

The House Committee on Judiciary offers the following substitute to HB 1218:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 5 of Title 53 of the Official Code of Georgia Annotated,
2 relating to general provisions relative to probate, so as to provide notice to beneficiaries of
3 a testate estate; to provide for legislative construction; to provide for related matters; to
4 repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 1 of Chapter 5 of Title 53 of the Official Code of Georgia Annotated, relating to
8 general provisions relative to probate, is amended by revising Code Section 53-5-8, relating
9 to notice to beneficiary provided by personal representative and representation for
10 beneficiaries, as follows:

11 "53-5-8.

12 (a) ~~As used in this Code section, the term 'beneficiary' means a person, including a trust,~~
13 ~~that is designated in a will to take an interest in real or personal property; that has a present~~
14 ~~interest, including, but not limited to, a vested remainder interest, but not including a trust~~
15 ~~beneficiary where there is a trustee who is not also the personal representative required to~~
16 ~~give notice; and whose identity and whereabouts are known or may be determined by~~

H. B. 1218 (SUB)

17 ~~reasonable diligence.~~ Within six months from the date of qualification of the first personal
18 representative of a testate estate to serve, such personal representative shall have a duty to
19 notify the beneficiaries of such testate estate of the probate of the will and the name and
20 mailing address of such personal representative; provided, however, that notice shall not
21 be required to be given to any beneficiary who:

22 (1) Has waived such right to notification in writing;

23 (2) Acknowledged service of and assented to the petition to probate the will, if such
24 personal representative was a petitioner; or

25 (3) Is such personal representative.

26 (b) ~~Within 30 days following the issuance of letters testamentary or letters of~~
27 ~~administration with the will annexed to the personal representative of a testate estate, such~~
28 ~~personal representative shall send to all beneficiaries by certified or registered mail or~~
29 ~~statutory overnight delivery, with return receipt requested, to his or her last known address~~
30 ~~a notice informing such beneficiaries of the issuance of such letters to the personal~~
31 ~~representative and providing the name, mailing address, and telephone number of such~~
32 ~~personal representative. Provided, however, that notice shall not be required to any~~
33 ~~beneficiary who has waived such right to notification in writing. Within 60 days following~~
34 ~~the issuance of such letters, such personal representative shall file with the probate court~~
35 ~~true and correct copies of such waivers and notices, the return receipts for each, and, with~~
36 ~~respect to any such beneficiary whose identity and whereabouts are unknown, an affidavit~~
37 ~~of diligent search attesting under oath to the efforts of such personal representative to~~
38 ~~identify and locate such beneficiary.~~

39 (c) A personal representative who, without sufficient cause, either fails to provide accurate
40 information regarding such personal representative's name, mailing address, and telephone
41 number within five business days of a request for such information by a beneficiary or by
42 the probate court or otherwise fails to comply with the requirements of subsection (b) (a)
43 of this Code section, may be cited to appear and show cause as to why the personal

44 representative's letters should not be revoked in the same manner as pursuant to Code
45 Section 53-6-53.

46 (c) Where there is a trust that is a beneficiary of a testate estate and each trustee is also a
47 personal representative of such testate estate, the notice required in subsection (a) of this
48 Code section shall be given to and may be waived by each beneficiary of such trust to
49 whom income or principal is required or authorized in the trustee's discretion to be
50 distributed currently. For purposes of this Code section, a trust beneficiary may be
51 represented as provided in Code Section 53-12-8.

52 ~~(d) For purposes of this Code section, a trust beneficiary may be represented as provided~~
53 ~~in paragraph (3) of subsection (b) of Code Section 53-7-50. Nothing in this Code section~~
54 ~~shall alter or affect any time period established by Code Section 53-7-42, subsection (d)~~
55 ~~of Code Section 53-8-15, or other applicable law."~~

56

SECTION 2.

57 All laws and parts of laws in conflict with this Act are repealed.