

contributions for public and charitable purposes; and ratifying certain contributions," and its amendment, as to business corporations.

APPROVED—The 10th. day of November, A. D. 1959.

DAVID L. LAWRENCE

No. 503

AN ACT

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," revising and changing provisions relating to settlement of small estates on petition, family exemptions, persons entitled to letters of administration, delegation of power, distribution by guardian of incompetent, personal representative or trustee distribution of small estates, bonds of guardians named in conveyance and powers, duties and liabilities of guardians appointed by court.

Fiduciaries Act
of 1949.

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

Sections 202
and 211, act of
April 18, 1949,
P. L. 512,
amended
February 23,
1956, P. L. 1084,
further amended.

Section 1. Sections 202 and 211, act of April 18, 1949 (P. L. 512), known as the "Fiduciaries Act of 1949," amended February 23, 1956 (P. L. 1084), are 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 pension payable under section 201, but including personal property claimed as the family exemption) of a gross value not exceeding [fifteen] *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 appraisement, 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 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 are members of the same household as the decedent, may retain or claim as an exemption, either real or personal property, or both, not theretofore sold by the personal representative, to the value of [seven hundred and fifty] *one thousand* 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 2. Sections 305, 509 and 515 of the act are amended to read:

Sections 305,
509 and 515 of
the act,
amended.

Section 305. Persons Entitled.—

(a) Letters Testamentary. Letters testamentary shall be granted by the register to the executor designated in the will, whether or not he has declined a trust under the will.

(b) Letters of Administration. Letters of administration shall be granted by the register, in such form as the case shall require, to one or more of those hereinafter mentioned and, except for good cause, in the following order:

- (1) Those entitled to the residuary estate under the will;
- (2) The surviving spouse;
- (3) Those entitled under the intestate law as the register, in his discretion, shall judge will best administer the estate, giving preference, however, according to the sizes of the shares of those in this class;

(4) The principal creditors of the [estate] **decendent at the time of his death*;

(5) Other fit persons;

(6) If anyone of the foregoing shall renounce his right to letters of administration, the register, in his discretion, may appoint a nominee of the person so renouncing in preference to the persons set forth in any succeeding clause.

(c) Time Limitation. Except with the consent of those enumerated in clauses (1), (2) and (3), no letters shall be issued to those enumerated in clauses (4) and (5) of subsection (b) until seven days after the decedent's death.

Section 509. Power of Attorney; *Delegation of Power over Subscription Rights and Fractional Shares; Delegations Authorized by Will.*—(a) *Power of Attorney.* A personal representative may convey real estate, transfer title to personal estate, or perform any other act of administration by an attorney or attorneys-in-fact. [Provided, That this provision shall not authorize him to delegate the exercise of any discretionary power except when the will shall authorize such a delegation] *Nothing in this subsection authorizes the delegation of any discretionary power.*

(b) *Delegation of Power over Subscription Rights and Fractional Shares.*—*Where there is more than one personal representative, one or more, may delegate to another the power to decide whether rights to subscribe to stock should be sold or should be exercised, and also the power to decide whether a fractional share of stock should be sold or should be rounded out to a whole share through the purchase of an additional fraction, and also the power to carry out any such decision. Any delegation may extend to all subscription rights and fractional shares from time to time received by the personal representatives on account of stock held by them, or may be limited to any extent specified in the delegation. No exercise of any delegated power shall be valid, unless—*

(1) *The stock on which the subscription rights or fractional shares are issued is listed or traded on the New York Stock Exchange or any other exchange approved by the Secretary of Banking, and*

(2) *The shares held by the personal representatives on which the subscription rights or fractional shares are issued constitute less than five percent of the total outstanding shares of the same class of the same corporation.*

(c) *Delegation Authorized by Will.*—*Nothing in this section precludes a delegation authorized by the will.*

* "decendent" in original.

Section 515. Incompetence of Personal Representative.—The fiduciary of the estate of an adjudged incompetent personal representative by reason of his position shall not succeed to the administration of, or have the right to possess, any asset of an estate which was being administered by the incompetent, except to protect it pending its delivery to the person entitled to it. The account of the incompetent personal representative may be filed by the fiduciary of this estate and it shall be filed if the court shall so direct. *The court may direct the guardian of an incompetent personal representative to make distribution and to make the transfers and assignments necessary to carry into effect a decree of distribution.*

Section 3. Section 731 of the act, amended February 23, 1956 (P. L. 1084), is amended to read:

Section 731 of the act, amended February 23, 1956, P. L. 1084, amended.

Section 731. Estates Not Exceeding [Fifteen] *Twenty-five* Hundred Dollars.—When the gross real and personal estate of a *decendent does not exceed the value of [fifteen] *twenty-five* 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, *the distribution theretofore made and suggesting the proper distribution of the estate not theretofore distributed.* Thereupon, the court, upon satisfactory proof of notice to all known parties in interest, may [order the] *approve the distribution theretofore made and order distribution of the assets not theretofore distributed and 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 4. Sections 941, 946, subsection (a) of section 1022, and section 1043 of the act are amended to read:

Sections 941, 946, subsection (a), section 1022, and section 1043 of the act, amended.

Section 941. Power of Attorney; *Delegation of Power over Subscription Rights and Fractional Shares; Delegations Authorized by Trust Instrument.*—(a) *Power of Attorney.* A trustee may convey real estate, transfer title to personal estate, or perform any other act of administration by an attorney or attorneys-in-fact. [Provided, That this provision shall not authorize him to delegate the exercise of any discretionary power, ex-

* "decendent" in original.

cept as authorized by the trust instrument.] *Nothing in this subsection authorizes the delegation of any discretionary power.*

(b) *Delegation of Power over Subscription Rights and Fractional Shares.* Where there is more than one trustee, one or more, may delegate to another the power to decide whether rights to subscribe to stock should be sold or should be exercised, and also the power to decide whether a fractional share of stock should be sold or should be rounded out to a whole share through the purchase of an additional fraction, and also the power to carry out any such decision. Any delegation may extend to all subscription rights and fractional shares from time to time received by the trustees on account of stock held by them, or may be limited to any extent specified in the delegation. No exercise of any delegated power shall be valid, unless—

(1) *The stock on which the subscription rights or fractional shares are issued is listed or traded on the New York Stock Exchange, or any other exchange approved by the Secretary of Banking, and*

(2) *The shares held by the trustees, on which the subscription rights or fractional shares are issued, constitute less than five percent of the total outstanding shares of the same class of the same corporation.*

(c) *Delegations Authorized by Trust Instrument.* Nothing in this section precludes a delegation authorized by the trust instrument.

Section 946. When Trustee Dies or Becomes Incompetent.—The fiduciary of the estate of a deceased or incompetent trustee by reason of such position shall not succeed to the administration of, or have the right to possess, any asset of a trust which was being administered by the deceased or incompetent trustee, except to protect it pending its delivery to the person entitled to it. The account of the deceased or incompetent trustee may be filed by the fiduciary of his estate and it shall be filed if the court shall so direct. *The court may direct the fiduciary of a deceased or incompetent trustee to make distribution and to make the transfers and assignments necessary to carry into effect a decree of distribution.*

Section 1022. When Bond Not Required.—

(a) *Guardian Named in Conveyance.* No bond shall be required of a guardian appointed by or in accordance with the terms of a will, inter vivos instrument, or insurance contract as to the property [derived by the minor from such instrument,] *acquired under the authority of*

such appointment, unless it is required by the conveyance, or unless the court, for cause shown, deems it advisable.

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Section 1043. Those Identical with Trustees.—The provisions concerning the powers, duties and liabilities of a guardian appointed by the court shall be the same as those set forth in this act for the administration of a trust estate, with regard to the following:

- (1) Abandonment of property, as in section 932;
- (2) Liability insurance, as in section 933;
- (3) Continuation of business, as in section 934;
- (4) Incorporation of business, as in section 935;
- (5) Claims against co-guardian, as in section 936;
- (6) Proceedings against guardian, as in section 937;
- (7) Revival of *judgment against guardian, as in section 938;
- (8) Liability of guardian on contracts, as in section 939;
- (9) Investments, as in section 940;
- (10) Power of attorney *and delegation of power over subscription rights and **fractional shares*, as in section 941;
- (11) Voting stock by proxy, as in section 942;
- (12) Nominee Registration Corporation Fiduciary as attorney-in-fact, as in section 943;
- (13) Acceptance of deed in lieu of foreclosure, as in section 944;
- (14) Compromise of controversies, as in section 945;
- (15) When guardian dies or becomes incompetent, as in section 946;
- (16) Surviving or remaining guardian, as in section 948;
- (17) Disagreement of guardians, as in section 949.

Section 5. This act shall take effect immediately, except that the amendments to sections 202, 211 and 731, shall not apply in the estates of persons dying before the effective date. Effective dates.

APPROVED—The 10th day of November, A. D. 1959.

DAVID L. LAWRENCE

* "judgement" in original.
 ** "fractional" in original.