

HOUSE BILL 187

N2
HB 766/21 – JUD

(PRE-FILED)

2lr1193

By: **Delegate Terrasa**

Requested: November 1, 2021

Introduced and read first time: January 12, 2022

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2022

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of providing that a register of wills is not required to record or provide
4 certain documents until the appropriate fee for the documents has been paid;
5 altering certain probate fees on estates that are valued at a certain amount;
6 requiring a register of wills to collect and assess probate fees at a certain time;
7 authorizing registers of wills to provide certain services and charge a certain fee for
8 those services; altering certain fees for certain services provided by a register of wills;
9 authorizing a register of wills to collect fees for certain costs ~~and the issuance of~~
10 ~~certain orders~~; altering the fees that may be charged for the administration of certain
11 small estates; and generally relating to fees for estate administration.

12 BY repealing and reenacting, with amendments,
13 Article – Estates and Trusts
14 Section 2–206 and 5–606
15 Annotated Code of Maryland
16 (2017 Replacement Volume and 2021 Supplement)

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

19 **Article – Estates and Trusts**

20 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) In this subsection, “poverty” means:

2 (i) At the time of the decedent’s death, the decedent’s family
3 household income was less than 50% of the median family income for the State as reported
4 in the Federal Register; or

5 (ii) The personal representative is represented by an attorney
6 retained through the Maryland Legal Services Corporation.

7 (2) The registers of wills are entitled to charge and collect **THE FEES**
8 **LISTED IN THIS SECTION** for the performance of their duties [the fees in this section].

9 **(3) UNLESS OTHERWISE PROVIDED BY LAW, A REGISTER OF WILLS IS**
10 **NOT REQUIRED TO RECORD ANY DOCUMENT FILED WITH THE REGISTER OR PROVIDE**
11 **TO ANY PERSON A COPY OF A DOCUMENT UNTIL THE APPROPRIATE FEE FOR THE**
12 **DOCUMENT HAS BEEN PAID.**

13 ~~[(3)]~~ (4) A register of wills shall waive any fees under this section for the
14 administration of an estate if:

15 (i) The real property of the decedent subject to administration in the
16 State is:

17 1. To be transferred to an heir of the decedent who resides on
18 the property; or

19 2. Encumbered by a lien against the property and subject to
20 sale under Title 14, Subtitle 8 of the Tax – Property Article; and

21 (ii) The estate is unable to pay the fees by reason of poverty.

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

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

32 If the
33 Value

	of the Probate Estate Is At Least	But Less Than	The Fee Is
5	(i) —	[\$10,000]	[\$50] \$0
6		\$50,000	
7	[(ii)] \$10,000	\$20,000	\$100
8	[(iii)] \$20,000	\$50,000	\$150]
9	[(iv)] (II) \$50,000	[\$75,000]	[\$200] \$100
10		\$100,000	
11	[(v)] \$75,000	\$100,000	\$300]
12	[(vi)] (III) \$100,000	[\$250,000]	[\$400] \$200
13		\$500,000	
14	[(vii)] \$250,000	\$500,000	\$500]
15	[(viii)] (IV) \$500,000	[\$750,000]	[\$750] \$1,000
16		\$1,000,000	
17	[(ix)] \$750,000	\$1,000,000	\$1,000]
18	[(x)] (V) \$1,000,000	[\$2,000,000 –]	[\$1,500] \$2,000
19		\$2,500,000	
20	[(xi)] (VI) [\$2,000,000]	\$5,000,000	[\$2,500] \$5,000
21		\$2,500,000	
22	<u>(VII)</u>	<u>\$5,000,000</u>	<u>\$7,500</u>
23	<u>(VIII)</u>	<u>\$7,500,000</u>	<u>\$10,000</u>
24	[(xii)]	\$5,000,000	—
25	(VII) (IX) <u>\$10,000,000</u>		plus .02% of excess
26			over [\$5,000,000]
27			\$10,000,000

30 (3) Except as provided in paragraph (4) of this subsection, for purposes of
 31 determinations under paragraph (2) of this subsection, the value of a probate estate is the
 32 amount, as reflected in the administration accounts filed in the proceedings, that equals:

- 33 (i) The sum of:
- 34 1. The value of all inventories filed in the proceedings;
 - 35 2. All principal and income receipts; and
 - 36 3. All increases realized on a disposition, other than a
 37 distribution to beneficiaries, of any probate asset; less
- 38 (ii) All decreases realized on a disposition, other than a distribution
 39 to beneficiaries, of any probate asset.

1 (4) (I) If an estate proceeds through modified administration, for the
2 purpose of determining the appropriate fee under paragraph (2) of this subsection, the
3 value of an estate is the gross value of the probate assets reported on the final report under
4 modified administration.

5 (II) A REGISTER OF WILLS SHALL ASSESS AND COLLECT THE
6 PROBATE FEE WHEN THE PERSONAL REPRESENTATIVE FILES THE FINAL REPORT.

7 (5) (i) Except as provided in [subparagraphs (ii) and (iii)]
8 SUBPARAGRAPH (II) of this paragraph, the register shall assess and collect the probate
9 fee when the first administration account is filed.

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

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

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

17 B. The fee as determined under paragraph (2) of this
18 subsection based on the value of the probate estate as reflected in the most recent
19 previously filed administration account; and

20 2. Collect the additional fee when the subsequent
21 administration account is filed.

22 [(iii) If an estate proceeds through modified administration, the
23 register shall assess and collect the probate fee when the personal representative files the
24 final report under modified administration.]

25 (c) For furnishing AN additional [certificates of letters] LETTER OF
26 ADMINISTRATION, with seal \$1

27 (d) For [affixing seal of office to a transcript or other paper] A CERTIFIED COPY
28 OF A RECORD, if expressly required by law or a person, WITH SEAL \$1

29 (e) For [affixing seal of office to a certificate, transcript, or other paper
30 exemplified under the act of Congress] AN EXEMPLIFIED COPY OF A RECORD, IF
31 EXPRESSLY REQUIRED BY LAW OR A PERSON, WITH SEAL \$2

32 (f) For [passing and entering every] RECORDING A claim [or voucher] against
33 an estate of a deceased person, [and endorsing certificate on each claim or voucher when
34 passed by the court or register,] for each \$3

1 (g) For [entering] RECORDING papers in caveat or other controversial matter,
2 for [each side] THE PETITIONER [\$10] \$20

3 (h) For transcribing papers filed in caveat or other controversial proceedings
4 when taken to higher court, per page or part of a page \$2

5 (i) For recording papers filed in caveat or other controversial proceedings, when
6 mandate of higher court is filed, per page or part of a page \$2

7 (j) For copies of a paper or record, including plain certification and seal, per page
8 or part of a page \$2

9 (k) For photostatic or other artificially reproduced copies of a paper or record, per
10 page or part of a page 50 cents

11 (l) For receiving a will for deposit during the lifetime of the testator \$5

12 (m) For [all filing and entries] FILINGS regarding a guardianship proceeding, [a
13 single fee of] FOR THE PETITIONER \$20

14 (n) For receiving and paying over an inheritance tax due the State, the register is
15 allowed a commission of 25% of the inheritance tax.

16 [(o) For providing a probate information booklet and materials \$2]

17 [(p)] (O) For all proceedings involving a foreign personal representative, a single
18 fee of 1% of the gross value of the estate[, not to exceed \$100].

19 (P) FOR A COPY OF A RECORDING OF A HEARING BEFORE AN ORPHAN'S
20 COURT \$25

21 ~~(Q) FOR THE ISSUANCE OF A SHOW CAUSE ORDER, THE PERSONAL~~
22 ~~REPRESENTATIVE SHALL BE RESPONSIBLE FOR THE FOLLOWING FEES:~~

23 ~~(1) FIRST OCCURRENCE \$0~~

24 ~~(2) SECOND OCCURRENCE \$25~~

25 ~~(3) THIRD OCCURRENCE \$75~~

26 ~~(4) FOURTH AND SUBSEQUENT OCCURRENCES \$150~~

27 ~~(R)~~ (Q) FOR THE ACTUAL COST CHARGED BY THE FINANCIAL
28 INSTITUTION OF A CHECK RETURNED FOR INSUFFICIENT FUNDS OR OTHER REASON.

1 ~~(S)~~ **(R)** FOR THE ACTUAL COST OF ALL CERTIFIED MAILINGS,
 2 REGISTERED MAILINGS, OR OTHER METHOD OF PROCESS EXCEPT FIRST-CLASS
 3 MAIL.

4 5-606.

5 (a) [(1) (i)] Except as provided in [paragraph (2) of this subsection]
 6 **SUBSECTIONS (B) AND (C) OF THIS SECTION**, for all services listed in § 2-206(b)(1) of
 7 this article that a register performs in connection with a small estate [having a value of no
 8 more than \$5,000], the register shall receive the fees under [subsection (b) of this section
 9 instead of the fees under] § 2-206(b)(2) of this article.

10 [(ii) For a small estate having a value of more than \$5,000, the fees
 11 under § 2-206 of this article shall apply.]

12 [(2)] **(B)** For each additional certificate of letters over 4 furnished in
 13 connection with a small estate, the register shall receive the additional fee under § 2-206(c)
 14 of this article.

15 [(b) Fees for a small estate shall be assessed on the value of the small estate at the
 16 following rates:

17	If the Value	But No More	The Fee
18	of the Small	Than	Is
19	Estate Is		
20	Greater Than		
21	(1) —	\$200	\$2
22	(2) \$200	\$5,000	1% of the Value of
23			the Small Estate]

24 **(C) THE REGISTER MAY NOT RECEIVE FEES IN CONNECTION WITH A SMALL**
 25 **ESTATE IN WHICH:**

26 **(1) THE SURVIVING SPOUSE IS THE SOLE LEGATEE OR HEIR AND HAS**
 27 **QUALIFIED FOR ADMINISTRATION UNDER THIS SUBTITLE IN ACCORDANCE WITH §**
 28 **5-601(C) OF THIS SUBTITLE; AND**

29 **(2) THE PROPERTY OF THE DECEDENT SUBJECT TO ADMINISTRATION**
 30 **IN MARYLAND IS ESTABLISHED TO HAVE A VALUE OF \$100,000 OR LESS AS OF THE**
 31 **DATE OF DEATH OF THE DECEDENT.**

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

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2022.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.