

No. 108

AN ACT

SB 612

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," further providing for settlement of small estates, for the family exemption for investment of funds, for bonds, for liability of a personal representative and for compensation of personal representatives and further defining "financial institution."

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

Section 1. Section 202, act of April 18, 1949 (P.L.512), known as the "Fiduciaries Act of 1949," amended December 22, 1965 (P.L.1201), is 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 vacation benefits or pension payable under section 201, but including personal property claimed as the family exemption) of a gross value not exceeding **[twenty-five hundred] five thousand** 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, salary or any accrued vacation benefits or pensions not paid under section 201) to the parties entitled thereto. ***The authority of the court to award distribution of personal property under this section shall not be restricted because of the decedent's ownership of real estate, regardless of its value.*** 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 2. Section 211 of the act, amended June 11, 1963 (P.L.124), is amended to read:

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, and in the event there are no such children, then the parent or parents of the decedent 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 [one thousand dollars] *one thousand five hundred dollars: Provided, That property specifically devised or bequeathed by the decedent, or otherwise specifically disposed of by him, may not be so retained or claimed if other assets are available for the exemption.* 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 3. Sections 506 and 541 of the act, amended November 10, 1959 (P.L.1463), are amended to read:

Section 506. Investment of Funds.—Subject to his duty to liquidate the estate for prompt distribution and to the provisions of the will, if any, the personal representative may invest the funds of the estate but shall have no duty to do so. Any such investment, except as the court or the will may otherwise authorize or direct, shall be restricted to obligations of the United States or the United States Treasury, of the Commonwealth, or of any political subdivision of the Commonwealth, *and to interest-bearing deposits authorized by section 12 of the Fiduciaries Investment Act of 1949.*

Section 541. Power to Sell; *Bond.*—Except as otherwise provided by the will, if any, the personal representative may sell, at public or private sale, any personal property whether specifically bequeathed or not, and any real property not specifically devised, and with the joinder of the specific devisee real property specifically devised. When the personal representative has been required to give bond, no proceeds of real estate, *including proceeds arising by reason of involuntary conversion*, shall be paid to him until the court has made an order excusing him from entering additional security or requiring additional security, and in the latter event, only after he has entered the additional security.

Section 4. Section 721 of the act is amended to read:

Section 721. Rehearing; Relief Granted.—If any party in interest shall, within five years after the final confirmation of any account of a personal representative, file a petition to review any part of the account

or of an auditor's report, or of the adjudication, or of any decree of distribution, setting forth specifically alleged errors therein, the court shall give such relief as equity and justice shall require: Provided, That **[this section shall not authorize review]** *no such review shall impose liability on the personal representative* as to any property *which was* distributed by **[the personal representative]** *him* in accordance with a decree of court before the filing of the petition. The court or master considering the petition may include in his adjudication or report, findings of fact and of law as to the entire controversy, in pursuance of which a final order may be made.

Section 5. Section 731 of the act, amended November 10, 1959 (P.L.1450) is amended to read:

Section 731. Estates Not Exceeding **[Twenty-five Hundred]** *Five Thousand* Dollars.—When the gross real and personal estate of a decedent does not exceed the value of **[twenty-five hundred]** *five thousand* 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 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 approve the distribution theretofore made and order distribution of the assets not theretofore distributed and discharge 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 6. The act is amended by adding after section 737, a new section to read:

Section 738. Compensation.—The court shall allow such compensation to the personal representative as shall in the circumstances be reasonable and just, and may calculate such compensation on a graduated percentage.

Section 7. Subsection (b) of section 1102 of the act, amended December 1, 1965 (P.L.981), is amended to read:

Section 1102. Powers with Respect to Securities and Bank Accounts.

* * *

(b) Bank Accounts. When there is no administration in the Commonwealth, a foreign fiduciary, upon submission to the financial institution of (i) a certificate of his appointment, and (ii) an affidavit stating that after diligent search and inquiry the estate of which he is fiduciary is not to his knowledge, or so far as he has been able to discover, indebted to any person in the Commonwealth and that any taxes owing by such

estate to the Commonwealth or any subdivision thereof have been paid or provided for shall have all the powers of a similar local fiduciary with respect to money deposited or invested in a financial institution located in Pennsylvania and shall not be required to comply with the conditions and limitations of section 1101. For the purpose of this subsection "financial institution" shall mean a bank, a bank and trust company, a trust company, a savings and loan association, *a building and loan association*, a credit union, a savings bank, a private bank and a national bank.

Section 8. This act shall take effect immediately.

APPROVED—The 5th day of May, A. D. 1970.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly No. 108.

A handwritten signature in cursive script, appearing to read "Robert L. Kelley".

Secretary of the Commonwealth.