

HOUSE BILL 556

N2

8lr3542
CF SB 466

By: **Delegate Sydnor**

Introduced and read first time: January 29, 2018

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 2018

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 providing for the prospective application of this Act; and generally relating to fees
12 for estate administration.

13 BY repealing and reenacting, with amendments,

14 Article – Estates and Trusts

15 Section 2–206(a)

16 Annotated Code of Maryland

17 (2017 Replacement Volume)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

19 That the Laws of Maryland read as follows:

20 **Article – Estates and Trusts**

21 2–206.

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 (a) (1) The registers of wills are entitled to charge and collect for the
2 performance of their duties the fees in this section.

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

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

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

10 2. ENCUMBERED BY A LIEN AGAINST THE PROPERTY
11 AND SUBJECT TO SALE UNDER TITLE 14, SUBTITLE 8 OF THE TAX - PROPERTY
12 ARTICLE; ~~AND~~

13 ~~(II) THE ESTATE IS UNABLE TO PAY THE FEES BY REASON OF~~
14 ~~POVERTY~~

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

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

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

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

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

31 (V) IF THE REAL PROPERTY IS TO BE TRANSFERRED TO AN
32 INDIVIDUAL DESCRIBED UNDER ITEM (I)1 OF THIS PARAGRAPH, THE PERSONAL

1 REPRESENTATIVE SUBMITS AN AFFIDAVIT STATING THAT THE PROBATE ASSETS
2 INCLUDE REAL PROPERTY ON WHICH A SPOUSE, DESCENDANT, SIBLING, OR
3 DESCENDANT OF A SIBLING RESIDES; AND

4 (VI) THE ESTATE MEETS THE CRITERIA FOR ADMINISTRATION
5 AS:

6 1. A SMALL ESTATE; OR

7 2. A REGULAR ESTATE:

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.