

HOUSE BILL 766

N2

1lr2407

By: **Delegate Terrasa**

Introduced and read first time: January 29, 2021

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of providing that, except under certain circumstances, a register of wills
4 is not required to record or provide certain documents until certain fees for the
5 administration of an estate have been paid; altering certain probate fees on estates
6 that are valued at a certain amount; requiring a register of wills to collect and assess
7 certain fees at a certain time; authorizing registers of wills to provide certain services
8 and charge a certain fee for those services; altering certain fees for certain services
9 provided by a register of wills; authorizing a register of wills to collect fees for certain
10 costs and the issuance of certain orders; altering the fees that may be charged for the
11 administration of certain small estates; making certain stylistic and conforming
12 changes; providing for the application of this Act; and generally relating to fees for
13 estate administration.

14 BY repealing and reenacting, with amendments,
15 Article – Estates and Trusts
16 Section 2–206 and 5–606
17 Annotated Code of Maryland
18 (2017 Replacement Volume and 2020 Supplement)

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

21 **Article – Estates and Trusts**

22 2–206.

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

24 (i) At the time of the decedent’s death, the decedent’s family
25 household income was less than 50% of the median family income for the State as reported

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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 **THE FEES LISTED IN THIS SECTION** for the performance of their duties [the fees in this section].

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

~~[(3)]~~ (4) A register of wills shall 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 of the decedent who resides 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.

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

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

	If the		
	Value		
	of the		
	Probate		
	Estate Is	But Less	The Fee
	At Least	Than	Is
(i)	—	[\$10,000]	[\$50] \$0

1			\$50,000	
2	[(ii)]	\$10,000	\$20,000	\$100
3	(iii)	\$20,000	\$50,000	\$150]
4	[(iv)] (II)	\$50,000	\$75,000	[\$200] \$100
5	[(v)] (III)	\$75,000	\$100,000	[\$300] \$150
6	[(vi)] (IV)	\$100,000	\$250,000	[\$400] \$200
7	[(vii)] (V)	\$250,000	\$500,000	\$500
8	[(viii)] (VI)	\$500,000	\$750,000	[\$750] \$1,000
9	[(ix)] (VII)	\$750,000	\$1,000,000	[\$1,000] \$1,500
10	[(x)] (VIII)	\$1,000,000	[\$2,000,000] –	[\$1,500] 0.2% OF
11			–	THE VALUE OF
12				THE ESTATE
13	[(xi)]	\$2,000,000	\$5,000,000	\$2,500
14	(xii)	\$5,000,000	—	\$2,500 plus .02% of
15				excess over
16				\$5,000,000]

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

20 (i) The sum of:

21 1. The value of all inventories filed in the proceedings;

22 2. All principal and income receipts; and

23 3. All increases realized on a disposition, other than a
 24 distribution to beneficiaries, of any probate asset; less

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 **(P) FOR A COPY OF A RECORDING OF A HEARING BEFORE AN ORPHAN'S**
12 **COURT** **\$25**

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

15 **(1) FIRST OCCURRENCE** **\$0**

16 **(2) SECOND OCCURRENCE** **\$25**

17 **(3) THIRD OCCURRENCE** **\$75**

18 **(4) FOURTH AND SUBSEQUENT OCCURRENCES** **\$150**

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

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

23 5-606.

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

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

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

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

	If the Value of the Small Estate Is Greater Than	But No More Than	The Fee Is
8			
9			
10			
11			
12	(1) —	\$200	\$2
13	(2) \$200	\$5,000	1% of the Value of
14			the Small Estate]

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

17 (1) **THE SURVIVING SPOUSE IS THE SOLE LEGATEE OR HEIR AND HAS**
18 **QUALIFIED FOR ADMINISTRATION UNDER THIS SUBTITLE IN ACCORDANCE WITH §**
19 **5–601(C) OF THIS SUBTITLE; AND**

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

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

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2021.