

Chapter 233

(House Bill 556)

AN ACT concerning

Estates and Trusts – Administration of Estates – Waiver of Fees

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

BY repealing and reenacting, with amendments,

Article – Estates and Trusts

Section 2–206(a)

Annotated Code of Maryland

(2017 Replacement Volume)

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

Article – Estates and Trusts

2–206.

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

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

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

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

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

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

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

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

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

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~~(II) 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.

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

Approved by the Governor, April 24, 2018.