

HOUSE BILL 556

N2

(8lr3542)

ENROLLED BILL

— Health and Government Operations/Judicial Proceedings —

Introduced by **Delegate Sydnor**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Estates and Trusts – Administration of Estates – Waiver of Fees**

3 FOR the purpose of authorizing ~~the registers~~ a register of wills to waive certain fees for the
4 administration of an estate if certain real property subject to administration in this
5 State is to be transferred to a certain individual or is encumbered by a lien and
6 subject to sale under certain provisions of law, ~~and the estate is unable to pay the~~
7 ~~fees by reason of poverty, the personal representative is represented by an attorney~~
8 ~~retained through a certain program, the program provides the register with a certain~~
9 ~~statement, the attorney provides a certain certification, the personal representative~~
10 ~~submits a certain affidavit, and the estate meets certain criteria for administration~~
11 *and the estate is unable to pay the fees by reason of poverty; defining a certain term;*
12 providing for the prospective application of this Act; and generally relating to fees
13 for estate administration.

14 BY repealing and reenacting, with amendments,

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.

Italics indicate opposite chamber/conference committee amendments.



1 Article – Estates and Trusts
 2 Section 2–206(a)
 3 Annotated Code of Maryland
 4 (2017 Replacement Volume)

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

7 **Article – Estates and Trusts**

8 2–206.

9 (a) (1) IN THIS SUBSECTION, “POVERTY” MEANS:

10 (I) AT THE TIME OF THE DECEDENT’S DEATH, THE DECEDENT’S
 11 FAMILY HOUSEHOLD INCOME WAS LESS THAN 50% OF THE MEDIAN FAMILY INCOME
 12 FOR THE STATE AS REPORTED IN THE FEDERAL REGISTER; OR

13 (II) THE PERSONAL REPRESENTATIVE IS REPRESENTED BY AN
 14 ATTORNEY RETAINED THROUGH THE MARYLAND LEGAL SERVICES CORPORATION.

15 (2) The registers of wills are entitled to charge and collect for the
 16 performance of their duties the fees in this section.

17 ~~(2) (3)~~ A REGISTER OF WILLS MAY WAIVE ANY
 18 FEES UNDER THIS SECTION FOR THE ADMINISTRATION OF AN ESTATE IF:

19 (I) THE REAL PROPERTY OF THE DECEDENT SUBJECT TO
 20 ADMINISTRATION IN THE STATE IS:

21 1. TO BE TRANSFERRED TO ~~AN HEIR~~ A SPOUSE,
 22 ~~DESCENDANT, SIBLING, OR DESCENDANT OF A SIBLING~~ AN HEIR OF THE DECEDENT
 23 WHO RESIDES ~~OR INTENDS TO RESIDE~~ ON THE PROPERTY; OR

24 2. ENCUMBERED BY A LIEN AGAINST THE PROPERTY
 25 AND SUBJECT TO SALE UNDER TITLE 14, SUBTITLE 8 OF THE TAX – PROPERTY
 26 ARTICLE; AND

27 (II) THE ESTATE IS UNABLE TO PAY THE FEES BY REASON OF
 28 POVERTY. ~~AND~~

29 (II) ~~THE ESTATE IS UNABLE TO PAY THE FEES BY REASON OF~~
 30 ~~POVERTY~~

~~(H) THE PERSONAL REPRESENTATIVE IS REPRESENTED BY AN ATTORNEY RETAINED THROUGH A PRO BONO OR LEGAL SERVICES PROGRAM THAT IS ON THE LIST OF PROGRAMS SERVING LOW-INCOME INDIVIDUALS SUBMITTED BY THE MARYLAND LEGAL SERVICES CORPORATION TO THE STATE COURT ADMINISTRATOR AND PUBLISHED ON THE JUDICIARY WEBSITE;~~

~~(III) AN AUTHORIZED AGENT OF THE PRO BONO OR LEGAL SERVICES PROGRAM PROVIDES THE REGISTER WITH A STATEMENT THAT:~~

~~1. INCLUDES THE NAMES OF THE PROGRAM, ATTORNEY, AND PARTY; AND~~

~~2. STATES THAT THE ATTORNEY IS ASSOCIATED WITH THE PROGRAM AND THAT THE PARTY MEETS THE FINANCIAL ELIGIBILITY CRITERIA OF THE MARYLAND LEGAL SERVICES CORPORATION;~~

~~(IV) THE ATTORNEY CERTIFIES, TO THE BEST OF THE ATTORNEY'S KNOWLEDGE, INFORMATION, AND BELIEF, THAT THERE ARE GOOD GROUNDS TO SUPPORT THE REQUEST FOR THE WAIVER AND THAT THE REQUEST IS NOT BEING MADE FOR ANY IMPROPER PURPOSE OR TO CAUSE DELAY;~~

~~(V) IF THE REAL PROPERTY IS TO BE TRANSFERRED TO AN INDIVIDUAL DESCRIBED UNDER ITEM (D)1 OF THIS PARAGRAPH, THE PERSONAL REPRESENTATIVE SUBMITS AN AFFIDAVIT STATING THAT THE PROBATE ASSETS INCLUDE REAL PROPERTY ON WHICH A SPOUSE, DESCENDANT, SIBLING, OR DESCENDANT OF A SIBLING RESIDES; AND~~

~~(VI) THE ESTATE MEETS THE CRITERIA FOR ADMINISTRATION AS:~~

~~1. A SMALL ESTATE; OR~~

~~2. A REGULAR ESTATE;~~

~~A. WITH A VALUE NOT EXCEEDING \$150,000; AND~~

~~B. IN WHICH THE ONLY PROBATE ASSET IS THE REAL PROPERTY SUBJECT TO TRANSFER OR SALE.~~

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

HOUSE BILL 556

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.