
By: Senator Baker

Introduced and read first time: January 30, 1997

Assigned to: Judicial Proceedings

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)

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)

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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.