
By: **Senator Giannetti**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2004

CHAPTER _____

1 AN ACT concerning

2 **Estates - Right to Letters**

3 FOR the purpose of authorizing a certain individual who is not a United States citizen
4 to serve as personal representative of an estate under certain circumstances;
5 providing for the application of this Act; and generally relating to the right to
6 letters from an ~~orphan's~~ orphans' court or register of wills.

7 BY repealing and reenacting, with amendments,
8 Article - Estates and Trusts
9 Section 5-105
10 Annotated Code of Maryland
11 (2001 Replacement Volume and 2003 Supplement)

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

14 **Article - Estates and Trusts**

15 5-105.

16 (a) Subject to § 5-104 of this subtitle, the register or court may grant letters
17 to:

18 (1) A trust company;

19 (2) Any other corporation authorized by law to be a personal
20 representative; or

1 (3) Subject to subsection (b) of this section, any individual.

2 (b) Letters may not be granted to a person who, at the time a determination of
3 priority is made, has filed with the register a declaration in writing that the person
4 renounces the right to administer or is:

5 (1) Under the age of 18 years;

6 (2) Mentally incompetent;

7 (3) Convicted of a serious crime;

8 (4) Not a citizen of the United States unless the person [is the spouse of
9 the decedent and] is a permanent resident of the United States AND IS:

10 (I) THE SPOUSE OF THE DECEDENT;

11 (II) AN ANCESTOR OF THE DECEDENT; ~~OR~~

12 (III) A DESCENDANT OF THE DECEDENT; OR

13 (IV) A SIBLING OF THE DECEDENT;

14 (5) A full-time judge of a court established under the laws of Maryland
15 or the United States including, a judge of an orphans' or probate court, or a clerk of
16 court, or a register, unless the person is the surviving spouse or is related to the
17 decedent within the third degree; or

18 (6) A nonresident of the State, unless there shall be on file with the
19 register an irrevocable designation by the nonresident of an appropriate person who
20 resides in the State on whom service of process may be made in the same manner and
21 with the effect as if it were served personally in the State on the nonresident.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
23 construed to apply only prospectively and may not be applied or interpreted to have
24 any effect on or application to an estate of a decedent who dies before October 1, 2004.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2004.