

Unofficial Copy
N2

1997 Regular Session
7r1909

CF 7r1910

By: ~~Senator Baker~~ Senators Baker, Frosh, Kelley, Green, Stone, Jimeno, Hughes,
Haines, Forehand, Colburn, Ferguson, and Middlebrooks

Introduced and read first time: January 30, 1997

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 1997

CHAPTER _____

1 AN ACT concerning

2 Estates - Personal Representatives - Election for Modified Administration

3 FOR the purpose of authorizing a personal representative of an estate to file for an
4 election for modified administration under certain circumstances; prohibiting a
5 Register of Wills or a court from extending certain time periods in this Act;
6 providing certain duties for a personal representative on filing an election for
7 modified administration; requiring that an election for modified administration
8 contain certain information; requiring certain persons to consent, with notice of
9 certain facts, to a modified administration; providing the circumstances under which
10 a modified administration shall be revoked and the consequences of a revocation;
11 requiring a final report under modified administration to include certain
12 information; providing a deadline for the closing of an estate under modified
13 administration; providing the method by which the value of an estate shall be
14 determined under a modified administration; providing for a certain period of
15 limitations for certain claims or demands under certain circumstances; providing the
16 time for the assessment and collection of probate fees and inheritance tax due on
17 estates under modified administration; defining a certain term; and generally
18 relating to the election for modified administration by personal representatives for
19 certain estates.

20 BY repealing and reenacting, with amendments,

21 Article - Estates and Trusts

22 Section 2-206 and 10-103(a)

23 Annotated Code of Maryland

24 (1991 Replacement Volume and 1996 Supplement)

25 BY adding to

2

1 Article - Estates and Trusts
2 Section 5-701 through ~~5-709~~ 5-710 to be under the new subtitle "Subtitle 7.
3 Modified Administration"
4 Annotated Code of Maryland
5 (1991 Replacement Volume and 1996 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Tax - General
8 Section 7-217
9 Annotated Code of Maryland
10 (1988 Volume and 1996 Supplement)

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

13 **Article - Estates and Trusts**

14 2-206.

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

17 (b) (1) For taking probate of wills and furnishing 2 certified copies of the will
18 and codicils, granting letters of administration and furnishing 12 certificates of letters,
19 issuing warrants to appraise, entering on estate docket, filing elections of surviving
20 spouses to take intestate shares, filing renunciations and disclaimers, filing and recording
21 wills, bonds, inventories, accounts of sale, releases, administration accounts, petitions and
22 orders, and other papers filed in the administration of decedents' estates not otherwise
23 specified in subsections (c) through (l) of this section, the probate fees under paragraph
24 (2) of this subsection.

25 (2) Probate fees shall be assessed on the value of the probate estate at the
26 following rates:

27 BEGIN-TABLE;c=04:014:020:037:060

28 <Tr01 >

29 <Tc02 >If the Value

30 <Tc02 >of the

31 <Tc02 >Probate

32 <Tc02 >Estate Is

33 <Tc02 >At Least

34 <Tc03 >But Less

35 <Tc03 >Than

36 <Tc04 >The Fee

37 <Tc04 >Is

38 <Tr01 > (i)

39 <Tc02 > --

40 <Tc03 >\$ 10,000

41 <Tc04 >\$ 50

42 <Tr01 > (ii)

43 <Tc02 >\$ 10,000

44 <Tc03 >\$ 20,000

45 <Tc04 >\$ 100

46 <Tr01 > (iii)

47 <Tc02 >\$ 20,000

48 <Tc03 >\$ 50,000

49 <Tc04 >\$ 150

50 <Tr01 > (iv)

51 <Tc02 >\$ 50,000

SENATE BILL 510

52 <Tc03 >\$ 75,000
53 <Tc04 >\$ 200
54 <Tr01 > (v)
55 <Tc02 >\$ 75,000
56 <Tc03 >\$ 100,000
57 <Tc04 >\$ 300
58 <Tr01 > (vi)
59 <Tc02 >\$ 100,000
60 <Tc03 >\$ 250,000
61 <Tc04 >\$ 400
62 <Tr01 > (vii)
63 <Tc02 >\$ 250,000
64 <Tc03 >\$ 500,000
65 <Tc04 >\$ 500
66 <Tr01 > (viii)
67 <Tc02 >\$ 500,000
68 <Tc03 >\$ 750,000
69 <Tc04 >\$ 750
70 <Tc04 >

3

1 <Tr01 > (ix)
2 <Tc02 >\$ 750,000
3 <Tc03 >\$1,000,000
4 <Tc04 >\$1,000
5 <Tr01 > (x)
6 <Tc02 >\$1,000,000
7 <Tc03 >\$2,000,000
8 <Tc04 >\$1,500
9 <Tr01 > (xi)
10 <Tc02 >\$2,000,000
11 <Tc03 >\$5,000,000
12 <Tc04 >\$2,500
13 <Tr01 > (xii)
14 <Tc02 >\$5,000,000
15 <Tc03 > --
16 <Tc04 >\$2,500 plus
17 <Tc04 >.02% of
18 <Tc04 >excess over
19 <Tc04 >\$5,000,000
20 END-TABLE

21 (3) [For] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS
22 SUBSECTION, FOR purposes of determinations under paragraph (2) of this subsection,
23 the value of a probate estate is the amount, as reflected in the administration accounts
24 filed in the proceedings, that equals:

25 (i) The sum of:

- 26 1. The value of all inventories filed in the proceedings;
27 2. All principal and income receipts; and
28 3. All increases realized on a disposition, other than a
29 distribution to beneficiaries, of any probate asset; less

30 (ii) All decreases realized on a disposition, other than a distribution to
31 beneficiaries, of any probate asset.

32 (4) IF AN ESTATE PROCEEDS THROUGH MODIFIED ADMINISTRATION,
33 FOR THE PURPOSE OF DETERMINING THE APPROPRIATE FEE UNDER PARAGRAPH
34 (2) OF THIS SUBSECTION, THE VALUE OF AN ESTATE IS THE GROSS VALUE OF THE
35 PROBATE ASSETS REPORTED ON THE FINAL REPORT UNDER MODIFIED
36 ADMINISTRATION.

37 [(4)] (5) (i) Except as provided in [subparagraph] SUBPARAGRAPHS
38 (ii) AND (III) of this paragraph, the register shall assess and collect the probate fee when
39 the first administration account is filed.

40 (ii) If there are any additions to the value of a probate estate, as
41 reflected in any subsequent administration account, the register shall:

42 1. Assess an additional fee in an amount equal to the excess of:

43 A. The fee as determined under paragraph (2) of this subsection
44 based on the value of the probate estate as reflected in the currently filed administration
45 account; over

46 B. The fee as determined under paragraph (2) of this subsection

4

1 (III) IF AN ESTATE PROCEEDS THROUGH MODIFIED
2 ADMINISTRATION, THE REGISTER SHALL ASSESS AND COLLECT THE PROBATE FEE
3 WHEN THE PERSONAL REPRESENTATIVE FILES THE FINAL REPORT UNDER
4 MODIFIED ADMINISTRATION.

5 (c) For furnishing additional certificates of letters, with seal.....\$1.00

6 (d) For affixing seal of office to a transcript or other paper, if expressly required
7 by law or a person.....\$1.00

8 (e) For affixing seal of office to a certificate, transcript, or other paper
9 exemplified under the act of Congress.....\$2.00

10 (f) For passing and entering every claim or voucher against an estate of a
11 deceased person, and endorsing certificate on each claim or voucher when passed by the
12 court or register, for each.....\$1.00

13 (g) For entering papers in caveat or other controversial matter, for each
14 side.....\$5.00

15 (h) For transcribing papers filed in caveat or other controversial proceedings
16 when taken to higher court, per page or part of a page.....\$2.00

17 (i) For recording papers filed in caveat or other controversial proceedings, when
18 mandate of higher court is filed, per page or part of a page.....\$2.00

19 (j) For copies of a paper or record, including plain certification and seal, per
20 page or part of a page.....\$2.00

21 (k) For photostatic or other artificially reproduced copies of a paper or record,
22 per page or part of a page.....\$.50

23 (l) For receiving a will for deposit during the lifetime of the testator.....\$1.00

24 (m) For entering the appointment of a guardian, approval of sureties, and filing
25 and recording bonds and entering on docket for 1 minor.....\$6.50

26 For each additional minor.....\$.75

27 (n) For filing and recording guardian accounts and petitions and orders per page
28 or part of a page.....\$2.00

29 (o) For receiving and paying over an inheritance tax due the State, the register is
30 allowed a commission of 25 percent of the inheritance tax.

31 (p) For providing a probate information booklet and materials.....\$2.00

32 SUBTITLE 7. MODIFIED ADMINISTRATION.

33 5-701.

34 IN THIS SUBTITLE, "DATE OF APPOINTMENT" MEANS THE DATE OF
35 APPOINTMENT OF THE PERSONAL REPRESENTATIVE.

5

1 5-702.

2 AN ELECTION FOR MODIFIED ADMINISTRATION MAY BE FILED BY A PERSONAL
3 REPRESENTATIVE OF AN ESTATE WITHIN 3 MONTHS FROM THE DATE OF
4 APPOINTMENT, IF:

5 (1) ~~ALL LEGATEES AND HEIRS OF THE~~ RESIDUARY LEGATEES OF A
6 TESTATE DECEDENT AND THE HEIRS AT LAW OF AN INTESTATE DECEDENT ARE
7 LIMITED TO THE DECEDENT'S:

8 (I) PERSONAL REPRESENTATIVE;

9 (II) SURVIVING SPOUSE; AND

10 (III) CHILDREN;

11 (2) THE ESTATE IS SOLVENT AND SUFFICIENT ASSETS EXIST TO SATISFY
12 ALL TESTAMENTARY GIFTS;

13 (3) A VERIFIED FINAL REPORT UNDER MODIFIED ADMINISTRATION IS
14 FILED WITHIN 10 MONTHS FROM THE DATE OF APPOINTMENT;

15 (4) FINAL DISTRIBUTION OF THE ESTATE CAN OCCUR WITHIN 12
16 MONTHS FROM THE DATE OF APPOINTMENT; AND

17 (5) ~~ALL LEGATEES AND HEIRS OF THE~~ RESIDUARY LEGATEES OF A
18 TESTATE DECEDENT AND THE HEIRS AT LAW OF AN INTESTATE DECEDENT
19 CONSENT TO A MODIFIED ADMINISTRATION AS REQUIRED UNDER § 5-706 OF THIS
20 SUBTITLE.

21 5-703.

22 A REGISTER OF WILLS OR A COURT MAY NOT EXTEND THE TIME PERIODS
23 ESTABLISHED UNDER THIS SUBTITLE.

24 5-704.

25 AFTER FILING AN ELECTION FOR MODIFIED ADMINISTRATION, THE PERSONAL
26 REPRESENTATIVE SHALL:

27 (1) FILE A VERIFIED FINAL REPORT UNDER MODIFIED
28 ADMINISTRATION NO LATER THAN 10 MONTHS FROM THE DATE OF APPOINTMENT
29 INSTEAD OF FILING A FORMAL INVENTORY AND ACCOUNT; AND

30 (2) ON THE REQUEST OF ANY INTERESTED PERSON, PROVIDE A
31 FORMAL INVENTORY AND ACCOUNT, AS REQUIRED UNDER TITLE 7 OF THIS
32 ARTICLE, TO ALL INTERESTED PERSONS.

33 5-705.

34 AN ELECTION FOR MODIFIED ADMINISTRATION SHALL INCLUDE:

35 (1) A STATEMENT THAT THE ESTATE QUALIFIES FOR MODIFIED
36 ADMINISTRATION;

6

1 (2) A BRIEF DESCRIPTION OF THE PROPERTY SUBJECT TO
2 ADMINISTRATION; AND

3 (3) AN ACKNOWLEDGMENT THAT:

4 (I) A VERIFIED FINAL REPORT UNDER MODIFIED
5 ADMINISTRATION SHALL BE FILED NO LATER THAN 10 MONTHS FROM THE DATE OF
6 APPOINTMENT; AND

7 (II) DISTRIBUTION OF THE ESTATE SHALL OCCUR NO LATER THAN
8 12 MONTHS FROM THE DATE OF APPOINTMENT.

9 5-706.

10 THE CONSENT REQUIRED UNDER § 5-702(5) OF THIS SUBTITLE SHALL STATE
11 THAT THE SUBSCRIBING PERSON HAS NOTICE THAT:

12 (1) INSTEAD OF FILING A FORMAL INVENTORY AND ACCOUNT, THE
13 PERSONAL REPRESENTATIVE SHALL FILE A VERIFIED FINAL REPORT UNDER
14 MODIFIED ADMINISTRATION NO LATER THAN 10 MONTHS FROM THE DATE OF
15 APPOINTMENT;

16 (2) ON REQUEST BY ANY LEGATEE OR HEIR NOT PAID IN FULL, A
17 FORMAL INVENTORY AND ACCOUNT SHALL BE PROVIDED BY THE PERSONAL
18 REPRESENTATIVE TO THE LEGATEES OR HEIRS;

19 (3) A WRITTEN OBJECTION TO MODIFIED ADMINISTRATION BY AN
20 INTERESTED PERSON MAY BE FILED WITH THE REGISTER OF WILLS AT ANY TIME
21 DURING ADMINISTRATION, WHICH SHALL REVOKE THE MODIFIED
22 ADMINISTRATION;

23 (4) BY FILING A WRITTEN OBJECTION:

24 (I) THE MODIFIED ADMINISTRATION IS REVOKED;

25 (II) THE ESTATE SHALL BE ADMINISTERED UNDER
26 ADMINISTRATIVE PROBATE; AND

27 (III) THE PERSONAL REPRESENTATIVE SHALL FILE A FORMAL
28 INVENTORY AND ACCOUNT AS NEEDED UNTIL THE ESTATE IS CLOSED;

29 (5) UNLESS AN INTERESTED PERSON WAIVES NOTICE OF THE VERIFIED
30 FINAL REPORT UNDER MODIFIED ADMINISTRATION, THE PERSONAL
31 REPRESENTATIVE SHALL PROVIDE A COPY TO EACH INTERESTED PERSON WITHIN
32 10 MONTHS FROM THE DATE OF THE APPOINTMENT; AND

33 (6) UNDER MODIFIED ADMINISTRATION, DISTRIBUTION TO ALL
34 LEGATEES AND HEIRS SHALL BE MADE WITHIN 12 MONTHS FROM THE DATE OF
35 APPOINTMENT.

7

1 5-707.

2 A FINAL REPORT UNDER MODIFIED ADMINISTRATION SHALL INCLUDE:

3 (1) A STATEMENT REPRESENTING THE CONTINUED QUALIFICATION
4 FOR MODIFIED ADMINISTRATION;

5 (2) AN ITEMIZED SCHEDULE OF THE DECEDENT'S PROPERTY AND THE
6 BASIS OF ITS VALUATION;

7 (3) AN ITEMIZED SCHEDULE OF LIENS, DEBTS, TAXES, AND FUNERAL
8 EXPENSES OF THE DECEDENT AND ADMINISTRATION EXPENSES OF THE ESTATE;
9 AND

10 (4) SCHEDULES SETTING FORTH DISTRIBUTIVE SHARES OF THE ESTATE
11 AND THE APPLICABLE INHERITANCE TAX.

12 ~~5-707.~~ 5-708.

13 (A) A MODIFIED ADMINISTRATION SHALL BE REVOKED BY THE:

14 (1) FILING OF A TIMELY REQUEST FOR JUDICIAL PROBATE;

15 (2) FILING OF A WRITTEN OBJECTION BY AN INTERESTED PERSON;

16 (3) FILING OF A WITHDRAWAL OF THE ELECTION FOR MODIFIED
17 ADMINISTRATION BY A PERSONAL REPRESENTATIVE;

18 (4) ORPHANS' COURT, ON ITS OWN INITIATIVE, OR FOR GOOD CAUSE
19 SHOWN BY AN INTERESTED PERSON OR BY THE REGISTER OF WILLS;

20 (5) FAILURE TO TIMELY FILE THE FINAL REPORT UNDER MODIFIED
21 ADMINISTRATION AND MAKE DISTRIBUTION WITHIN 12 MONTHS FROM THE DATE
22 OF APPOINTMENT; OR

23 (6) FAILURE BY THE PERSONAL REPRESENTATIVE TO COMPLY WITH
24 ANY PROVISION OF THIS SUBTITLE.

25 (B) THE REGISTER OF WILLS SHALL MAIL NOTICE OF ANY REVOCATION BY
26 FIRST CLASS MAIL, POSTAGE PREPAID, TO EACH INTERESTED PERSON.

27 (C) IF A MODIFIED ADMINISTRATION IS REVOKED, THE PERSONAL
28 REPRESENTATIVE SHALL:

29 (1) PROCEED UNDER ADMINISTRATIVE PROBATE; AND

30 (2) (I) FILE A FORMAL INVENTORY AND ACCOUNT WITH THE
31 REGISTER OF WILLS WITHIN THE TIME PERIODS PROVIDED IN TITLE 7 OF THIS
32 ARTICLE; OR

33 (II) IF THE DEADLINE HAS PASSED FOR FILING EITHER AN
34 INVENTORY OR AN ACCOUNT, FILE THE LATE DOCUMENT WITHIN 30 DAYS FROM
35 THE REGISTER'S NOTICE OF REVOCATION.

8

1 ~~5-708.~~ 5-709.

2 AN ESTATE UNDER MODIFIED ADMINISTRATION SHALL CLOSE NOT LATER
3 THAN 13 MONTHS FROM THE DATE OF APPOINTMENT, IF A VERIFIED FINAL REPORT
4 UNDER MODIFIED ADMINISTRATION IS FILED AND ALL PROBATE FEES AND
5 INHERITANCE TAXES ARE PAID.

6 ~~5-709.~~ 5-710.

7 EXCEPT TO THE EXTENT INCONSISTENT WITH THIS SUBTITLE, ALL OTHER
8 PROVISIONS OF THE LAW OF DECEDENTS' ESTATES SHALL APPLY TO A MODIFIED
9 ADMINISTRATION.

10 10-103.

11 (a) (1) If no action or proceeding involving the personal representative is
12 pending one year after the close of the estate pursuant to § 5-709 OF THIS ARTICLE OR
13 § 10-101 OF THIS SUBTITLE, the personal representative shall be discharged from any
14 claim or demand of any interested person.

15 (2) The rights so barred do not include rights to recover from a personal
16 representative for fraud, material mistake, or substantial irregularity.

17 **Article - Tax - General**

18 7-217.

19 (a) Except as provided in § 7-218 of this subtitle and subsections (c), (d), and (e)
20 of this section, if an estate is administered subject to the jurisdiction of a court, the person
21 responsible for paying the inheritance tax shall pay the tax when the register determines
22 the amount due, at the time that the representative accounts for the distribution of
23 property of the estate.

24 (B) EXCEPT AS PROVIDED IN § 7-218 OF THIS SUBTITLE AND SUBSECTIONS (C),
25 (D), AND (E) OF THIS SECTION, IF AN ESTATE IS ADMINISTERED UNDER MODIFIED
26 ADMINISTRATION, THE PERSON RESPONSIBLE FOR PAYING THE INHERITANCE TAX
27 SHALL PAY THE TAX WHEN THE PERSONAL REPRESENTATIVE FILES THE FINAL
28 REPORT UNDER MODIFIED ADMINISTRATION.

29 [(b)] (C) Except as provided in § 7-218 of this subtitle and subsections (c), (d),
30 and (e) of this section, if there is no formal administration subject to the jurisdiction of a
31 court for property that passes from a decedent, the person responsible for paying the
32 inheritance tax shall pay the tax when the register determines the amount due.

33 [(c)] (D) Except as provided by subsection (d) of this section, if an interest in
34 property is valued under § 7-209(d) or (e) or § 7-210 of this subtitle, the person
35 responsible for paying the inheritance tax shall pay the tax within 30 days after the
36 determination of the inheritance tax due on the interest.

37 [(d)] (E) If the inheritance tax on a subsequent interest in property is not prepaid,
38 the person responsible for paying the tax shall pay the tax when the interest vests in
39 possession.

9

1 [(e)] (F) If additional inheritance tax becomes due under § 7-221 of this subtitle,
2 the person responsible for paying the tax shall pay the tax when the disqualifying event
3 occurs.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1997.