

HOUSE BILL 241

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2003 Regular Session
3lr0988
CF 3lr1254

By: **Delegates Simmons and Vallario**
Introduced and read first time: January 29, 2003
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts - Claims Against Decedents and Protections for**
3 **Revocable Inter Vivos Trusts**

4 FOR the purpose of barring a claim against a decedent, regardless of whether the
5 claim is asserted against the decedent's estate or otherwise, unless the claim is
6 made within a certain time period; extending certain provisions and rules
7 concerning wills and estates to apply to revocable inter vivos trusts; defining
8 certain terms; providing for the application of this Act; and generally relating to
9 certain claims against decedents and protections for certain trusts.

10 BY repealing and reenacting, with amendments,
11 Article - Estates and Trusts
12 Section 8-103(a) and 14-102
13 Annotated Code of Maryland
14 (2001 Replacement Volume and 2002 Supplement)

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

17 **Article - Estates and Trusts**

18 8-103.

19 (a) Except as otherwise expressly provided by statute with respect to claims of
20 the United States and the State, all claims against [an estate of] a decedent, whether
21 due or to become due, absolute or contingent, liquidated or unliquidated, founded on
22 contract, tort, or other legal basis, are forever barred [against the estate, the personal
23 representative, and the heirs and legatees,] unless presented within the earlier of the
24 following dates:

25 (1) 6 months after the date of the decedent's death; or

26 (2) 2 months after the personal representative mails or otherwise
27 delivers to the creditor a copy of a notice in the form required by § 7-103 of this article

1 or other written notice, notifying the creditor that his claim will be barred unless he
2 presents the claim within 2 months from the mailing or other delivery of the notice.

3 14-102.

4 (A) (1) In the absence of express language to the contrary, the rules
5 contained in §§ 1-202, 1-203, 1-204, 1-205, 1-206, 1-207, 1-208, 1-209, and 1-210.1
6 of this article shall be applied in construing the terms of an inter vivos trust.

7 (2) [Whenever any of those statutory sections refer] WHEN A
8 STATUTORY SECTION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION REFERS to
9 a "will," "estate," or similar terms relevant primarily to wills and estates or the takers
10 under them, the terms shall be modified to mean "trust instrument," "trust," or
11 similar terms to reflect the application of the principles of [those sections] THE
12 SECTION to inter vivos trusts.

13 (B) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
14 MEANINGS INDICATED.

15 (II) "REVOCABLE INTER VIVOS TRUST" MEANS A TRUST THAT IS
16 REVOCABLE BY THE SETTLOR DURING THE SETTLOR'S LIFETIME.

17 (III) "TESTAMENTARY ASPECTS" MEANS THOSE PROVISIONS OF A
18 TRUST THAT DISPOSE OF THE TRUST PROPERTY, OTHER THAN THE SETTLOR'S
19 ESTATE, ON OR AFTER THE DEATH OF THE SETTLOR.

20 (2) UNLESS OTHERWISE PROVIDED IN A TRUST AGREEMENT OR
21 DECREE, AN ABSOLUTE DIVORCE OF A SETTLOR AND THE SETTLOR'S SPOUSE OR AN
22 ANNULMENT OF THEIR MARRIAGE, THAT OCCURS AFTER EXECUTION BY THE
23 SETTLOR OF A REVOCABLE TRUST AGREEMENT:

24 (I) SHALL REVOKE THE TESTAMENTARY ASPECTS OF THE
25 REVOCABLE INTER VIVOS TRUST THAT RELATE TO THE SETTLOR'S SPOUSE; AND

26 (II) MAY NOT REVOKE ANY OTHER PROVISION OF THE REVOCABLE
27 INTER VIVOS TRUST.

28 (3) IN THE ABSENCE OF EXPRESS LANGUAGE TO THE CONTRARY, A
29 SUBSEQUENT MARRIAGE OF A SETTLOR, FOLLOWED BY A BIRTH, ADOPTION, OR
30 LEGITIMATION OF A CHILD BY THE SETTLOR THAT OCCURS AFTER EXECUTION BY
31 THE SETTLOR OF A REVOCABLE INTER VIVOS TRUST, SHALL REVOKE THE
32 TESTAMENTARY ASPECTS OF THE REVOCABLE INTER VIVOS TRUST IF THE CHILD OR
33 A DESCENDANT OF THE CHILD SURVIVES THE SETTLOR.

34 (4) IN THE ABSENCE OF EXPRESS LANGUAGE TO THE CONTRARY, THE
35 RULES CONTAINED IN §§ 4-401 ("LEGATEE FAILING TO SURVIVE TESTATOR BY 30
36 DAYS"), 4-403 ("LAPSE"), 4-404 ("VOID OR INOPERATIVE LEGACIES"), 4-405 ("CHANGE IN
37 SECURITIES"), 4-406 ("EXONERATION"), 4-409 ("LEGACY FOR CHARITABLE USE"), 4-410
38 ("DIE WITHOUT ISSUE" AND SIMILAR PHRASES"), AND 4-413 ("IN TERRORREM CLAUSE")

1 SHALL BE APPLICABLE TO THE TESTAMENTARY ASPECTS OF A REVOCABLE INTER
2 VIVOS TRUST.

3 (5) WHEN A STATUTORY SECTION DESCRIBED IN PARAGRAPH (4) OF
4 THIS SUBSECTION REFERS TO A "WILL," "ESTATE," OR SIMILAR TERMS RELEVANT
5 PRIMARILY TO WILLS AND ESTATES OR THE TAKERS UNDER THEM, THE TERMS
6 SHALL BE MODIFIED TO MEAN "TRUST INSTRUMENT," "TRUST," OR SIMILAR TERMS
7 TO REFLECT THE APPLICATION OF THE PRINCIPLES OF THE SECTION TO REVOCABLE
8 INTER VIVOS TRUSTS.

9 (6) THIS SUBSECTION DOES NOT LIMIT THE APPLICATION OF THE
10 PROVISIONS OF SUBSECTION (A) OF THIS SECTION TO A REVOCABLE INTER VIVOS
11 TRUST.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
13 construed to apply only prospectively and may not be applied or interpreted to have
14 any effect on or application to any decedent who dies before the effective date of this
15 Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2003.