

AN ACT

To amend sections 2106.13 and 2113.03 of the Revised Code to increase to \$100,000 the maximum value of a decedent's estate that can be relieved from administration if the decedent's surviving spouse is entitled to inherit all assets of the estate under testate or intestate circumstances and to increase to \$40,000 the amount of a surviving spouse's and minor children's statutory allowance for support.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2106.13 and 2113.03 of the Revised Code be amended to read as follows:

Sec. 2106.13. (A) If a person dies leaving a surviving spouse and no minor children, leaving a surviving spouse and minor children, or leaving minor children and no surviving spouse, the surviving spouse, minor children, or both shall be entitled to receive, subject to division (B) of this section, in money or property the sum of ~~twenty-five~~ forty thousand dollars as an allowance for support. If the surviving spouse selected two automobiles under section 2106.18 of the Revised Code, the allowance for support prescribed by this section shall be reduced by the appraised value of the automobile having the lower appraised value of the two automobiles so selected. The money or property set off as an allowance for support shall be considered estate assets.

(B) The probate court shall order the distribution of the allowance for support described in division (A) of this section as follows:

(1) If the person died leaving a surviving spouse and no minor children, one hundred per cent to the surviving spouse;

(2) If the person died leaving a surviving spouse and minor children, and if all of the minor children are the children of the surviving spouse, one hundred per cent to the surviving spouse;

(3) If the person died leaving a surviving spouse and minor children, and if not all of the minor children are children of the surviving spouse, in

equitable shares, as fixed by the probate court in accordance with this division, to the surviving spouse and the minor children who are not the children of the surviving spouse. In determining equitable shares under this division, the probate court shall do all of the following:

(a) Consider the respective needs of the surviving spouse, the minor children who are children of the surviving spouse, and the minor children who are not children of the surviving spouse;

(b) Allocate to the surviving spouse, the share that is equitable in light of the needs of the surviving spouse and the minor children who are children of the surviving spouse;

(c) Allocate to the minor children who are not children of the surviving spouse, the share that is equitable in light of the needs of those minor children.

(4) If the person died leaving minor children and no surviving spouse, in equitable shares, as fixed by the probate court in accordance with this division, to the minor children. In determining equitable shares under this division, the probate court shall consider the respective needs of the minor children and allocate to each minor child the share that is equitable in light of the child's needs.

(C) If the surviving spouse selected two automobiles under section 2106.18 of the Revised Code, the probate court, in considering the respective needs of the surviving spouse and the minor children when allocating an allowance for support under division (B)(3) of this section, shall consider the benefit derived by the surviving spouse from the transfer of the automobile having the lower appraised value of the two automobiles so selected.

Sec. 2113.03. (A) Subject to division (D) of this section, an estate may be released from administration under division (B) of this section if either of the following applies:

(1) The value of the assets of the estate is thirty-five thousand dollars or less.

(2) The value of the assets of the estate is ~~eighty-five~~ one hundred thousand dollars or less and either of the following applies:

(a) The decedent devised and bequeathed in a valid will all of the assets of ~~his~~ the decedent's estate to a person who is named in the will as ~~his~~ the decedent's spouse, and the decedent is survived by that person.

(b) The decedent is survived by a spouse whose marriage to the decedent was solemnized in a manner consistent with Chapter 3101. of the Revised Code or with a similar law of another state or nation, the decedent died without a valid will, and the decedent's surviving spouse is entitled to

receive all of the assets of ~~his~~ the decedent's estate under section 2105.06 of the Revised Code or by the operation of that section and division (B)(1) or (2) of section 2106.13 of the Revised Code.

(B) Upon the application of any interested party, after notice of the filing of the application has been given to the surviving spouse and heirs at law in the manner and for the length of time the probate court directs, and after notice to all interested parties by publication in a newspaper of general circulation in the county, unless the notices are waived or found unnecessary, the court, when satisfied that division (A)(1) or (2) of this section is satisfied, may enter an order relieving the estate from administration and directing delivery of personal property and transfer of real estate to the persons entitled to the personal property or real estate.

For the purposes of this ~~division~~ section, the value of an estate that reasonably can be considered to be in an amount specified in division (A)(1) or (2) of this section and that is not composed entirely of money, stocks, bonds, or other property the value of which is readily ascertainable, shall be determined by an appraiser selected by the applicant, subject to the approval of the court. The appraiser's valuation of the property shall be reported to the court in the application to relieve the estate from administration. The appraiser shall be paid in accordance with section 2115.06 of the Revised Code.

For the purposes of this ~~division~~ section, the amount of property to be delivered or transferred to the surviving spouse, minor children, or both, of the decedent as the allowance for support shall be established in accordance with section 2106.13 of the Revised Code.

When a delivery, sale, or transfer of personal property has been ordered from an estate that has been relieved from administration, the court may appoint a commissioner to execute all necessary instruments of conveyance. The commissioner shall receipt for the property, distribute the proceeds of the conveyance upon court order, and report to the court after distribution.

When the decedent died testate, the will shall be presented for probate, and, if admitted to probate, the court may relieve the estate from administration and order distribution of the estate under the will.

An order of the court relieving an estate from administration shall have the same effect as administration proceedings in freeing land in the hands of an innocent purchaser for value from possible claims of unsecured creditors.

(C) Any delivery of personal property or transfer of real estate pursuant to an order relieving an estate from administration is made subject to the limitations pertaining to the claims of creditors set forth in divisions (B) and (C) of section 2117.06 of the Revised Code.

(D) The release of an estate from administration under this section does not affect any duty of any person to file an estate tax return and certificate under division (A) of section 5731.21 of the Revised Code and does not affect the duties of a probate court set forth in that division.

SECTION 2. That existing sections 2106.13 and 2113.03 of the Revised Code are hereby repealed.

SECTION 3. Sections 2106.13 and 2113.03 of the Revised Code, as amended by this act, apply to the estates of decedents who die on or after the effective date of this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 366

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____