

# SENATE BILL 397

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2lr2204  
CF HB 773

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By: **Senator Forehand**

Introduced and read first time: February 1, 2012

Assigned to: Judicial Proceedings

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Committee Report: Favorable

Senate action: Adopted

Read second time: March 19, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Estates and Trusts – Allowance for Funeral Expenses**

3 FOR the purpose of defining the term “funeral expenses” for purposes of a certain  
4 allowance for payment from a decedent’s estate; altering the amount for funeral  
5 expenses that a court may allow for a small estate; making stylistic changes;  
6 providing for the application of this Act; and generally relating to an allowance  
7 for funeral expenses.

8 BY repealing and reenacting, with amendments,  
9 Article – Estates and Trusts  
10 Section 8–106  
11 Annotated Code of Maryland  
12 (2011 Replacement Volume and 2011 Supplement)

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

15 **Article – Estates and Trusts**

16 8–106.

17 **(A) IN THIS SECTION, “FUNERAL EXPENSES” INCLUDES THE COSTS OF A**  
18 **FUNERAL, A BURIAL, A CREMATION, A DISPOSITION OF THE DECEDENT’S**  
19 **REMAINS, A MEMORIAL, A MEMORIAL SERVICE, FOOD AND BEVERAGES RELATED**  
20 **TO BRINGING TOGETHER THE DECEDENT’S FAMILY AND FRIENDS FOR A WAKE**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **OR PREFUNERAL OR POSTFUNERAL GATHERING OR MEAL, AND ANY OTHER**  
2 **REASONABLE EXPENSES AUTHORIZED BY THE DECEDENT'S WILL.**

3 **[(a)] (B)** Subject to the priorities contained in § 8–105 of this subtitle, the  
4 personal representative shall pay the funeral expenses of the decedent within six  
5 months of the first appointment of a personal representative.

6 **[(b)] (C) (1)** Funeral expenses shall be allowed in the discretion of the  
7 court according to the condition and circumstances of the decedent.

8 **(2)** In no event may the allowance exceed \$10,000 [for an estate  
9 administered under Title 5, Subtitle 3 or Subtitle 4 of this article, or \$5,000 for a small  
10 estate administered under Title 5, Subtitle 6 of this article] unless the estate of the  
11 decedent is solvent and a special order of court has been obtained.

12 **(3)** If the estate is solvent and the will expressly empowers the  
13 personal representative to pay the expenses without an order of court, an allowance by  
14 the court is not required.

15 **[(c)] (D) (1)** If the funeral expenses are not paid within six months, the  
16 creditor may petition the court to require the personal representative to show cause  
17 why he should not be compelled to make the payment.

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

21 **(3)** If the personal representative does not have sufficient funds, the  
22 claimant may at a later date resubmit [his] **THE PERSONAL REPRESENTATIVE**  
23 petition when the personal representative has sufficient funds.

24 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall be  
25 construed to apply only prospectively and may not be applied or interpreted to have  
26 any effect on or application to any estate opened before the effective date of this Act.

27 **SECTION 3. AND BE IT FURTHER ENACTED,** That this Act shall take effect  
28 October 1, 2012.