

Unofficial Copy
N2

1997 Regular Session
7r1010

CF 7r1937

By: ~~Senator Baker~~ Senators Baker, Frosh, Kelley, Green, Stone, Jimeno, Hughes, Haines, Forehand, Colburn, Ferguson, and Middlebrooks

Introduced and read first time: January 30, 1997

Assigned to: Judicial Proceedings and Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 1997

CHAPTER ____

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; repealing a certain codified
6 form; codifying a certain form; establishing net value of an asset rather than gross
7 value of an asset as the method of valuation used for small estates; eliminating the
8 authority of the Motor Vehicle Administration to transfer title of certain motor
9 vehicles under certain circumstances; eliminating the authority of the United States
10 Coast Guard or the State Department of Natural Resources to transfer the
11 certificate of registration for a boat or vessel under certain circumstances; allowing
12 certain property included in an estate to be valued using the full cash value of the
13 property for tax purposes; authorizing payment, without court approval, of certain
14 commissions and fees for the administration of certain estates under certain
15 circumstances; exempting certain assets from inheritance taxation; ~~changing the~~
16 ~~inheritance tax rate for property passing to certain persons;~~ making certain stylistic
17 changes; and generally relating to fees and procedures for the administration of and
18 taxation of estates.

19 BY repealing and reenacting, without amendments,

20 Article - Estates and Trusts

21 Section 2-206(a)

22 Annotated Code of Maryland

23 (1991 Replacement Volume and 1996 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article - Estates and Trusts

2

1 Section 2-206(c) through (p), 5-206, 5-601, 7-202, and 8-106
2 Annotated Code of Maryland
3 (1991 Replacement Volume and 1996 Supplement)

4 BY repealing

5 Article - Estates and Trusts
6 Section 5-608
7 Annotated Code of Maryland
8 (1991 Replacement Volume and 1996 Supplement)

9 BY adding to

10 Article - Estates and Trusts
11 Section 7-604
12 Annotated Code of Maryland
13 (1991 Replacement Volume and 1996 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article - Tax - General
16 Section 7-203(g) ~~and 7-204~~
17 Annotated Code of Maryland
18 (1988 Volume and 1996 Supplement)

19 BY adding to

20 Article - Tax - General
21 Section 7-203(k)
22 Annotated Code of Maryland
23 (1988 Volume and 1996 Supplement)

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

26 **Article - Estates and Trusts**

27 2-206.

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

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

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

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

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

3

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

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] \$2

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] \$2

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

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

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

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

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

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

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

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

25 5-206.

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

28 [In the Matter of
29
30 Deceased

31 Before the Register of Wills for
32 InDnT.....

33 PETITION FOR PROBATE

34 The Petition of shows:

35 1., the decedent, who resided at in County, State of
36 died at on

5

1 BEFORE THE REGISTER OF WILLS FOR

2 IN THE ESTATE OF:

3 _____ ESTATE NO. _____

4 BEGIN-TABLE;c=01:000

5 <Tr01 >FOR:

6 <Tr01 >|B_ REGULAR ESTATE-

7 <Tr01 >PETITION FOR PROBATE,

8 <Tr01 >ESTATE VALUE IN

9 <Tr01 >EXCESS OF \$20,000.

10 <Tr01 >COMPLETE AND ATTACH

11 <Tr01 >SCHEDULE - A.

12 <Tc02 >|B_ SMALL ESTATE -

13 <Tc02 >PETITION FOR

14 <Tc02 >ADMINISTRATION,

15 <Tc02 >ESTATE VALUE OF \$20,000

16 <Tc02 >OR LESS. COMPLETE AND

17 <Tc02 >ATTACH SCHEDULE - B.

18 <Tc03 >|B_ WILL OF NO

19 <Tc03 >ESTATE -

20 <Tc03 >COMPLETE ITEMS

21 <Tc03 >2 AND 5

22 END-TABLE

23 THE PETITION OF:

24 _____
25 NAME ADDRESS

26 InDnT _____

27 _____
28 NAME ADDRESS

29 InDnT _____

30 _____
31 NAME ADDRESS

32 InDnT _____

33 EACH OF US STATES:

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

38 2. THE DECEDENT, _____, WAS DOMICILED
39 IN _____ COUNTY, STATE OF _____ AND
40 DIED ON THE _____ DAY OF
_____, 19_____,
41 AT _____.

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

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

48 _____

49 _____

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

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

6

1 |B_ NONE EXISTS; OR

2 |B_ THE WILL DATED _____ (INCLUDING CODICILS, IF
3 ANY, DATED _____) ACCOMPANYING THIS PETITION IS THE LAST
4 WILL AND IT CAME INTO MY HANDS IN THE FOLLOWING MANNER:

5 _____

6 _____

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

8 _____

9 _____

10 _____

11 6. OTHER PROCEEDINGS, IF ANY, REGARDING THE DECEDENT OR THE ESTATE ARE
12 AS FOLLOWS:

13 _____

14 _____

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

17 _____

18 _____

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

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

25 |B_ THAT THE WILL AND CODICILS, IF ANY, BE ADMITTED TO ADMINISTRATIVE
26 PROBATE;

27 |B_ THAT THE WILL AND CODICILS, IF ANY, BE ADMITTED TO JUDICIAL PROBATE;

28 |B_ THAT THE WILL AND CODICILS, IF ANY, BE FILED ONLY;

29 |B_ THAT THE FOLLOWING ADDITIONAL RELIEF BE GRANTED: _____

30 _____

31 _____

32 I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE

33 CONTENTS OF THE FOREGOING PETITION ARE TRUE TO THE BEST OF MY
34 KNOWLEDGE, INFORMATION, AND BELIEF.

35 _____
36 ATTORNEY'S SIGNATURE PETITIONER DATE

37 _____
38 ADDRESS PETITIONER DATE

39 _____
40 InDnT PETITIONER DATE

7

1 _____
2 TELEPHONE NUMBER TELEPHONE NUMBER

3 IN THE ORPHANS' COURT FOR

4 (OR) _____, MARYLAND

5 BEFORE THE REGISTER OF WILLS FOR

6 IN THE ESTATE OF:

7 _____ ESTATE NO. _____

8 SCHEDULE - A

9 REGULAR ESTATE

10 ESTIMATED VALUE OF ESTATE AND UNSECURED DEBTS:

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

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

13 VALUE OF PROPERTY SUBJECT TO:

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

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

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

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

18 -----

19 (FOR REGISTER'S USE)

20 SAFEKEEPING WILLS ____ CUSTODY OF WILLS ____

21 BOND SET \$ ____ DEPUTY ____

22 IN THE ORPHANS' COURT FOR

23 (OR) _____, MARYLAND

24 BEFORE THE REGISTER OF WILLS FOR

25 IN THE ESTATE OF:

26 _____ ESTATE NO. _____

27 SCHEDULE - B

28 SMALL ESTATE

29 ASSETS AND DEBTS OF THE DECEDENT:

30 1. I HAVE MADE A DILIGENT SEARCH TO DISCOVER ALL PROPERTY AND DEBTS OF

31 THE DECEDENT AND SET FORTH BELOW ARE:

32 (A) A LISTING OF ALL REAL AND PERSONAL PROPERTY OWNED BY

8

1 THE DECEDENT, INDIVIDUALLY OR AS TENANT IN COMMON,
2 AND OF ANY OTHER PROPERTY TO WHICH THE DECEDENT OR
3 ESTATE WOULD BE ENTITLED, INCLUDING DESCRIPTIONS,
4 VALUES, AND HOW THE VALUES WERE DETERMINED:

5 _____

6 _____

7 _____

8 (B) A LISTING OF ALL CREDITORS AND CLAIMANTS AND THE
9 AMOUNTS CLAIMED, INCLUDING SECURED*, CONTINGENT AND
10 DISPUTED CLAIMS:

11 _____

12 _____

13 _____

14 2. ALLOWABLE FUNERAL EXPENSES ARE \$ _____; STATUTORY
15 FAMILY ALLOWANCES ARE \$ _____; AND EXPENSES OF
16 ADMINISTRATION ARE \$ _____.

17 3. ATTACHED IS A LIST OF INTERESTED PERSONS.

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

24 I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE
25 CONTENTS OF THE FOREGOING ~~INFORMATION~~ SCHEDULE ARE TRUE TO THE BEST
26 OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

27 _____
28 ATTORNEY'S SIGNATURE PETITIONER DATE

29 _____
30 ADDRESS PETITIONER DATE

31 _____
32 TELEPHONE NUMBER TELEPHONE NUMBER

33 5-601.

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

38 (b) If, before the filing of an initial account in administration proceedings

SENATE BILL 508

39 instituted under Subtitle 3 or Subtitle 4 of this title, the property of the decedent subject
40 to administration in Maryland is established to have a [gross] value of \$20,000 or less as
41 of the date of the death of the decedent, the estate thereafter may be administered in
42 accordance with the provisions of §§ 5-602 through 5-607 OF THIS SUBTITLE.

1 (C) FOR THE PURPOSE OF THIS SUBTITLE, VALUE IS DETERMINED BY THE
 2 FAIR MARKET VALUE OF PROPERTY LESS DEBTS OF RECORD SECURED BY THE
 3 PROPERTY, AS OF THE DATE OF DEATH, TO THE EXTENT THAT INSURANCE
 4 BENEFITS ARE NOT PAYABLE TO THE LIEN HOLDER OR SECURED PARTY FOR THE
 5 SECURED DEBT.

6 [5-608.

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

12 (2) If the interest of an owner in a vehicle for which a certificate of title has
 13 been issued passes to a legatee or distributee as a result of testamentary disposition or
 14 intestate devolution, no application for a new certificate of title need be made until the
 15 expiration of the current annual registration in the name of the deceased owner, and the
 16 certificate of title need not be submitted to the department until the application for a new
 17 certificate of title is made. A certificate of letters testamentary or of administration issued
 18 by a court of competent jurisdiction is sufficient authority for the Motor Vehicle
 19 Administration to transfer the title of the vehicle of a deceased owner if title is properly
 20 assigned by the personal representative of the deceased owner.

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

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

30 7-202.

31 (a) The value of each item listed in the inventory shall be fairly appraised as of
 32 the date of death and stated in the inventory. The personal representative may appraise
 33 the corporate stocks listed on a national or regional exchange or over the counter
 34 securities and items in categories (4) and (5) of § 7-201 OF THIS SUBTITLE. ~~He~~ THE
 35 PERSONAL REPRESENTATIVE shall secure an independent appraisal of the items in all
 36 of the other categories. ~~He~~ THE PERSONAL REPRESENTATIVE may select one of the
 37 methods specified in this section.

38 (b) The personal representative may apply for appraisal by appraisers designated
 39 by the register under ~~§§ 2-301(a) or 2-302 OF TITLE 2~~ § 2-301(A) OR § 2-302 OF THIS
 40 ARTICLE.

41 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
 42 INSTEAD OF AN APPRAISAL OF THE FAIR MARKET VALUE, REAL AND LEASEHOLD
 43 PROPERTY MAY BE VALUED AT THE MOST RECENT NEW MARKET VALUE AS

10

1 ~~DETERMINED BY THE DEPARTMENT OF ASSESSMENTS AND TAXATION'S~~
2 ~~ASSESSMENT NOTICE FOR THE PROPERTY FULL CASH VALUE FOR PROPERTY TAX~~
3 ~~ASSESSMENT PURPOSES AS OF THE MOST RECENT DATE OF FINALITY.~~

4 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO
5 PROPERTY ASSESSED FOR PROPERTY TAX PURPOSES ON THE BASIS OF ITS USE
6 VALUE.

7 [(c)] (D) The personal representative may employ a qualified and disinterested
8 appraiser to assist ~~him~~ THE PERSONAL REPRESENTATIVE in ascertaining the fair
9 market value, as of the date of the death of the decedent, of an asset the value of which
10 may be fairly debatable. Different persons may be employed to appraise different kinds of
11 assets included in the estate. The name and address of each appraiser shall be indicated
12 on the inventory with the item or items ~~he~~ THE APPRAISER appraised.

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

14 7-604.

15 (A) PAYMENT OF COMMISSIONS TO PERSONAL REPRESENTATIVES UNDER §
16 7-601 OF THIS SUBTITLE, AND ATTORNEY'S FEES UNDER § 7-602 OF THIS SUBTITLE
17 MAY BE MADE WITHOUT COURT APPROVAL IF:

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

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

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

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

27 8-106.

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

31 (b) Funeral expenses shall be allowed in the discretion of the court according to
32 the condition and circumstances of the decedent. In no event may the allowance exceed
33 [\$3,500] \$5,000 unless the estate of the decedent is solvent and a special order of court
34 has been obtained. If the estate is solvent and the will expressly empowers the personal
35 representative to pay the expenses without an order of court, an allowance by the court is
36 not required.

37 (c) If the funeral expenses are not paid within six months, the creditor may
38 petition the court to require the personal representative to show cause why he should not
39 be compelled to make the payment. If the court finds that the claim is valid, it shall fix the
40 amount due and shall order the personal representative to make payment within ten days

11

1 after the order is served upon him. If the personal representative does not have sufficient
2 funds, the claimant may at a later date resubmit his petition when the personal
3 representative has sufficient funds.

4 **Article - Tax - General**

5 7-203.

6 (g) The inheritance tax does not apply to the receipt of property that passes from
7 a decedent to any 1 person if the total value of the property does not exceed [\$150]
8 \$1,000.

9 (K) THE INHERITANCE TAX DOES NOT APPLY TO THE RECEIPT OF PROPERTY
10 THAT IS INCOME, INCLUDING GAINS AND LOSSES, ACCRUED ON PROBATE ASSETS
11 AFTER THE DATE OF DEATH OF THE DECEDENT.

12 ~~7-204.~~

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

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

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

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

19 ~~(i) a grandparent of the decedent;~~

20 ~~(ii) a parent of the decedent;~~

21 ~~(iii) a spouse of the decedent;~~

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

23 ~~(v) a stepparent or stepchild of the decedent; or~~

24 ~~(vi) a corporation if all of its stockholders consist of the surviving~~
25 ~~spouse, parents, stepparents, stepchildren, lineal descendants of the decedent, and~~
26 ~~spouses of the lineal descendants; and~~

27 ~~(2) the first \$2,000 that passes from the decedent, by survivorship, to a~~
28 ~~spouse of a lineal descendant of the decedent from savings accounts that the decedent~~
29 ~~and spouse of the lineal descendant held jointly.~~

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

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

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 January 1, 1998, and shall apply to the estates of persons who die on or after January 1,
36 1998.

