

SENATE BILL 673

N2

11r2364

By: **Senator Frosh**

Introduced and read first time: February 4, 2011

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Payment of Attorney’s Fees – Contingency Fee**

3 FOR the purpose of authorizing the payment of fees from an estate to an attorney
4 without court approval if the fee is paid to an attorney representing the estate
5 in litigation under a certain contingency fee agreement, the fee does not exceed
6 the terms of the contingency fee agreement, a copy of the contingency fee
7 agreement is on file with the register of wills, and the attorney files a certain
8 statement with each account; and generally relating to payment of certain
9 attorney’s fees.

10 BY repealing and reenacting, with amendments,
11 Article – Estates and Trusts
12 Section 7–604
13 Annotated Code of Maryland
14 (2001 Replacement Volume and 2010 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 7–604.

19 (a) Payment of commissions to personal representatives under § 7–601 of
20 this subtitle, and attorney’s fees under § 7–602 of this subtitle may be made without
21 court approval if:

22 (1) **(I)** Each creditor, who has filed a claim that is still open, and all
23 interested persons consent in writing to the payment;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **[(2)] (II)** The combined sum of the payments of commissions and
2 attorney's fees does not exceed the amounts provided in § 7-601 of this subtitle; and

3 **[(3)] (III)** The signed written consent form states the amounts of the
4 payments and is filed with the register of wills; **OR**

5 **(2) (I) THE FEE IS PAID TO AN ATTORNEY REPRESENTING THE**
6 **ESTATE IN LITIGATION UNDER A CONTINGENCY FEE AGREEMENT SIGNED BY**
7 **THE DECEDENT OR THE CURRENT PERSONAL REPRESENTATIVE OF THE**
8 **DECEDENT'S ESTATE;**

9 **(II) THE FEE DOES NOT EXCEED THE TERMS OF THE**
10 **CONTINGENCY FEE AGREEMENT;**

11 **(III) A COPY OF THE CONTINGENCY FEE AGREEMENT IS ON**
12 **FILE WITH THE REGISTER OF WILLS; AND**

13 **(IV) THE ATTORNEY FILES A STATEMENT WITH EACH**
14 **ACCOUNT STATING THAT THE SCOPE OF THE REPRESENTATION BY THE**
15 **ATTORNEY DOES NOT EXTEND TO THE ADMINISTRATION OF THE ESTATE.**

16 (b) When rendering accounts, the personal representative shall designate
17 any payment made under this section as an expense.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2011.