

SENATE BILL 155

N2

9lr1309

By: **Senator Frosh**

Introduced and read first time: January 19, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Effect of Divorce or Annulment on Will**

3 FOR the purpose of clarifying the effect of an absolute divorce or an annulment on a
4 testator's will executed before the absolute divorce or annulment; establishing
5 that all property or other benefits that would have passed to the surviving
6 former spouse under the will shall be treated as if the surviving former spouse
7 had died before the execution of the will; and generally relating to revocation of
8 wills.

9 BY repealing and reenacting, with amendments,
10 Article – Estates and Trusts
11 Section 4–105
12 Annotated Code of Maryland
13 (2001 Replacement Volume and 2008 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 4–105.

18 A will, or any part of it, may not be revoked in a manner other than as provided
19 in this section.

20 (1) By provision in a subsequent, validly executed will which (i)
21 revokes any prior will or part of it either expressly or by necessary implication, or (ii)
22 expressly republishes an earlier will that had been revoked by an intermediate will
23 but is still in existence;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) By burning, cancelling, tearing, or obliterating the same, by the
2 testator himself, or by some other person in his presence and by his express direction
3 and consent;

4 (3) By the subsequent marriage of the testator followed by the birth,
5 adoption, or legitimation of a child by him, provided such child or his descendant
6 survives the testator; and all wills executed prior to such marriage shall be revoked; or

7 (4) By an absolute divorce of a testator and his spouse or the
8 annulment of the marriage, either of which occurs subsequent to the execution of the
9 testator's will; and all [provisions in the will relating to the spouse, and only those
10 provisions, shall be revoked] **PROPERTY OR OTHER BENEFITS THAT WOULD HAVE**
11 **PASSED TO THE SURVIVING FORMER SPOUSE UNDER THE WILL SHALL BE**
12 **TREATED AS IF THE SURVIVING FORMER SPOUSE HAD DIED BEFORE THE**
13 **EXECUTION OF THE WILL**, unless otherwise provided in the will or decree.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2009.