

Chapter 226

(Senate Bill 397)

AN ACT concerning

Estates and Trusts – Allowance for Funeral Expenses

FOR the purpose of defining the term “funeral expenses” for purposes of a certain allowance for payment from a decedent’s estate; altering the amount for funeral expenses that a court may allow for a small estate; making stylistic changes; providing for the application of this Act; and generally relating to an allowance for funeral expenses.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 8–106
Annotated Code of Maryland
(2011 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Estates and Trusts

8–106.

(A) IN THIS SECTION, “FUNERAL EXPENSES” INCLUDES THE COSTS OF A FUNERAL, A BURIAL, A CREMATION, A DISPOSITION OF THE DECEDENT’S REMAINS, A MEMORIAL, A MEMORIAL SERVICE, FOOD AND BEVERAGES RELATED TO BRINGING TOGETHER THE DECEDENT’S FAMILY AND FRIENDS FOR A WAKE OR PREFUNERAL OR POSTFUNERAL GATHERING OR MEAL, AND ANY OTHER REASONABLE EXPENSES AUTHORIZED BY THE DECEDENT’S WILL.

[(a)] (B) Subject to the priorities contained in § 8–105 of this subtitle, the personal representative shall pay the funeral expenses of the decedent within six months of the first appointment of a personal representative.

[(b)] (C) (1) Funeral expenses shall be allowed in the discretion of the court according to the condition and circumstances of the decedent.

(2) In no event may the allowance exceed \$10,000 [for an estate administered under Title 5, Subtitle 3 or Subtitle 4 of this article, or \$5,000 for a small

estate administered under Title 5, Subtitle 6 of this article] unless the estate of the decedent is solvent and a special order of court has been obtained.

(3) If the estate is solvent and the will expressly empowers the personal representative to pay the expenses without an order of court, an allowance by the court is not required.

[(c)] (D) (1) If the funeral expenses are not paid within six months, the creditor may petition the court to require the personal representative to show cause why he should not be compelled to make the payment.

(2) If the court finds that the claim is valid, it shall fix the amount due and shall order the personal representative to make payment within ten days after the order is served upon [him] **THE PERSONAL REPRESENTATIVE**.

(3) If the personal representative does not have sufficient funds, the claimant may at a later date resubmit [his] **THE PERSONAL REPRESENTATIVE** petition when the personal representative has sufficient funds.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any estate opened before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.