

# HOUSE BILL 187

N2  
HB 766/21 – JUD

(PRE-FILED)

2lr1193

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By: **Delegate Terrasa**

Requested: November 1, 2021

Introduced and read first time: January 12, 2022

Assigned to: Judiciary

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## A BILL ENTITLED

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.

21 (a) (1) In this subsection, “poverty” means:

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

9 ~~(3)~~ (4) A register of wills shall waive any fees under this section for the  
10 administration of an estate if:

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

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

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

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

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

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

28		If the		
29		Value		
30		of the		
31		Probate	But Less	The Fee
32		Estate Is	Than	Is
33		At Least		
34	(i)	—	[\$10,000]	[\$50] \$0
35			\$50,000	

1	[(ii)	\$10,000	\$20,000	\$100
2	(iii)	\$20,000	\$50,000	\$150]
3	[(iv)] (II)	\$50,000	[\$75,000]	[\$200] <b>\$100</b>
4			<b>\$100,000</b>	
5	[(v)	\$75,000	\$100,000	\$300]
6	[(vi)] (III)	\$100,000	[\$250,000]	[\$400] <b>\$200</b>
7			<b>\$500,000</b>	
8	[(vii)	\$250,000	\$500,000	\$500]
9	[(viii)] (IV)	\$500,000	[\$750,000]	[\$750] <b>\$1,000</b>
10			<b>\$1,000,000</b>	
11	[(ix)	\$750,000	\$1,000,000	\$1,000]
12	[(x)] (V)	\$1,000,000	[\$2,000,000 -]	[\$1,500] <b>\$2,000</b>
13			<b>\$2,500,000</b>	
14	[(xi)] (VI)	[\$2,000,000]	\$5,000,000	[\$2,500] <b>\$5,000</b>
15		<b>\$2,500,000</b>		
16	[(xii)]	\$5,000,000	—	[\$2,500] <b>\$10,000</b>
17	(VII)			plus .02% of excess
18				over <b>[\$5,000,000]</b>
19				<b>\$10,000,000</b>

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

- 23 (i) The sum of:
- 24 1. The value of all inventories filed in the proceedings;
  - 25 2. All principal and income receipts; and
  - 26 3. All increases realized on a disposition, other than a  
 27 distribution to beneficiaries, of any probate asset; less
- 28 (ii) All decreases realized on a disposition, other than a distribution  
 29 to beneficiaries, of any probate asset.

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

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

36 (5) (i) Except as provided in [subparagraphs (ii) and (iii)]

1 **SUBPARAGRAPH (II)** of this paragraph, the register shall assess and collect the probate  
2 fee when the first administration account is filed.

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

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

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

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

13 2. Collect the additional fee when the subsequent  
14 administration account is filed.

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

18 (c) For furnishing **AN** additional [certificates of letters] **LETTER OF**  
19 **ADMINISTRATION**, with seal..... \$1

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **(P) FOR A COPY OF A RECORDING OF A HEARING BEFORE AN ORPHAN'S**  
14 **COURT** ..... **\$25**

15 **(Q) FOR THE ISSUANCE OF A SHOW CAUSE ORDER, THE PERSONAL**  
16 **REPRESENTATIVE SHALL BE RESPONSIBLE FOR THE FOLLOWING FEES:**

17 **(1) FIRST OCCURRENCE** ..... **\$0**

18 **(2) SECOND OCCURRENCE** ..... **\$25**

19 **(3) THIRD OCCURRENCE** ..... **\$75**

20 **(4) FOURTH AND SUBSEQUENT OCCURRENCES** ..... **\$150**

21 **(R) FOR THE ACTUAL COST CHARGED BY THE FINANCIAL INSTITUTION OF A**  
22 **CHECK RETURNED FOR INSUFFICIENT FUNDS OR OTHER REASON.**

23 **(S) FOR THE ACTUAL COST OF ALL CERTIFIED MAILINGS, REGISTERED**  
24 **MAILINGS, OR OTHER METHOD OF PROCESS EXCEPT FIRST-CLASS MAIL.**

25 5-606.

26 (a) [(1) (i)] Except as provided in [paragraph (2) of this subsection]  
27 **SUBSECTIONS (B) AND (C) OF THIS SECTION**, for all services listed in § 2-206(b)(1) of  
28 this article that a register performs in connection with a small estate [having a value of no

1 more than \$5,000], the register shall receive the fees under [subsection (b) of this section  
2 instead of the fees under] § 2–206(b)(2) of this article.

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

5 [(2)] (B) For each additional certificate of letters over 4 furnished in  
6 connection with a small estate, the register shall receive the additional fee under § 2–206(c)  
7 of this article.

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

	If the Value of the Small Estate Is Greater Than	But No More Than	The Fee Is
10	(1) —	\$200	\$2
11	(2) \$200	\$5,000	1% of the Value of the Small Estate]
12			
13			
14			
15			
16			
17			

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

20 (1) **THE SURVIVING SPOUSE IS THE SOLE LEGATEE OR HEIR AND HAS**  
21 **QUALIFIED FOR ADMINISTRATION UNDER THIS SUBTITLE IN ACCORDANCE WITH §**  
22 **5–601(C) OF THIS SUBTITLE; AND**

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

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

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