
By: **Senators Gladden and Giannetti**
Introduced and read first time: February 6, 2004
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Estates - Funeral Expenses**

3 FOR the purpose of providing that, if an estate is solvent, a personal representative is
4 not required to obtain a court order to pay funeral expenses due to the absence
5 of an express power under a will to pay the funeral expenses without obtaining
6 a court order; providing for the application of this Act; and generally relating to
7 the payment of funeral expenses by a personal representative of an estate under
8 certain circumstances.

9 BY repealing and reenacting, with amendments,
10 Article - Estates and Trusts
11 Section 8-106
12 Annotated Code of Maryland
13 (2001 Replacement Volume and 2003 Supplement)

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

16 **Article - Estates and Trusts**

17 8-106.

18 (a) Subject to the priorities contained in § 8-105 of this subtitle, the personal
19 representative shall pay the funeral expenses of the decedent within six months of the
20 first appointment of a personal representative.

21 (b) (1) [Funeral] SUBJECT TO THE PROVISIONS OF THIS SUBSECTION,
22 FUNERAL expenses shall be allowed in the discretion of the court according to the
23 condition and circumstances of the decedent. [In no event may the allowance exceed
24 \$5,000 unless the estate of the decedent is solvent and a special order of court has
25 been obtained.]

26 (2) If the estate is solvent [and the will expressly empowers the personal
27 representative to pay the expenses without an order of court], an allowance by the
28 court is not required.

1 (3) IF THE ESTATE IS NOT SOLVENT, THE PERSONAL REPRESENTATIVE
2 SHALL OBTAIN A SPECIAL ORDER OF THE COURT AND THE ALLOWANCE BY THE
3 COURT MAY NOT EXCEED \$5,000.

4 (c) (1) If the funeral expenses are not paid within six months, the creditor
5 may petition the court to require the personal representative to show cause why [he]
6 THE PERSONAL REPRESENTATIVE should not be compelled to make the payment.

7 (2) If the court finds that the claim is valid, it shall fix the amount due
8 and shall order the personal representative to make payment within ten days after
9 the order is served upon [him] THE PERSONAL REPRESENTATIVE.

10 (3) If the personal representative does not have sufficient funds, the
11 [claimant] CREDITOR may at a later date resubmit [his] THE CREDITOR'S petition
12 when the personal representative has sufficient funds.

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

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