

No. 352

## AN ACT

Amending the act of April eighteen, one thousand nine hundred forty-nine (Pamphlet Laws 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," revising and changing provisions relating to first complete advertisement of the grant of letters, payment of accrued pensions without letters, amount of estates distributed on petition, family exemptions, place for grant of letters, inventory and appraisal and objections thereto, claims against decedents, against personal representatives and against decedents' property, awards to nonresident beneficiaries, presumption of release or extinguishment, amount of minors' estates administered without guardian, and exercise of powers by foreign fiduciaries.

Fiduciaries Act  
of 1949.

Section 102, act  
of April 18, 1949,  
P. L. 512,  
amended by adding  
a new clause  
(8).

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

Section 1. Section one hundred two, act of April eighteen, one thousand nine hundred forty-nine (Pamphlet Laws 512), known as the "Fiduciaries Act of 1949," is amended by adding, after clause (7), a new clause to read:

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.

\* \* \* \* \*

(8) "*First complete advertisement of the grant of letters,*" in counties having no legal publication, means the first of the three times that the grant of letters is advertised in a newspaper, and, in counties having a legal publication, it means when it has been advertised, on at least one occasion, in both the newspaper and in the legal publication.

Section 2. Sections two hundred one, two hundred two, two hundred eleven, three hundred one, the heading of Article IV., sections four hundred one, four hundred two and four hundred three of the act are amended to read:

Sections 201, 202, 211, 301, the heading of Article IV., sections 401, 402 and 403, act of April 18, 1949, P. L. 512, amended.

Section 201. Payment of Wages, [or] Salary or Pension to Family.—Any employer of a person dying domiciled in the Commonwealth at any time after the death of the employee, whether or not a personal representative has been appointed, may pay wages, [or] salary or any accrued pension due the deceased in an amount not exceeding two hundred and fifty dollars due to the deceased employee to the spouse, any child, the father or mother, or any sister or brother (preference being given in the order named) of the deceased employee. Any employer making such a payment shall be released to the same extent as if payment had been made to a duly appointed personal representative of the decedent and he shall not be required to see to the application thereof. Any person to whom payment is made shall be answerable therefor to anyone prejudiced by an improper distribution.

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, [or] salary or any accrued pension payable under section 201, but including personal property claimed as the family exemption) of a gross value not exceeding [one thousand] fifteen 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, [or] salary or any accrued 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 211. When Allowable.—The spouse of any decedent dying domiciled in the Commonwealth, and if there be no spouse, or if he has forfeited his rights, then such children as [form a part of the decedent's] *are members of the same household as the decedent*, may retain or claim as an exemption [and as a reasonable requirement for support during the settlement of the estate], either real or personal property, or both, not theretofore sold by the personal representative, to the value of seven hundred and fifty dollars. The surviving husband or wife shall be a competent witness as to all matters pertinent to the issue of forfeiture of the right to the exemption.

Section 301. Proper County.—Letters testamentary or of administration on the estate of a decedent domiciled in the Commonwealth at the time of his death shall be granted only by the register of the county where the decedent had his last family or principal residence. If the decedent had no such domicile in the Commonwealth, letters testamentary or of administration may be granted by the register of any county wherein property of the estate shall be located and, when granted, shall be exclusive throughout the Commonwealth. *If the decedent had no such domicile in the Commonwealth, and had no property located therein, and service of process is to be made in the Commonwealth upon his personal representative as authorized by law, then letters testamentary or of administration on his estate may be granted by the register of any county of the Commonwealth and, when granted, shall be exclusive throughout the Commonwealth.*

#### Article IV.

##### Inventory [and Appraisalment].

Section 401. Duty of Personal Representative.—

(a) General Assets. Within three months after his appointment, every personal representative shall file with the register an inventory [and appraisalment], verified by his affidavit, of all real and personal estate of the decedent, except real estate outside of the Commonwealth: Provided, That an ancillary personal representative shall include therein only assets for which he is responsible.

(b) Real Estate Outside of Commonwealth. The inventory shall include at the end a memorandum of real estate outside of the Commonwealth. The memorandum, at the election of the personal representative, may indicate the value of each item of real estate included therein, but the values so fixed shall not be extended into the total of the inventory or included as real estate in subsequent accountings.

Section 402. Valuations [Appraisers].—The personal representative shall determine and state in figures opposite each item of the inventory its fair value as of the date of the decedent's death [based upon a just appraisalment of each item made by two or more appraisers, who shall be sworn well and truly and without prejudice or partiality to appraise the assets of the estate to the best of their skill and judgment].

Section 403. Supplemental Inventory.—Whenever any property not included in the inventory [and appraisalment] comes to the knowledge of the personal representative, he shall file, within thirty days of its discovery, a supplemental inventory [and appraisalment] thereof with the register.

Article IV. act of April 18, 1949, P. L. 512, amended by adding a new section 405.

Section 3. Article IV. of the act is amended by adding, after section four hundred four, a new section to read:

*Section 405. Objections to Inventory.—Objections to the inventory may be made by any party in interest at any time up to and including the time fixed by rule of court for making objections to the first account of the personal representative. Such objections in the discretion of the court may be heard at the audit of the account. Objections to the inventory also may be made in the form of objections to the account.*

Section 4. Sections six hundred thirteen and seven hundred thirty-one of the act are amended to read:

Sections 613 and 731, act of April 18, 1949, P. L. 512, amended.

Section 613. Statutes of Limitations; Claims Not Barred at Death.—The death of a person shall not stop the running of the statute of limitations applicable to any claim against him, but a claim which otherwise would be barred within one year after the death of the decedent shall not be barred until the expiration of one year after his death. *Nothing in this section shall be construed to shorten the period which would have been allowed by any applicable statute of limitations if the decedent had continued to live.*

Section 731. Estates Not Exceeding [One Thousand] Fifteen Hundred Dollars.—When the gross real and personal estate of a decedent does not exceed the value of [one thousand] fifteen hundred dollars, the personal representative, after the expiration of one year from the date of the first complete advertisement of the grant of letters, may present his petition to the court with an annexed account showing the administration and proper distribution of the estate. Thereupon, the court, upon satisfactory proof of notice to all known parties in interest, may order the discharge of the personal representative and his sureties from future liability, without the expense of proceedings as in a formal account. The

court may discharge only the surety from future liability, and may allow the personal representative to continue without surety upon condition that no further assets shall come into the possession of the personal representative until he files another bond, with sufficient surety, as required by the register.

Section 732, act of April 18, 1949, P. L. 512, amended August 17, 1951, P. L. 1258, further amended.

Section 5. Section seven hundred thirty-two of the act, amended August seventeen, one thousand nine hundred fifty-one (Pamphlet Laws 1258), is amended to read:

Section 732. At Risk of Personal Representative.—

(a) *Rights of Claimants Against Personal Representative.*—A personal representative, at his own risk and without the filing, audit or confirmation of his account, may distribute *real or* personal property [for real estate], and such distribution shall be without liability to any claimant against the decedent who has not given notice of his claim as provided by this act within one year after the first complete advertisement of the grant of letters to [him] *such personal representative* or thereafter but prior to such distribution. [Except on liens of record existing at the time of death, no claimant who has not given such notice shall have any claim as to the property so distributed.]

(b) *Rights of Claimants Against Distributed Property.*—

(1) *Personal Property.* No claimant shall have any claim against personal property distributed by a personal representative at his own risk pursuant to subsection (a) hereof, unless such claimant has given notice of his claim to the personal representative as provided by this act within one year after the first complete advertisement of the grant of letters, or thereafter but prior to such distribution.

(2) *Real Property.* No claimant shall have any claim against real property conveyed by a personal representative in distribution at his own risk pursuant to subsection (a) hereof, unless such claimant, within one year after the decedent's death, files a written notice of his claim with the clerk. Such claim against real property shall expire at the end of five years after the decedent's death, unless within that time the personal representative files an account or the claimant files a petition to compel an accounting.

(3) *Liens and Charges Existing at Death.* Nothing in this section shall be construed as affecting any lien or charge which existed at the time of the decedent's death on his real or personal property.

Section 6. Article VII. of the act is amended by adding, after section seven hundred thirty-six, a new section to read:

*Section 737. Award to Nonresident Beneficiary.—When the court believes that a beneficiary who is not a resident of the United States, its territories or possessions, would not have the actual use, enjoyment or control of the money or other property distributable to him, the court shall have the power and authority to direct the personal representative (1) to make only such payments to the beneficiary as the court directs, or (2) to convert the distributive share into cash and pay it through the Department of Revenue into the State Treasury without escheat to be held for the benefit of such beneficiary. The court which directed payment to the State Treasury upon petition of the person entitled to such funds, and upon being satisfied that petitioner will have the actual possession, benefit, use, enjoyment or control thereof, shall enter a decree directing the Board of Finance and Revenue to make repayment with interest at two per centum per annum from the date the money was paid into the State Treasury to the date of repayment.*

Article VII., act of April 18, 1949, P. L. 512, amended by adding a new section 737.

Section 7. Subsection (a) of section eight hundred four, section nine hundred eighty-three, and the first paragraph of section one thousand one of the act are amended to read:

Subsection (a), section 804, section 983, and the first paragraph of section 1001, act of April 18, 1949, P. L. 512, amended.

Section 804. Presumption of Payment, Release or Extinguishment.—

(a) Lapse of Twenty Years. When (1) for twenty years after the same or any part thereof becomes due, no payment has been made on account of a dower, recognizance, legacy, annuity instalment, or other charge created, by will, *agreement*, inter vivos trust or court decree, upon real property, or (2) no proceeding has been brought or no written acknowledgment of the existence thereof or no written promise to pay the same has been made within such period by the owner or owners of the property subject to the charge, a release or extinguishment thereof shall be presumed, and the charge shall thereafter be irrecoverable.

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Section 983. Notice, Audits, Reviews and Distribution.—The provisions concerning accounts, audits, reviews, distributions and rights of distributees in trust estates shall be the same as those set forth in this act for

the administration of a decedent's estate, with regard to the following:

#### ACCOUNTS.

- (1) Notice to parties in interest, as in section 703;
- (2) Representation of parties in interest, as in section 704;

#### AUDITS.

- (3) Audits in counties having a separate orphans' court, as in section 711;
- (4) Audits in counties having no separate orphans' court, as in section 712;
- (5) Statement of proposed distribution, as in section 713;
- (6) Confirmation of accounts and approval of proposed distribution, as in section 714;

#### REVIEWS.

- (7) Rehearing—Relief granted, as in section 721;

#### DISTRIBUTION.

- (8) Award upon final confirmation of account, as in section 733;
- (9) Distribution in kind, as in section 734;
- (10) Recording and registering decrees awarding real estate, as in section 736;
- (10.1) *Award to nonresident beneficiary, as in section 737;*

#### RIGHTS OF DISTRIBUTEES.

- (11) Liability for interest, as in section 754;
- (12) Transcripts of balances due, as in section 755.

Section 1001. When Guardian Unnecessary.—When the entire real and personal estate, wherever located, of a resident or nonresident minor has a net value of [one thousand] *fifteen hundred* dollars or less, all or any part of it may be received and held or disposed of by the minor, or by the parent or other person maintaining the minor, without the appointment of a guardian or the entry of security, in any of the following circumstances:

\* \* \* \* \*

Subsection (1), section 1101, act of April 18, 1949, P. L. 512, amended August 17, 1951, P. L. 1258, further amended.

Section 8. Subsection (1) of section 1101 of the act, amended August 17, 1951 (P. L. 1258), is amended to read:

Section 1101. In General.—A foreign fiduciary may institute proceedings in the Commonwealth (subject to the conditions and limitations imposed on nonresident suitors generally) and may exercise all the other powers

of a similar local fiduciary, but a foreign personal representative shall have no such power when there is an administration in the Commonwealth. Except in the case of powers with respect to securities, for which special provision is made in section 1102, the maintenance of a proceeding or the exercise of any other power by a foreign fiduciary shall be subject to the following additional conditions and limitations:

(1) Copy of Appointment. The foreign fiduciary shall file with the register of the county where the power is to be exercised, or the proceeding is instituted, or the property concerning which the power is to be exercised is located, an exemplified copy of his appointment or other qualification in the foreign jurisdiction, together with an exemplified copy of the will or other instrument, if any, in pursuance of which he has been appointed or qualified and when he is an executor, administrator c. t. a, testamentary trustee, or testamentary guardian, and wishes to exercise a power [granted by a will] with respect to Pennsylvania real estate, the will must be admitted to probate in Pennsylvania as required by law.

Section 9. This act shall take effect January 1, 1956.

APPROVED—The 23rd day of February, A. D. 1956.

GEORGE M. LEADER

No. 353

### AN ACT

Amending the act of June three, one thousand nine hundred thirty-seven (Pamphlet Laws 1333), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," extending voting rights to bedridden or hospitalized veterans when not absent from county of residence.

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

Pennsylvania  
Election Code.

Section 1. Section 1301-A, act of June three, one thousand nine hundred thirty-seven (Pamphlet Laws 1333), known as the "Pennsylvania Election Code," added March six, one thousand nine hundred fifty-one (Pamphlet Laws 3), is amended to read:

Section 1301-A,  
act of June 3,  
1937, P. L. 1333,  
added March 6,  
1951, P. L. 3,  
amended.

Section 1301-A. Qualified Electors who are Bedridden or Hospitalized Veterans.—Any qualified \*elector

\* "electors" in original.