

No. 1978-37

AN ACT

SB 1001

Amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, expanding nonmandatory jurisdiction of the orphans' court division; providing for venue in certain situations; providing for advertisement of letters in the case of nonresident decedents; authorizing discretionary accountings and records of risk distributions; making retroactive the rule against perpetuities; and making editorial changes.

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

Section 1. Section 712 of Title 20, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended by adding a paragraph to read:

§ 712. Nonmandatory exercise of jurisdiction through orphans' court division.

The jurisdiction of the court of common pleas over the following may be exercised through either its orphans' court division or other appropriate division:

* * *

(4) Powers of attorney.—All matters pertaining to the exercise of powers by attorneys in fact or agents acting under powers of attorney as provided in Chapter 56 (relating to powers of attorney) when the principal is or may be deceased, disabled or incapacitated.

Section 2. Title 20 is amended by adding sections to read:

§ 726. *Venue of nonprofit corporations.*

Except as otherwise specifically provided in Part III of Title 15 (relating to corporations not-for-profit), in exercising the jurisdiction conferred upon orphans' court divisions by rules of judicial administration over the property or affairs of a nonprofit domestic or foreign corporation, the venue shall be in the county where the registered office of the corporation is located or, in the absence of a registered office within this Commonwealth, in a county where any property held or controlled by the nonprofit corporation is located.

§ 727. *Venue of cemetery companies.*

Except as otherwise specifically provided in Part III of Title 15 (relating to corporations not-for-profit), in exercising the jurisdiction conferred upon orphans' court divisions by rules of judicial administration over the property or affairs of a domestic or foreign cemetery company in matters relating to burial grounds or to property held for the burial of the dead or for the care or adornment of burial grounds, the venue shall be in the county where the burial ground, or any part thereof is located or, in the

absence of any involved burial grounds within this Commonwealth, in a county where any property held or controlled by the cemetery-company is located.

Section 3. Sections 3162, 5116, 5161, 5163, 5531 and 5533 of Title 20 are amended to read:

§ 3162. Advertisement of grant of letters.

The personal representative, immediately after the grant of letters, shall cause notice thereof to be given in one newspaper ***of general circulation*** published at or near the place where the decedent resided ***or, in the case of a nonresident decedent, at or near the place where the letters were granted,*** and in the legal periodical, if any, designated by rule of court for the publication of legal notices, once a week for three successive weeks, together with his name and address; and in every such notice, he shall request all persons having claims against the estate of the decedent to make known the same to him or his attorney, and all persons indebted to the decedent to make payment to him without delay.

§ 5116. Orphan beneficiaries, charitable uses or trusts; administration, cities of first class.

Whenever any city of the first class of this Commonwealth shall be charged with the administration of any charitable use or trust for both the maintenance and education of orphans, it shall, without application to any court, act as guardian of the person and estate of each of such orphans, through the same agency that administers the charitable use or trust. In case any such orphan child, at or before the time said city is charged with the administration of such a charitable use or trust, or during the remaining time it acts as guardian of his estate, shall possess or become entitled to any effects or property, the said city shall be entitled, in like manner as other guardians, to demand and receive the same from any person having possession thereof, or owning the same, and to give acquittance therefor; and it shall be the duty of the said city to take care of the same as guardians, and to make the same productive as far as reasonably can be, ~~and to deliver~~ and pay over the same with the increase, less expenditures made in the exercise of a reasonable discretion, to the said orphan, on his attaining the age of [21] 18 years, or to his legal representatives if he shall die before attaining that age.

§ 5161. When accounting filed.

A guardian shall file an account of his administration **[promptly] whenever directed to do so by the court or may file an account** at the termination of [his] the guardianship, or at **[such earlier] any other** time or times **[as shall be directed or]** authorized by the court.

§ 5163. Notice, audits, reviews and distribution.

The provisions concerning accounts, audits, reviews, distribution and rights of distributees in a minor's estate shall be the same as those set forth ***in the following provisions of*** this title for the administration of a decedent's estate, ***with regard to the following***:

[(1) Notice to parties in interest, as in section 3503 (relating to notice to parties in interest).

(2) Representation of parties in interest, as in section 3504 (relating to representation of parties in interest).

(3) Audits in counties having a separate orphans' court division, as in section 3511 (relating to audits in counties having separate orphans' court division).

(4) Audits in counties having no separate orphans' court division, as in section 3512 (relating to audits in counties having no separate orphans' court division).

(5) Statement of proposed distribution, as in section 3513 (relating to statement of proposed distribution).

(6) Confirmation of accounts and approval of proposed distribution, as in section 3514 (relating to confirmation of account and approval of proposed distribution).

(7) Rehearing; relief granted, as in section 3521 (relating to rehearing; relief granted).

(8) Award upon final confirmation of account, as in section 3533 (relating to award upon final confirmation of account).

(9) Distribution in kind, as in section 3534 (relating to distribution in kind).

(10) Recording and registering decrees awarding real estate, as in section 3536 (relating to recording and registering decrees awarding real estate).

(11) Liability for interest, as in section 3544 (relating to liability of personal representative for interest).

(12) Transcripts of balances due, as in section 3545 (relating to transcripts of balances due by personal representative).]

Section 3503 (relating to notice to parties in interest).

Section 3504 (relating to representation of parties in interest).

Section 3511 (relating to audits in counties having separate orphans' court division).

Section 3512 (relating to audits in counties having no separate orphans' court division).

Section 3513 (relating to statement of proposed distribution).

Section 3514 (relating to confirmation of account and approval of proposed distribution).

Section 3521 (relating to rehearing; relief granted).

Section 3532(c) (relating to record of risk distributions).

Section 3533 (relating to award upon final confirmation of account).

Section 3534 (relating to distribution in kind).

Section 3536 (relating to recording and registering decrees awarding real estate).

Section 3544 (relating to liability of personal representative for interest).

Section 3545 (relating to transcripts of balances due by personal representative).

§ 5531. When accounting filed.

A guardian shall file an account of his administration **[promptly whenever directed to do so by the court or may file an account]** at the termination of **[his] the** guardianship, or at **[such earlier] any other** time or times **[as shall be directed or]** authorized by the court.

§ 5533. Notice, audits, reviews and distribution.

The provisions concerning accounts, audits, reviews, distribution and rights of distributees in an incompetent's estate shall be the same as those set forth in ***the following provisions of*** this title for the administration of a decedent's or minor's estate**[, with regard to the following]:**

[(1) Notice to parties in interest, as in section 3503 (relating to notice to parties in interest).

(2) Representation of parties in interest, as in section 3504 (relating to representation of parties in interest).

(3) Audits in counties having a separate orphans' court division, as in section 3511 (relating to audits in counties having separate orphans' court division).

(4) Audits in counties having no separate orphans' court division, as in section 3512 (relating to audits in counties having no separate orphans' court division).

(5) Statement of proposed distribution, as in section 3513 (relating to statement of proposed distribution).

(6) Confirmation of account and approval of proposed distribution, as in section 3514 (relating to confirmation of account and approval of proposed distribution).

(7) Failure to present claim at audit, as in section 5167 (relating to failure to present claim at audit).

(8) Rehearing, relief granted, as in section 3521 (relating to rehearing; relief granted).

(9) Award upon final confirmation of account, as in section 3533 (relating to award upon final confirmation of account).

(10) Distribution in kind, as in section 3534 (relating to distribution in kind).

(11) Recording and registering decrees awarding real estate, as in section 3536 (relating to recording and registering decrees awarding real estate).

(12) Liability for interest, as in section 3544 (relating to liability of personal representative for interest).

(13) Transcripts of balances due, as in section 3545 (relating to transcripts of balances due by personal representative).]

Section 3503 (relating to notice to parties in interest).

Section 3504 (relating to representation of parties in interest).

Section 3511 (relating to audits in counties having separate orphans' court division).

Section 3512 (relating to audits in counties having no separate orphans' court division).

Section 3513 (relating to statement of proposed distribution).

Section 3514 (relating to confirmation of account and approval of proposed distribution).

Section 3521 (relating to rehearing; relief granted).

Section 3532(c) (relating to record of risk distributions).

Section 3533 (relating to award upon final confirmation of account).

Section 3534 (relating to distribution in kind).

Section 3536 (relating to recording and registering decrees awarding real estate).

Section 3544 (relating to liability of personal representative for interest).

Section 3545 (relating to transcripts of balances due by personal representative).

Section 5167 (relating to failure to present claim at audit).

Section 4. Section 6104 of Title 20 is amended by adding a subsection to read:

§ 6104. Rule against perpetuities.

* * *

(d) Applicability.—The provisions of this section and of section 6105 (relating to rule against perpetuities; disposition when invalidity occurs) shall apply to all interests heretofore or hereafter created.

Section 5. Sections 7181 and 8109 of Title 20 are amended to read:
§ 7181. When account filed.

A trustee shall file an account of his administration **[at the termination of the trust]** whenever directed to do so by the court and may file an account at any other time. **[The court may direct him to file an account at any time.]**

§ 8109. Disposition of natural resources.

Where any part of the principal consists of property in lands from which may be taken timber, minerals, coal, stone, oil, gas or other natural resources and the trustee or tenant is authorized by the terms of the transaction by which the principal was established or by order of court to sell, lease or otherwise develop such natural resources, or where such natural resources have been leased or developed prior to the transaction by which the principal was established, and no provision is made for the disposition of the net proceeds thereof after the payment of expenses and carrying charges on such property, one-third of the net proceeds, if received as rent or payment on a lease, or as royalties, shall be deemed income, and the remaining two-thirds thereof shall be deemed principal to be invested to produce income: Provided, That if a surviving spouse of the person establishing the principal shall be the sole tenant, he shall be entitled to such proportion of the net proceeds as he would be entitled to under the intestate laws, if the person establishing the principal were to die intestate at the time of the receipt of such proceeds, a resident of **[the] this**

Commonwealth and owning such proceeds, but this shall not include the **[\$10,000 allowance] *fixed sum allowed to a spouse under Chapter 21 (relating to intestate succession)***. Such proceeds if received as consideration for the permanent severance of such natural resources from the land, payable otherwise than as rents, or royalties, shall be deemed principal to be invested to produce income. Nothing in this section shall be construed to abrogate or extend any right, which may otherwise have accrued by law to a tenant to develop or work such natural resources for his own use.

Section 6. This act shall take effect in 60 days.

APPROVED—The 28th day of April, A. D. 1978.

MILTON J. SHAPP