE:

25 _____

26 _____

27 AND I AM NOT EXCLUDED BY § 5-105(B) OF THE ESTATES AND TRUSTS ARTICLE,
28 ANNOTATED CODE OF MARYLAND FROM SERVING AS PERSONAL
29 REPRESENTATIVE.

30 5. I HAVE MADE A DILIGENT SEARCH FOR THE DECEDENT'S WILL AND TO THE BEST
31 OF MY KNOWLEDGE:

32 _____ NONE EXISTS; OR

33 _____ THE WILL DATED _____ (INCLUDING CODICILS, IF
34 ANY, DATED _____) ACCOMPANYING THIS PETITION IS THE LAST

35 WILL AND IT CAME INTO MY HANDS IN THE FOLLOWING MANNER:

36 _____

37 _____

38 AND THE NAMES AND LAST KNOWN ADDRESSES OF THE WITNESSES ARE:

39 _____

40 _____

41 _____

42 6. OTHER PROCEEDINGS, IF ANY, REGARDING THE DECEDENT OR THE ESTATE ARE

43 AS FOLLOWS:

6

1 _____

2 _____

3 7. IF ANY INFORMATION REQUIRED BY PARAGRAPHS 2 THROUGH 6 HAS NOT BEEN
4 FURNISHED, THE REASON IS:

5 _____

6 _____

7 8. IF APPOINTED, I ACCEPT THE DUTIES OF THE OFFICE OF PERSONAL
8 REPRESENTATIVE AND CONSENT TO PERSONAL JURISDICTION IN ANY ACTION
9 BROUGHT IN THIS STATE AGAINST ME AS PERSONAL REPRESENTATIVE OR
10 ARISING OUT OF THE DUTIES OF THE OFFICE OF PERSONAL REPRESENTATIVE.

11 WHEREFORE, I REQUEST APPOINTMENT AS PERSONAL REPRESENTATIVE OF
12 THE DECEDENT'S ESTATE AND THE FOLLOWING RELIEF AS INDICATED:

13 _____ THAT THE WILL AND CODICILS, IF ANY, BE ADMITTED TO ADMINISTRATIVE
14 PROBATE;

15 _____ THAT THE WILL AND CODICILS, IF ANY, BE ADMITTED TO JUDICIAL PROBATE;

16 _____ THAT THE WILL AND CODICILS, IF ANY, BE FILED ONLY;

17 _____ THAT THE FOLLOWING ADDITIONAL RELIEF BE GRANTED:

18 _____

19 _____

20 I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE
21 CONTENTS OF THE FOREGOING PETITION ARE TRUE TO THE BEST OF MY
22 KNOWLEDGE, INFORMATION, AND BELIEF.

23 _____

24 ATTORNEY'S SIGNATURE PETITIONER DATE

25 _____

26 ADDRESS PETITIONER DATE

27 _____

28 InDnT PETITIONER DATE

29 _____

30 TELEPHONE NUMBER TELEPHONE NUMBER

31 IN THE ORPHANS' COURT FOR

32 (OR) _____, MARYLAND

33 BEFORE THE REGISTER OF WILLS FOR

34 IN THE ESTATE OF:

35 _____

ESTATE NO. _____

36 SCHEDULE - A

37 REGULAR ESTATE

38 ESTIMATED VALUE OF ESTATE AND UNSECURED DEBTS:

39 PERSONAL PROPERTY (APPROXIMATE VALUE)..... \$ _____

7

1 REAL PROPERTY (APPROXIMATE VALUE)..... \$ _____

2 VALUE OF PROPERTY SUBJECT TO:

3 (A) DIRECT INHERITANCE TAX OF ____%..... \$ _____

4 (B) COLLATERAL INHERITANCE TAX OF ____%..... \$ _____

5 (C) COLLATERAL INHERITANCE TAX OF ____%..... \$ _____

6 UNSECURED DEBTS (APPROXIMATE AMOUNT)..... \$ _____

7 -----

8 (FOR REGISTER'S USE)

9 SAFEKEEPING WILLS ____ CUSTODY OF WILLS ____

10 BOND SET \$ ____ DEPUTY ____

11 IN THE ORPHANS' COURT FOR

12 (OR) _____, MARYLAND

13 BEFORE THE REGISTER OF WILLS FOR

14 IN THE ESTATE OF:

15 _____ ESTATE NO. _____

16 SCHEDULE - B

17 SMALL ESTATE

18 ASSETS AND DEBTS OF THE DECEDENT:

19 1. I HAVE MADE A DILIGENT SEARCH TO DISCOVER ALL PROPERTY AND DEBTS OF
20 THE DECEDENT AND SET FORTH BELOW ARE:

21 (A) A LISTING OF ALL REAL AND PERSONAL PROPERTY OWNED BY
22 THE DECEDENT, INDIVIDUALLY OR AS TENANT IN COMMON,
23 AND OF ANY OTHER PROPERTY TO WHICH THE DECEDENT OR
24 ESTATE WOULD BE ENTITLED, INCLUDING DESCRIPTIONS,
25 VALUES, AND HOW THE VALUES WERE DETERMINED:

26 _____

27 _____

28 _____

29 (B) A LISTING OF ALL CREDITORS AND CLAIMANTS AND THE
30 AMOUNTS CLAIMED, INCLUDING SECURED*, CONTINGENT AND
31 DISPUTED CLAIMS:

32 _____

33 _____

34 _____

35 2. ALLOWABLE FUNERAL EXPENSES ARE \$ _____; STATUTORY
36 FAMILY ALLOWANCES ARE \$ _____; AND EXPENSES OF
37 ADMINISTRATION ARE \$ _____.

38 3. ATTACHED IS A LIST OF INTERESTED PERSONS.

1 *NOTE: § 5-601(C) OF THE ESTATES AND TRUSTS ARTICLE, ANNOTATED CODE OF
2 MARYLAND "FOR THE PURPOSE OF THIS SUBTITLE - VALUE IS DETERMINED BY
3 FAIR MARKET VALUE OF PROPERTY LESS DEBTS OF RECORD SECURED BY THE
4 PROPERTY AS OF THE DATE OF DEATH, TO THE EXTENT THAT INSURANCE BENEFITS
5 ARE NOT PAYABLE TO THE LIEN HOLDER OR SECURED PARTY FOR THE SECURED
6 DEBT."

7 I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE
8 CONTENTS OF THE FOREGOING INFORMATION ARE TRUE TO THE BEST OF MY
9 KNOWLEDGE, INFORMATION, AND BELIEF.

10 _____
11 ATTORNEY'S SIGNATURE PETITIONER DATE

12 _____
13 ADDRESS PETITIONER DATE

14 _____
15 TELEPHONE NUMBER TELEPHONE NUMBER

16 5-601.

17 (a) If the property of the decedent subject to administration in Maryland is
18 established to have a [gross] value of \$20,000 or less as of the date of the death of the
19 decedent, the estate may be administered in accordance with the provisions of §§ 5-602
20 through 5-607 OF THIS SUBTITLE.

21 (b) If, before the filing of an initial account in administration proceedings
22 instituted under Subtitle 3 or Subtitle 4 of this title, the property of the decedent subject
23 to administration in Maryland is established to have a [gross] value of \$20,000 or less as
24 of the date of the death of the decedent, the estate thereafter may be administered in
25 accordance with the provisions of §§ 5-602 through 5-607 OF THIS SUBTITLE.

26 (C) FOR THE PURPOSE OF THIS SUBTITLE, VALUE IS DETERMINED BY THE
27 FAIR MARKET VALUE OF PROPERTY LESS DEBTS OF RECORD SECURED BY THE
28 PROPERTY, AS OF THE DATE OF DEATH, TO THE EXTENT THAT INSURANCE
29 BENEFITS ARE NOT PAYABLE TO THE LIEN HOLDER OR SECURED PARTY FOR THE
30 SECURED DEBT.

31 [5-608.

32 (a) (1) If the only property of an estate of a decedent is not more than two
33 motor vehicles, the Motor Vehicle Administration may transfer the title to the motor
34 vehicles to the person entitled to them if he is satisfied that all debts and taxes owed by
35 the decedent have been paid. Administration of the estate of the decedent is not
36 necessary in this case.

37 (2) If the interest of an owner in a vehicle for which a certificate of title has
38 been issued passes to a legatee or distributee as a result of testamentary disposition or
39 intestate devolution, no application for a new certificate of title need be made until the
40 expiration of the current annual registration in the name of the deceased owner, and the
41 certificate of title need not be submitted to the department until the application for a new
42 certificate of title is made. A certificate of letters testamentary or of administration issued
43 by a court of competent jurisdiction is sufficient authority for the Motor Vehicle

9

1 Administration to transfer the title of the vehicle of a deceased owner if title is properly
2 assigned by the personal representative of the deceased owner.

3 (b) (1) If the only property of a decedent is a boat or vessel, the appraised value
4 of which does not exceed \$5,000, the United States Coast Guard or the State Department
5 of Natural Resources may transfer the certificate of registration for the boat or vessel to
6 the person entitled to it if the agency is satisfied that all debts and taxes owed by the
7 decedent have been paid.

8 (2) A verified statement signed by two persons to the effect that they have
9 personal knowledge of the value of boats of the type of the particular boat involved and
10 that the value of the boat does not exceed \$5,000 is sufficient evidence of the value of the
11 boat to warrant the transfer of the registration certificate.]

12 7-202.

13 (a) The value of each item listed in the inventory shall be fairly appraised as of
14 the date of death and stated in the inventory. The personal representative may appraise
15 the corporate stocks listed on a national or regional exchange or over the counter
16 securities and items in categories (4) and (5) of § 7-201 OF THIS SUBTITLE. He shall
17 secure an independent appraisal of the items in all of the other categories. He may select
18 one of the methods specified in this section.

19 (b) The personal representative may apply for appraisal by appraisers designated
20 by the register under §§ 2-301(a) or 2-302 OF TITLE 2 OF THIS ARTICLE.

21 (C) INSTEAD OF AN APPRAISAL OF THE FAIR MARKET VALUE, REAL AND
22 LEASEHOLD PROPERTY MAY BE VALUED AT THE MOST RECENT NEW MARKET
23 VALUE AS DETERMINED BY THE DEPARTMENT OF ASSESSMENTS AND TAXATION'S
24 ASSESSMENT NOTICE FOR THE PROPERTY.

25 [(c)] (D) The personal representative may employ a qualified and disinterested
26 appraiser to assist him in ascertaining the fair market value, as of the date of the death of
27 the decedent, of an asset the value of which may be fairly debatable. Different persons
28 may be employed to appraise different kinds of assets included in the estate. The name
29 and address of each appraiser shall be indicated on the inventory with the item or items
30 he appraised.

31 [(d)] (E) Reasonable appraisal fees shall be allowed as an administration expense.

32 7-604.

33 (A) PAYMENT OF COMMISSIONS TO PERSONAL REPRESENTATIVES UNDER §
34 7-601 OF THIS SUBTITLE, AND ATTORNEY'S FEES UNDER § 7-602 OF THIS SUBTITLE
35 MAY BE MADE WITHOUT COURT APPROVAL IF:

36 (1) EACH CREDITOR, WHO HAS FILED A CLAIM THAT IS STILL OPEN,
37 AND ALL INTERESTED PERSONS CONSENT IN WRITING TO THE PAYMENT;

38 (2) THE COMBINED SUM OF THE PAYMENTS OF COMMISSIONS AND
39 ATTORNEY'S FEES DOES NOT EXCEED THE AMOUNTS PROVIDED IN § 7-601 OF THIS
40 SUBTITLE; AND

10

1 (3) THE SIGNED WRITTEN CONSENT FORM STATES THE AMOUNTS OF
2 THE PAYMENTS AND IS FILED WITH THE REGISTER OF WILLS.

3 (B) WHEN RENDERING ACCOUNTS, THE PERSONAL REPRESENTATIVE SHALL
4 DESIGNATE ANY PAYMENT MADE UNDER THIS SECTION AS AN EXPENSE.

5 8-106.

6 (a) Subject to the priorities contained in § 8-105 OF THIS SUBTITLE, the personal
7 representative shall pay the funeral expenses of the decedent within six months of the
8 first appointment of a personal representative.

9 (b) Funeral expenses shall be allowed in the discretion of the court according to
10 the condition and circumstances of the decedent. In no event may the allowance exceed
11 [\$3,500] \$5,000 unless the estate of the decedent is solvent and a special order of court
12 has been obtained. If the estate is solvent and the will expressly empowers the personal
13 representative to pay the expenses without an order of court, an allowance by the court is
14 not required.

15 (c) If the funeral expenses are not paid within six months, the creditor may
16 petition the court to require the personal representative to show cause why he should not
17 be compelled to make the payment. If the court finds that the claim is valid, it shall fix the
18 amount due and shall order the personal representative to make payment within ten days
19 after the order is served upon him. If the personal representative does not have sufficient
20 funds, the claimant may at a later date resubmit his petition when the personal
21 representative has sufficient funds.

22 **Article - Tax - General**

23 7-203.

24 (g) The inheritance tax does not apply to the receipt of property that passes from
25 a decedent to any 1 person if the total value of the property does not exceed [\$150]
26 \$1,000.

27 (K) THE INHERITANCE TAX DOES NOT APPLY TO THE RECEIPT OF PROPERTY
28 THAT IS INCOME ACCRUED ON PROBATE ASSETS AFTER THE DATE OF DEATH OF
29 THE DECEDENT.

30 7-204.

31 (a) In this section, "clear value" means fair market value minus expenses.

32 (b) Except as provided in [subsection] SUBSECTIONS (c) AND (D) of this section,
33 the inheritance tax rate is 10% of the clear value of the property that passes from a
34 decedent.

35 (c) The inheritance tax rate is 1% of the clear value of:

36 (1) the property that passes from a decedent to or for the use of:

37 (i) a grandparent of the decedent;

38 (ii) a parent of the decedent;

11

1 (iii) a spouse of the decedent;

2 (iv) a child or other lineal descendant of the decedent;

3 (v) a stepparent or stepchild of the decedent; or

4 (vi) a corporation if all of its stockholders consist of the surviving
5 spouse, parents, stepparents, stepchildren, lineal descendants of the decedent, and
6 spouses of the lineal descendants; and

7 (2) the first \$2,000 that passes from the decedent, by survivorship, to a
8 spouse of a lineal descendant of the decedent from savings accounts that the decedent
9 and spouse of the lineal descendant held jointly.

10 (D) THE INHERITANCE TAX RATE IS 8% OF THE CLEAR VALUE OF THE
11 PROPERTY THAT PASSES FROM A DECEDENT TO THE DECEDENT'S SIBLINGS.

12 [(d)] (E) If a decedent died on or before May 31, 1975, the rate of the inheritance
13 tax is the rate in effect on the date of the decedent's death.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 January 1, 1998, and shall apply to the estates of persons who die on or after January 1,
16 1998.