

HOUSE BILL 449

N2

EMERGENCY BILL

01r2050
CF SB 337

By: **Delegate Carter**

Introduced and read first time: January 29, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Construction of References in Will or Trust to Federal**
3 **Estate Tax or Generation–Skipping Transfer Tax**

4 FOR the purpose of establishing that certain provisions in a will or trust of a decedent
5 who dies between certain dates shall be deemed to refer to the federal estate tax
6 or generation–skipping transfer tax laws on a certain date; providing for the
7 application and construction of certain provisions of this Act; authorizing a
8 personal representative or any interested person to bring a certain proceeding
9 to construe certain provisions in a will or other instrument; requiring that a
10 certain proceeding be commenced within a certain time; making this Act an
11 emergency measure; and generally relating to the construction of certain
12 provisions in wills and trusts.

13 BY adding to

14 Article – Estates and Trusts

15 Section 11–110

16 Annotated Code of Maryland

17 (2001 Replacement Volume and 2009 Supplement)

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

20 **Article – Estates and Trusts**

21 **11–110.**

22 **(A) (1) A WILL OR TRUST OF A DECEDENT WHO DIES AFTER**
23 **DECEMBER 31, 2009, AND BEFORE JANUARY 1, 2011, THAT CONTAINS A**
24 **FORMULA REFERRING TO THE “UNIFIED CREDIT”, “ESTATE TAX EXEMPTION”,**
25 **“APPLICABLE EXEMPTION AMOUNT”, “APPLICABLE CREDIT AMOUNT”,**
26 **“APPLICABLE EXCLUSION AMOUNT”, “GENERATION–SKIPPING TRANSFER TAX**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 EXEMPTION”, “GST EXEMPTION”, “MARITAL DEDUCTION”, “MAXIMUM MARITAL
2 DEDUCTION”, OR “UNLIMITED MARITAL DEDUCTION”, OR SIMILAR WORDS OR
3 PHRASES RELATING TO THE FEDERAL ESTATE TAX OR GENERATION–SKIPPING
4 TRANSFER TAX OR THAT MEASURES A SHARE OF AN ESTATE OR A TRUST BASED
5 ON THE AMOUNT THAT CAN PASS FREE OF FEDERAL ESTATE TAXES OR THE
6 AMOUNT THAT CAN PASS FREE OF FEDERAL GENERATION–SKIPPING TRANSFER
7 TAXES, OR THAT IS OTHERWISE BASED ON A SIMILAR PROVISION OF FEDERAL
8 ESTATE TAX OR GENERATION–SKIPPING TRANSFER TAX LAW, SHALL BE DEEMED
9 TO REFER TO THE FEDERAL ESTATE TAX OR GENERATION–SKIPPING TRANSFER
10 TAX LAWS AS THEY APPLIED WITH RESPECT TO ESTATES OF DECEDENTS DYING
11 OR GENERATION–SKIPPING TRANSFERS MADE ON **DECEMBER 31, 2009.**

12 **(2) THIS SUBSECTION DOES NOT APPLY TO A WILL OR TRUST**
13 **THAT:**

14 **(I) IS EXECUTED OR AMENDED AFTER DECEMBER 31, 2009;**
15 **OR**

16 **(II) MANIFESTS AN INTENT THAT A CONTRARY RULE SHALL**
17 **APPLY IF THE DECEDENT DIES ON A DATE ON WHICH THERE IS NO THEN**
18 **APPLICABLE FEDERAL ESTATE TAX OR GENERATION–SKIPPING TRANSFER TAX.**

19 **(3) THE REFERENCE TO JANUARY 1, 2011, IN THIS SUBSECTION**
20 **SHALL, IF A FEDERAL ESTATE TAX OR GENERATION–SKIPPING TRANSFER TAX**
21 **BECOMES APPLICABLE BEFORE THAT DATE, BE CONSTRUED TO REFER INSTEAD**
22 **TO THE FIRST DATE ON WHICH THE TAX BECOMES APPLICABLE.**

23 **(B) (1) THE PERSONAL REPRESENTATIVE OR ANY INTERESTED**
24 **PERSON UNDER A WILL OR OTHER INSTRUMENT MAY BRING A PROCEEDING TO**
25 **DETERMINE WHETHER THE DECEDENT INTENDED THAT THE REFERENCES**
26 **DESCRIBED IN SUBSECTION (A) OF THIS SECTION BE CONSTRUED WITH**
27 **RESPECT TO THE LAW AS IT EXISTED AFTER DECEMBER 31, 2009.**

28 **(2) A PROCEEDING UNDER THIS SUBSECTION SHALL BE**
29 **COMMENCED WITHIN 1 YEAR AFTER THE DEATH OF THE TESTATOR OR**
30 **GRANTOR.**

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
32 measure, is necessary for the immediate preservation of the public health or safety,
33 has been passed by a ye and nay vote supported by three–fifths of all the members
34 elected to each of the two Houses of the General Assembly, and shall take effect from
35 the date it is enacted.