

grant of authority, certified by the official custodian of such documents or records, under his official seal, if any, to be a true and correct copy of the originals thereof in his possession, or under his control, together with the certificate of the presiding judge or the officer having jurisdiction or authority over such custodian that the attestation is in due form and by the proper officer.

When effective.

Section 2. This act shall become effective immediately upon its final enactment.

APPROVED—The 2d day of July, A. D. 1937.

GEORGE H. EARLE

No. 565

AN ACT

To add section 48.1 to the act, approved the seventh day of June, one thousand nine hundred and seventeen (Pamphlet Laws, four hundred forty-seven), entitled "An act relating to the administration and distribution of the estates of decedents and of minors, and of trust estates, including the appointment, bonds, rights, powers, duties, liabilities, accounts, discharge and removal of executors, administrators, guardians, and trustees, herein designated as fiduciaries; the administration and distribution of the estates of presumed decedents; widow's and children's exemptions; debts of decedents, rents of real estate as assets for payment thereof, the lien thereof, sales and mortgages of real estate for the payment thereof, judgments and executions therefor, and the discharge of real estate from the lien thereof; contracts of decedents for the sale or purchase of real estate; legacies, including legacies charged on land; the discharge of residuary estates and of real estate from the lien of legacies and other charges; the appraisal of real estate devised at a valuation; the ascertainment of the curtilage of dwelling houses or other buildings devised; the abatement and survival of actions, and the substitution of executors and administrators therein, and suits against fiduciaries; investments by fiduciaries; the organization of corporations to carry on the business of decedents; the audit and review of accounts of fiduciaries; refunding bonds; transcripts to the court of common pleas of balances due by fiduciaries; the rights, powers, and liabilities of nonresident and foreign fiduciaries; the appointment, bonds, rights, powers, duties, and liabilities of trustees *durante absentia*; the recording and registration of decrees, reports and other proceedings, and the fees therefor; appeals in certain cases; and, also, generally dealing with the jurisdiction, powers, and procedure of the orphans' court in all matters relating to fiduciaries concerned with the estates of decedents," by providing for the apportionment of estate taxes in certain cases.

Act of June 7, 1917 (P. L. 447), amended by inserting between sections 48 and 49 section 48.1.

Section 1. Be it enacted, &c., That the act, approved the seventh day of June, one thousand nine hundred and seventeen (Pamphlet Laws, four hundred forty-seven), entitled "An act relating to the administration and distribution of the estates of decedents and of minors, and of trust estates, including the appointment,

bonds, rights, powers, duties, liabilities, accounts, discharge and removal of executors, administrators, guardians, and trustees, herein designated as fiduciaries; the administration and distribution of the estates of presumed decedents; widow's and children's exemptions; debts of decedents, rents of real estate as assets for payment thereof, the lien thereof, sales and mortgages of real estate for the payment thereof, judgments and executions therefor, and the discharge of real estate from the lien thereof; contracts of decedents for the sale or purchase of real estate; legacies, including legacies charged on land; the discharge of residuary estates and of real estate from the lien of legacies and other charges; the appraisal of real estate devised at a valuation; the ascertainment of the curtilage of dwelling houses or other buildings devised; the abatement and survival of actions, and the substitution of executors and administrators therein, and suits against fiduciaries; investments by fiduciaries; the organization of corporations to carry on the business of decedents; the audit and review of accounts of fiduciaries; refunding bonds; transcripts to the court of common pleas of balances due by fiduciaries; the rights, powers, and liabilities of non-resident and foreign fiduciaries; the appointment, bonds, rights, powers, duties, and liabilities of trustees *durante absentia*; the recording and registration of decrees, reports and other proceedings, and the fees therefor; appeals in certain cases; and, also, generally dealing with the jurisdiction, powers, and procedure of the orphans' court in all matters relating to fiduciaries concerned with the estates of decedents," is hereby amended by inserting between sections forty-eight and forty-nine a new section to read as follows:

*Section 48.1. (a) Whenever it appears upon any accounting or in any appropriate action or proceeding that an executor, administrator, temporary administrator, trustee, or other person acting in a fiduciary capacity, has paid an estate tax, levied or assessed under the provisions of the act, approved the seventh day of May, one thousand nine hundred and twenty-seven (Pamphlet Laws, eight hundred fifty-nine), entitled "A supplement to the act, approved the twentieth day of June, one thousand nine hundred and nineteen (Pamphlet Laws, five hundred and twenty-one), entitled "An act providing for the imposition and collection of certain taxes upon the transfer of property passing from a decedent who was a resident of this Commonwealth at the time of his death, and of property within this Commonwealth of a decedent who was a nonresident of the Commonwealth at the time of his death; and making it unlawful for any corporation of this Commonwealth, or national banking association located therein, to transfer*

the stock of such corporation or banking association, standing in the name of any such decedent, until the tax on the transfer thereof has been paid; and providing penalties; and citing certain acts for repeal,' imposing additional taxes equal to Federal credits," or its amendments, or under any law hereafter enacted, or under the provisions of any estate tax law of the United States heretofore or hereafter enacted upon or with respect to any property required to be included in the gross estate of a decedent under the provisions of any such law, the amount of the tax so paid, except in a case where a testator otherwise directs in his will, shall be equitably prorated among the persons interested in the estate to whom such property is or may be transferred, or to whom any benefit accrues. Such proration shall be made by the orphans' court in the proportion as near as may be that the value of the property, interest or benefit of each such person bears to the total value of the property, interests and benefits received by all such persons interested in the estate, except that, in making such proration, allowances shall be made for any exemptions granted by the act imposing the tax, and for any deductions allowed by such act, for the purpose of arriving at the value of the net estate, and except that, in cases where a trust is created or other provision made whereby any person is given an interest in income or an estate for years or for life, or other temporary interest in any property or fund, the tax on both such temporary interest and on the remainder thereafter shall be charged against and be paid out of the corpus of such property or fund, without apportionment between remainders and temporary estates. For the purposes of this section, the term "persons interested in the estate" shall, with respect to both State and Federal taxes, include all persons who may be entitled to receive or who have received any property or interest which is required to be included in the gross estate of a decedent, or any benefit whatsoever with respect to any such property or interest, whether under a will or intestacy, or by reason of any transfer, trust, estate, interest, right, power, or relinquishment of power, taxable under any of the aforementioned laws, providing for the levy or assessment\* of estate taxes.

The tax shall be paid by the executor, administrator, or other fiduciary as such out of the estate before its distribution. In all cases in which any property required to be included in the gross estate does not come into the possession of the executor, administrator or other fiduciary as such, he shall recover from whomever is in possession, or from the persons interested in the estate, the proportionate amount of such tax payable

\* "assessment" in original.

by the persons interested in the estate with which such persons are chargeable under the provisions of this section, and the orphans' court may, by order, direct the payment of such amount of tax by such persons to the executor, administrator or other fiduciary.

No executor, administrator, or other person acting in a fiduciary capacity, shall be required to transfer, pay over, or distribute any fund or property which may have either a Federal or a State tax imposed upon it, or which may be liable for the payment of any Federal or State tax, until the amount of such tax or taxes due from the devisee, legatee, distributee, or other person to whom such property is transferred, is paid, or if the apportionment of tax has not been determined, adequate security is furnished by the transferee for such payment.

(b) The orphans' court, upon making a determination as provided in subdivision (a) of this section, shall make a decree or order directing the executor, administrator or other fiduciary to charge the prorated amounts against the persons against whom the tax has been so prorated, in so far as he is in possession of property or interests of such persons against whom such charge may be made, and summarily directing all other persons against whom the tax has been so prorated, or who are in possession of property or interests of such persons, to make payment of such prorated amounts to such executor, administrator or other fiduciary.

Section 2. The provisions of this act shall become effective immediately upon its final enactment.

APPROVED—The 2d day of July, A. D. 1937.

GEORGE H. EARLE

No. 566

AN ACT

Fixing the salary and compensation of the stenographer to the President of the Senate, the clerk to the President pro tempore of the Senate, the reading clerk of the House of Representatives, and the Parliamentarian of the House of Representatives; and authorizing the Speaker of the House of Representatives to appoint a secretary, and fixing his salary.

Section 1. Be it enacted, &c., That the salary of the stenographer to the President of the Senate is hereby fixed at one thousand six hundred twenty dollars (\$1,620) per annum; the salary of the clerk to the President pro tempore of the Senate is hereby fixed at two thousand four hundred dollars (\$2,400) per annum; the compensation of the reading clerk of the House of

Fixing salary and compensation in certain positions.