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The William C. Smith, Jr., Chair
Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401

RE: HB963 – Registers of Wills – Appointment of Personal Representatives– FAVORABLE

Dear Chair Smith, Vice Chair Waldstreicher, and Members of the Committee,

I write to express my strong support for House Bill 963, which will repeal Maryland’s unique prohibition on noncitizens serving as personal representatives of probate estates. Please note that the views I express here are mine alone and that I am not writing on behalf of any other Register of Wills or the Maryland Register of Wills Association.

CURRENT LAW

To serve as a personal representative of a decedent’s estate, an individual must be named as the personal representative in a valid Last Will and Testament, have priority to serve under the laws of intestacy, or be appointed through a judicial probate proceeding. That individual must be an adult, competent, and not convicted of a serious crime. These three restrictions are common. But Maryland is unique in our region, and in the minority nationally, for prohibiting those who are neither United States citizens nor “permanent residents,” green hold holders, from serving as personal representative. No neighboring jurisdiction – Delaware, the District of Columbia, Pennsylvania, West Virginia, and Virginia – has similar restrictions.

ISSUES RESOLVED

This restriction creates an impediment for permanent residents, who may not be closely related to the decedent, and noncitizens, both documented and undocumented, to be appointed by a Register of Wills or Orphans’ Court to manage a decedent’s estate. This includes individuals

who are in the United States for work, education, medical treatment, or are family members of U.S. citizens, among scores of lawful immigrant categories. Some decedents who were domiciled in Maryland at the time of their death may *only* have family or others they trust to manage their affairs who are disqualified because of this unique restriction. Their only recourse, then, is to hire an attorney to serve as personal representative. This can be cost-prohibitive in many cases. To illustrate this point, I note that in Howard County, reportedly one of the wealthiest jurisdictions in the United States, the median value of a probate estate is under \$10,000, with many containing assets worth only a few hundred or few thousand dollars. The prospect of spending thousands on legal fees can and does create a financial impediment for those estates. My concern is that if our system creates too many obstacles to disposing of probate assets properly, someone residents may be forced to dispose of them improperly, and we do not want to encourage that kind of behavior.

SUMMARY

I want to summarize what is and would be required to serve as a personal representative in Maryland if this legislation becomes law. You must be an adult, competent, and not convicted of a serious crime. You must have been named as a personal representative in a will, have priority to serve under intestacy law, or have been appointed by a court. And for estates that are solvent, you must also obtain a nominal or full bond of personal representative. This final requirement will prohibit some noncitizens from serving. I have spoken with several insurance underwriters who have stated they will not bond non-citizens. This means that they may only be able to serve in estates that are low in value or actually insolvent. For example, if a decedent dies and their only asset is a checking account worth \$2,000, and he has a surviving noncitizen spouse, the surviving spouse is entitled to a \$10,000 family allowance, so she could be appointed and serve without a bond because the estate is insolvent.

These cases come up consistently and I think as a matter of common sense and basic fairness, we should repeal this restriction, and allow a named personal representative in a will, a close family member, or someone appointed by a court, to handle someone's assets, follow proper procedures, and move on.

This measure passed the House of Delegates with an even larger bipartisan majority than it did last year, and it is my sincere hope that this Committee and the full Senate will join them in making this important reform. Thank you for your time and attention and I urge a **favorable report**.

Sincerely,

