

No. 159

AN ACT

Relating to the jurisdiction, powers, and duties of registers of wills, and regulating proceedings before them, and the costs thereof, the effects of their acts, and appeals therefrom.

TABLE OF CONTENTS

ARTICLE I.

PRELIMINARY PROVISIONS.

	Page
Section 101. Short Title	639
Section 102. Definitions	639
Section 103. Effective Date	640
Section 104. Severability	640

ARTICLE II.

JURISDICTION AND POWERS.

Section 201. Register's Jurisdiction	640
Section 202. Deputy Register	640
Section 203. Witnesses—Testimony	640
(1) Subpoenas	640
(2) Administering Oaths	640
(3) Depositions	640
Section 204. Witness Fees	641
Section 205. Enforcement of Subpoenas, Orders and Costs	641
Section 206. Caveat	641
(a) Bond	641
(b) Failure to Give Bond	641
(c) Costs	641
Section 207. Certification of Records to Court	641
Section 208. Appeals	641
(a) When Allowed	641
(b) Bond	642
(c) Effect of Appeal	642
(d) Excepted Appeals	642
Section 209. Bill of Costs	642

ARTICLE III.

PROBATE.

Section 301. Place of Probate	642
Section 302. Manner of Probate	642
(1) Will Signed by Testator	642
(2) Will Signed by Mark or by Another	642
(3) Nuncupative Will	643

	Page
Section 303. Limit of Time for Probate	643
(a) Original Probate	643
(b) Conclusiveness of Original Probate	643
(c) Effect Upon Grantee or Mortgagee	643
Section 304. Nuncupative Wills	643
Section 305. Wills in Foreign Language	643
Section 306. Wills Probated Outside the Commonwealth	643
Section 307. Enforcing Production of Will ..	644

ARTICLE IV.

LETTERS—ACCOUNTS.

Section 401. Bonds of Personal Representatives	644
Section 402. Revocation of Letters	644
*(a) When No Will	644
(b) When A Will	644
Section 403. Transmission of Accounts to the Court	644

ARTICLE V.

RECORDS AND CERTIFIED COPIES.

Section 501. Wills	644
Section 502. Inventories and Appraisements .	644
Section 503. Certified Copies	645
Section 504. Recording Proceedings in Another County	645

ARTICLE VI.

REPEALER.

Section 601. (a) Specific Repeals	645
(b) General Repeal	646
(c) Saving Clause	646

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

Register of Wills
Act of 1951.

ARTICLE I.

PRELIMINARY PROVISIONS.

Section 101. Short Title.—This act shall be known and may be cited as the Register of Wills Act of 1951.

Section 102. Definitions.—The following words when used in this act, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

(1) "Register" means the register of wills having jurisdiction.

* "(a) and (b)" omitted in original.

(2) "Court" means the orphans' court having jurisdiction.

(3) "Clerk" means the clerk of the orphans' court having jurisdiction.

(4) "Personal representative" means an executor or administrator of any description.

(5) "Letters" means letters testamentary or letters of administration of any description.

(6) "Will" means a written will, codicil or other testamentary writing and a nuncupative will.

Act effective
January 1,
1952.

Section 103. **Effective Date.**—This act shall take effect on the first day of January, one thousand nine hundred and fifty-two.

Section 104. **Severability.**—If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby, and to this end the provisions of this act are declared to be severable.

ARTICLE II.

JURISDICTION AND POWERS.

Section 201. **Register's Jurisdiction.**—Within the county for which he has been elected or appointed, the register shall have jurisdiction of the probate of wills, the grant of letters to a personal representative, and any other matter as provided by law.

Section 202. **Deputy Register.**—Every register shall appoint a deputy or two deputies who shall have power to perform the duties of the office in his behalf and for whose conduct he and his surety shall be accountable. In case of a vacancy in the office of register, the first deputy shall exercise all the powers of the register until a successor is appointed or elected.

Section 203. **Witnesses—Testimony.**—The register shall have power to—

(1) **Subpoenas.** Issue a subpoena to any person in any county of the Commonwealth to appear or produce papers or records before him.

(2) **Administering Oaths.** Administer oaths and affirmations to parties and witnesses appearing before him and to designate any clerk or clerks in his employ to administer such oaths and affirmations to parties and witnesses appearing before them.

(3) **Depositions.** Issue commissions or rules to take the depositions of witnesses in another county or outside of the Commonwealth. The practice relating thereto shall conform to the practice in the local orphans' court.

Section 204. Witness Fees.—Witnesses appearing before the register in obedience to the register's subpoena shall be entitled to the same fees and mileage as are allowed by law to witnesses in the orphans' court.

Section 205. Enforcement of Subpoenas, Orders and Costs.—Should any person refuse to comply with any subpoena or order of the register or to pay all costs, the register shall forthwith certify the record of the proceedings to the court. The court, upon petition of any party in interest, shall compel payment of the costs and shall enforce obedience to the subpoena or order in the same manner as in cases of subpoenas and orders issued or made by the court.

Section 206. Caveat.—

(a) Bond. When a caveat has been filed, the register shall not delay the probate of a will or the grant of letters for more than ten days after the filing of the petition for probate or for grant of letters, or after the filing of the caveat, whichever shall be later, unless within such ten-day period a party in interest shall file with the register his bond in the name of the Commonwealth with sufficient surety in such amount, not less than five hundred dollars or more than five thousand dollars, as the register considers necessary, conditioned for the payment of any costs which may be decreed against the caveator.

(b) Failure to Give Bond. If no bond is filed within the ten-day period, the caveat shall be considered abandoned, except as the register, for cause shown, shall extend the time.

(c) Costs. The register, or the court upon appeal, shall determine the amount of costs occasioned by a caveat and direct by whom they shall be paid. If all or part of the costs shall be finally decreed to be paid by the caveator, any party interested in the costs may bring suit on the caveator's bond as provided by law.

Section 207. Certification of Records to Court.—Whenever a caveat shall be filed or a dispute shall arise before the register concerning the probate of a will, the grant of letters or the performance of any other function by the register, he may certify, or the court upon petition of any party in interest may direct the register at any stage of the proceedings to certify, the entire record to the court, which shall proceed to a determination of the issue in dispute. No letters of administration pendente lite shall be granted by the register after proceedings have been removed to the court except by leave of court.

Section 208. Appeals.—

(a) When Allowed. Any party in interest who is aggrieved by a decree of the register, or a fiduciary whose estate or trust is so aggrieved, may appeal there-

from to the court within two years of the decree: Provided, That the executor designated in an instrument shall not by virtue of such designation be deemed a party in interest who may appeal from a decree refusing probate of it. The court, upon petition of a party in interest, may limit the time for appeal to six months.

(b) Bond. Anyone appealing from a decree of the register shall, within ten days after filing his appeal, file with the register his bond in the name of the Commonwealth with sufficient surety in such amount, not less than five hundred dollars or more than five thousand dollars, as the register considers necessary, conditioned for the payment of any costs that may be decreed against him. If no bond is filed within the ten-day period, the appeal shall be considered abandoned.

(c) Effect of Appeal. No appeal from a decree of the register shall suspend the powers or prejudice the acts of a personal representative to whom letters have been granted.

(d) Excepted Appeals. This section shall not apply to appeals for inheritance tax purposes, nor to appeals specially regulated by law.

Section 209. Bill of Costs.—The court may establish a bill of costs to be charged for the services of the register not otherwise provided by law.

ARTICLE III.

PROBATE.

Section 301. Place of Probate.—The will of a decedent domiciled in the Commonwealth at the time of his death shall be probated only before the register of the county where the decedent had his last family or principal residence. If the decedent had no domicile in the Commonwealth, his will may be probated before the register of any county where any of his property is located.

Section 302. Manner of Probate.—All wills shall be proved by the oaths or affirmations of two competent witnesses, and

(1) Will Signed by Testator. In the case of a will to which the testator signed his name, proof by subscribing witnesses, if there are such, shall be preferred to the extent that they are readily available, and proof of the signature of the testator shall be preferred to proof of the signature of a subscribing witness.

(2) Will Signed by Mark or by Another. In the case of a will signed by mark or by another in behalf of the testator, the proof must be by subscribing witnesses, except to the extent that the register is satisfied that such proof cannot be adduced by the exercise of reasonable diligence. In that event other proof of the execution

of the will, including proof of the subscribers' signatures, may be accepted, and proof of the signature of a witness who has subscribed to an attestation clause shall be prima facie proof that the facts recited in the attestation clause are true.

(3) Nuncupative Will. In the case of a nuncupative will, the witnesses shall have been present when the will was declared, and shall have reduced it to writing or directed it to be reduced to writing.

Section 303. Limit of Time for Probate.—

(a) Original Probate. A will, other than a nuncupative will, may be offered for probate at any time.

(b) Conclusiveness of Original Probate. The probate of a will shall be conclusive as to all property, real or personal, devised or bequeathed by it, unless an appeal shall be taken from the probate as provided in section 208.

(c) Effect Upon Grantee or Mortgagee. A will offered for original or subsequent probate more than two years after the decedent's death shall be void against a bona fide grantee or mortgagee of real estate of the decedent if the conveyance or mortgage is recorded before the will is offered for probate. This subsection shall not apply to a will of a person dying before the effective date of this act offered for original probate within three years after the decedent's death.

Section 304. Nuncupative Wills.—A nuncupative will shall not be admitted to probate, nor shall letters thereon be issued, unless notice has first been given to those who would be entitled to the estate in case of intestacy.

Section 305. Wills in Foreign Language.—A writing not in English shall not be filed for probate or for any other purpose in the office of the register unless there is attached to it and filed with it a translation into English, sworn to be correct. The register shall attach the translation to the original and shall file them in his office, and in all cases where a recording is now or hereafter may be required, both the original and the translation shall be recorded. A writing filed in violation of this section shall not constitute notice to any person.

Section 306. Wills Probated Outside the Commonwealth.—A duly authenticated copy of a will proved outside of the Commonwealth according to the law of the place of probate may be offered for probate before any register having jurisdiction, and letters testamentary or of administration with a will annexed may be granted thereon as though the original will had been offered before such register. If, in addition to such copy, there shall be produced a duly authenticated copy of the record of the probate proceeding of the original instrument, the will shall be entitled to probate in this Commonwealth and appropriate letters shall be issued

thereon without the production or examination of the witnesses to prove such will, unless the record shows or it is satisfactorily proved that an essential requirement of Pennsylvania law for a valid will has not been met. In such event, the probate proceedings may be supplemented by the submission of additional evidence to the register.

Section 307. Enforcing Production of Will.—The register, at the request of any party in interest, shall issue a citation to any person alleged to have possession or control of a will of a decedent requiring him to show cause why it should not be deposited with him. In the absence of good cause shown, the register shall order the will to be deposited with him.

ARTICLE IV.

LETTERS-ACCOUNTS.

Section 401. Bonds of Personal Representatives.—If any register shall grant letters without having taken such bond as may be required by law, he and his surety shall be liable to pay all damages which shall accrue to any person by reason thereof. Nothing herein stated shall be deemed to relieve the personal representative from liability which would otherwise be imposed upon him by law.

Section 402. Revocation of Letters.—

(a) When No Will. The register may revoke letters of administration granted by him whenever it appears that the person to whom letters were granted is not entitled thereto.

(b) When A Will. The register may amend or revoke letters testamentary or of administration granted by him not in conformity with the provisions of a will admitted to probate.

Section 403. Transmission of Accounts to the Court.—All accounts filed with the register shall be transmitted to the court for audit and confirmation on dates fixed by the court by general rule or special order and shall be advertised as required by law.

ARTICLE V.

RECORDS AND CERTIFIED COPIES.

Section 501. Wills.—All probated wills shall be indexed and recorded by the register, and shall remain in his office, except for the period required to be in the custody of a higher court. The recording may be accomplished by photographic or other mechanical process.

Section 502. Inventories and Appraisements.—The register shall index and record all inventories and appraisements filed with him. The recording may be accomplished by photographic or other mechanical process.

Section 503. Certified Copies.—Every register, upon the request of any person paying the fee therefor, shall make and certify under the seal of his office true copies of his records or of papers filed with him or of proceedings before him. Such certified copies shall be as good evidence as the original in any judicial proceeding in the Commonwealth.

Section 504. Recording Proceedings in Another County.—Copies of wills and probate proceedings and records of the grant of letters of administration and proceedings relating thereto, duly certified by the register, may be filed in the office of the register in any county where real estate of the *decedent is located. The register with whom such papers are filed shall forthwith record the same, and the record thereof shall be as valid and effectual in law as the original, or its duly certified copy, or its record would be for all purposes of vesting title, of evidence, and of notice.

ARTICLE VI.

REPEALER.

Section 601. (a) Specific Repeals. The following acts and parts of acts and all amendments of each are hereby repealed as respectively indicated:

(1) Section 37 of the act, approved the fifteenth day of March, one thousand eight hundred thirty-two (Pamphlet Laws 135), entitled "An Act relating to Registers and Registers' Courts," absolutely.

(2) Section 7 of the act, approved the second day of April, one thousand eight hundred sixty-eight (Pamphlet Laws 3), entitled "An Act to ascertain and appoint the fees to be received by the several officers of this Commonwealth," absolutely.

(3) Section 1 of the act, approved the seventh day of June, one thousand nine hundred seventeen (Pamphlet Laws 415), entitled "An Act relating to the qualification, jurisdiction, powers, and duties of registers of wills, and regulating proceedings before said registers, and the costs thereof, the effects of their acts, and appeals therefrom," except insofar as it applies to counties of the first class; and sections 2 to 23, both inclusive, of the same act, absolutely.

(4) Section 224 of the act, approved the second day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 1278), entitled "An Act relating to counties of the second, third, fourth, fifth, sixth, seventh and eighth classes; and revising, amending and consolidating the laws relating thereto," insofar as it applies to registers of wills; and section 233 of the same act, absolutely.

* "testator" in original.

(b) General Repeal. All other acts and parts of acts inconsistent herewith are hereby repealed.

(c) Saving Clause. This act shall not repeal or modify the act, approved the twenty-fifth day of June, one thousand nine hundred forty-seven (Pamphlet Laws 933), entitled "An Act prescribing the fees to be received by registers of wills in counties of the fifth, sixth, seventh and eighth class."

APPROVED—The 28th day of June, A. D. 1951.

JOHN S. FINE

No. 160

AN ACT

To further amend paragraph (8) of subsection A and subsection B of section 1208, section 1209, and subsection C of section 1210 of the act, approved the fifteenth day of May, one thousand nine hundred thirty-three (Pamphlet Laws 624), entitled, as amended "An act relating to the business of banking, and to the exercise of fiduciary powers by corporations; providing for the organization of corporations with fiduciary powers, and of banking corporations, with or without fiduciary powers, including the conversion of National banks into State banks, and for the licensing of private bankers and employes' mutual banking associations; defining the rights, powers, duties, liabilities, and immunities of such corporations, of existent corporations authorized to engage in a banking business, with or without fiduciary powers, of private bankers and employes' mutual banking associations, and of the officers, directors, trustees, shareholders, attorneys, and other employes of all such corporations, employes' mutual banking associations or private bankers, or of affiliated corporations, associations, or persons; restricting the exercise of banking powers by any other corporation, association, or person, and of fiduciary powers by any other corporation; conferring powers and imposing duties upon the courts, prothonotaries, recorders of deeds, and certain State departments, commissions, and officers; imposing penalties; and repealing certain acts and parts of acts," by further providing for authorized investments and limitations on loans and discounts of savings banks.

"Banking Code."

Paragraph (8) of subsection A of section 1208, act of May 15, 1933, P. L. 624, as last amended by act of June 21, 1947, P. L. 782, further amended.

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

Section 1. Paragraph (8) of subsection A of section 1208 of the act, approved the fifteenth day of May, one thousand nine hundred thirty-three (Pamphlet Laws 624), entitled, as amended "An act relating to the business of banking, and to the exercise of fiduciary powers by corporations; providing for the organization of corporations with fiduciary powers, and of banking corporations, with or without fiduciary powers, including the conversion of National banks into State banks, and for the licensing of private bankers and employes' mutual banking associations; defining the rights, powers, duties, liabilities, and immunities of such corporations, of existent corporations authorized to engage in a banking