

No. 482

AN ACT

SB 878

Amending the act of April 18, 1949 (P. L. 512), entitled "An act relating to the administration and distribution of decedents' estates, trust estates, minors' estates and absentees' estates, both as to real and personal property, and the procedure relating thereto; including the disposition of such estates or portions thereof and the determination of title thereto without the appointment of a fiduciary in certain cases; the appointment, bond, removal and discharge of fiduciaries of such estates, their powers, duties and liabilities; the rights of persons dealing with such fiduciaries, and the rights of persons claiming an interest in such estates or in property distributed therefrom whether as claimants or distributees, and containing provisions concerning guardians of the person of minors, the powers, duties and liabilities of sureties and of foreign fiduciaries, the abatement, survival and control of actions and rights of action, and the presumption of death; and also generally dealing with the jurisdiction, powers and procedure of the orphans' court and of the register of wills in all matters relating to fiduciaries," further providing for occupation of decedent's real estate.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 501, act of April 18, 1949 (P. L. 512), known as the "Fiduciaries Act of 1949," is amended to read:

Section 501. Possession of Real and Personal Estate; Exception.—A personal representative shall have the right to and shall take possession of, maintain and administer all the real and personal estate of the decedent, except real estate occupied at the time of death by an heir or devisee with the consent of the decedent. He shall collect the rents and income from each asset in his possession until it is sold or distributed, and, during the administration of the estate, shall have the right to maintain any action with respect to it and shall make all reasonable expenditures necessary to preserve it. The court may direct the personal representative to take possession of, administer and maintain real estate so occupied by an heir or a devisee if this is necessary to protect the rights of claimants or other parties. Nothing in this section shall affect the personal representative's power to sell real estate occupied by an heir or devisee.

Section 2. This act shall take effect immediately.

APPROVED—The 22d day of December, A. D. 1965.

WILLIAM W. SCRANTON

No. 483

AN ACT

SB 879

Amending the act of April 18, 1949 (P. L. 512), entitled "An act relating to the administration and distribution of decedents' estates, trust estates, minors' estates and absentees' estates, both as to real and personal property, and the procedure relating thereto; including the disposition of such estates or portions thereof and the deter-

mination of title thereto without the appointment of a fiduciary in certain cases; the appointment, bond, removal and discharge of fiduciaries of such estates, their powers, duties and liabilities; the rights of persons dealing with such fiduciaries, and the rights of persons claiming an interest in such estates or in property distributed therefrom whether as claimants or distributees, and containing provisions concerning guardians of the person of minors, the powers, duties and liabilities of sureties and of foreign fiduciaries, the abatement, survival and control of actions and rights of action, and the presumption of death; and also generally dealing with the jurisdiction, powers and procedure of the orphans' court and of the register of wills in all matters relating to fiduciaries," further providing for settlement of small estates, and further changing provisions relating to the family exemption.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 202, act of April 18, 1949 (P. L. 512), known as the "Fiduciaries Act of 1949," amended November 10, 1959 (P. L. 1450), is amended to read:

Section 202. Settlement of Small Estates on Petition.—When any person dies domiciled in the Commonwealth owning property (exclusive of real estate and of wages, salary or any accrued vacation benefits or pension payable under section 201, but including personal property claimed as the family exemption) of a gross value not exceeding twenty-five hundred dollars, the orphans' court of the county wherein the decedent was domiciled at the time of his death, upon petition of any party in interest, in its discretion, with or without appraisal, and with such notice as the court shall direct, and whether or not letters have been issued or a will probated, may direct distribution of the property (including wages, salary or any accrued vacation benefits or pensions not paid under section 201) to the parties entitled thereto. The decree of distribution so made shall constitute sufficient authority to all transfer agents, registrars and others dealing with the property of the estate to recognize the persons named therein as entitled to receive the property to be distributed without administration, and shall in all respects have the same effect as a decree of distribution after an accounting by a personal representative. Within one year after such a decree of distribution has been made, any party in interest may file a petition to revoke it because an improper distribution has been ordered. If the court shall find that an improper distribution has been ordered, it shall revoke the decree and shall direct restitution as equity and justice shall require.

Section 2. Subsections (a) and (b) of section 212, subsections (b), (c) and (d) of section 213, and sections 214 and 215 of the act, are amended to read:

Section 212. Payment or Delivery of Exemption.—

(a) Items Claimed. The personal representative, if any, shall deliver to the spouse, child or children, parent or parents, the items of personal

property claimed as the exemption, at the values fixed by the inventory and appraisalment.

(b) Property Set Aside for Minors. When any spouse [or] child or parent entitled to all or part of the exemption is a minor, the guardian of his estate, and if no such guardian has been appointed then the personal representative, without request made to him by anyone, shall select, for the use and benefit of the minor, real or personal property to the full value to which he is entitled, and in so doing the guardian or personal representative shall be governed by the necessities of the minor under the circumstances of each case.

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Section 213. Payment from Real Estate.—

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(b) Real Estate Valued at More Than Amount Claimed. When the real estate of the decedent cannot be divided so as to set apart the amount claimed without prejudice to or spoiling the whole or any parcel of it and the appraisers shall value such real estate or parcel thereof at any sum exceeding the amount claimed, it shall be lawful for the orphans' court of original jurisdiction to confirm the appraisalment and to set apart such real estate or parcel thereof for the use of the surviving spouse, child or children, parent or parents, conditioned, however, that the surviving spouse, child or children, parent or parents shall pay the amount of the valuation in excess of the amount claimed, without interest, within six months from the date of confirmation of the appraisalment. If the surviving spouse, child or children, parent or parents shall refuse to take the real estate or parcel thereof at the appraisalment, or shall fail to make payment as provided above, the court, on application of any party in interest, may direct the personal representative or a trustee appointed by the court to sell the same and the sale in such case shall be upon such terms and security as the court shall direct.

(c) Payment of Surplus. The real estate, if taken by the surviving spouse, child or children, parent or parents, shall vest in him or them, upon his or their payment of the surplus above so much of the exemption as shall be claimed out of the real estate to the parties entitled thereto or to the personal representative of the decedent, as the court, in its discretion, shall direct. If the real estate is sold, so much of the exemption as shall be claimed out of it shall be paid out of the purchase money to the surviving spouse, child or children, parent or parents entitled thereto, and the balance, after payment of costs, shall be distributed

to the parties entitled thereto or to the personal representative of the decedent, as the court, in its discretion, shall direct.

(d) Recording and Registering Decrees. A certified copy of every decree confirming an appraisal of real estate and setting it apart to the surviving spouse, child or children, parent or parents shall be recorded in the deed book in the office of the recorder of deeds of each county where the real estate shall lie, shall be indexed by the recorder in the grantor's index under the name of the decedent and in the grantee's index under the name of such surviving spouse, child or children, parent or parents, and shall be registered in the survey bureau or with the proper authorities empowered to keep a register of real estate in the county: Provided, That no decree conditioned upon payment of any surplus by the surviving spouse, child or children, parent or parents shall be recorded or registered unless there is offered for recording, concurrently therewith, written evidence of the payment of such surplus.

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Section 214. Income.—When the family exemption does not exhaust the entire real and personal estate, the income of the estate shall be equitably prorated among the surviving spouse, child or children, parent or parents and the others taking the estate.

Section 215. Other Remedies.—The surviving spouse, child or children, parent or parents may also collect the exemption out of real and personal estate, together with income thereon, in the manner provided by law for the collection of legacies.

Section 3. This act shall take effect immediately.

APPROVED—The 22d day of December, A. D. 1965.

WILLIAM W. SCRANTON

No. 484

AN ACT

SB 880

Amending the act of August 24, 1951 (P. L. 1405), entitled "An act relating to the apportionment of estate taxes and providing procedure for enforcement of contribution or exoneration," providing general rules for outright devises and bequests.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows: