

AN ACT

To amend sections 2105.06, 2105.061, 2106.11, and 2127.04 of the Revised Code to modify the laws regarding intestate succession.

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

SECTION 1. That sections 2105.06, 2105.061, 2106.11, and 2127.04, of the Revised Code be amended to read as follows:

Sec. 2105.06. When a person dies intestate having title or right to any personal property, or to any real estate or inheritance, in this state, the personal property shall be distributed, and the real estate or inheritance shall descend and pass in parcenary, except as otherwise provided by law, in the following course:

(A) If there is no surviving spouse, to the children of the intestate or their lineal descendants, per stirpes;

(B) If there is a spouse and one or more children of the decedent or their lineal descendants surviving, and all of the decedent's children who survive or have lineal descendants surviving also are children of the surviving spouse, then the whole to the surviving spouse;

(C) If there is a spouse and one child of the decedent or ~~its~~ the child's lineal descendants surviving, ~~the first sixty thousand dollars if~~ and the surviving spouse is not the natural or adoptive parent of the decedent's child, ~~or the first twenty thousand dollars if the spouse is not the natural or adoptive parent of the child,~~ plus one-half of the balance of the intestate estate to the spouse and the remainder to the child or ~~his~~ the child's lineal descendants, per stirpes;

~~(C)~~(D) If there is a spouse and more than one child or their lineal descendants surviving, the first sixty thousand dollars if the spouse is the natural or adoptive parent of one, but not all, of the children, or the first twenty thousand dollars if the spouse is the natural or adoptive parent of none of the children, plus one-third of the balance of the intestate estate to the spouse and the remainder to the children equally, or to the lineal descendants of any deceased child, per stirpes;

~~(D)~~(E) If there are no children or their lineal descendants, then the

whole to the surviving spouse;

~~(E)~~(F) If there is no spouse and no children or their lineal descendants, to the parents of the intestate equally, or to the surviving parent;

~~(F)~~(G) If there is no spouse, no children or their lineal descendants, and no parent surviving, to the brothers and sisters, whether of the whole or of the half blood of the intestate, or their lineal descendants, per stirpes;

~~(G)~~(H) If there are no brothers or sisters or their lineal descendants, one-half to the paternal grandparents of the intestate equally, or to the survivor of them, and one-half to the maternal grandparents of the intestate equally, or to the survivor of them;

~~(H)~~(I) If there is no paternal grandparent or no maternal grandparent, one-half to the lineal descendants of the deceased grandparents, per stirpes; if there are no such lineal descendants, then to the surviving grandparents or their lineal descendants, per stirpes; if there are no surviving grandparents or their lineal descendants, then to the next of kin of the intestate, provided there shall be no representation among such next of kin;

~~(I)~~(J) If there are no next of kin, to stepchildren or their lineal descendants, per stirpes;

~~(J)~~(K) If there are no stepchildren or their lineal descendants, escheat to the state.

Sec. 2105.061. Except any real property that a surviving spouse elects to receive under section 2106.10 of the Revised Code, the title to real property in an intestate estate shall descend and pass in parcenary to those persons entitled to it under division (B) ~~or~~, (C), or (D) of section 2105.06 of the Revised Code, subject to the monetary charge of the surviving spouse. The administrator or executor shall file an application for a certificate of transfer as provided in section 2113.61 of the Revised Code, ~~which~~ and the application shall include a statement of the amount of money that remains due and payable to the surviving spouse as found by the probate court. The certificate of transfer ordered by the probate court shall recite that the title to the real property described in the certificate is subject to the monetary charge in favor of the surviving spouse; and shall recite the value in dollars of the charge on the title to the real property included in the certificate.

Sec. 2106.11. Subject to the right of the surviving spouse to elect to receive the decedent's interest in the mansion house pursuant to section 2106.10 of the Revised Code, the specific monetary share payable to a surviving spouse under division (B) ~~or~~, (C), or (D) of section 2105.06 of the Revised Code shall be paid out of the tangible and intangible personal property in the intestate estate to the extent that the personal property is available for distribution. The personal property distributed to the surviving

spouse, other than cash, shall be valued at the appraised value.

Before tangible and intangible personal property is transferred to the surviving spouse in payment or part payment of the specific monetary share, the administrator or executor shall file an application that includes an inventory of the personal property intended to be distributed in kind to the surviving spouse, together with a statement of the appraised value of each item of personal property included. The court shall examine the application and make a finding of the amount of personal property to be distributed to the surviving spouse, and shall order that the personal property be distributed to the surviving spouse. The court concurrently shall make a finding of the amount of money that remains due and payable to the surviving spouse in satisfaction of the specific monetary share to which the surviving spouse is entitled under division (B) ~~or~~, (C), or (D) of section 2105.06 of the Revised Code. Any amount that remains due and payable shall be a charge on the title to any real property in the estate but the charge does not bear interest. This charge may be conveyed or released in the same manner as any other interest in real estate and may be enforced by foreclosure or any other appropriate remedy.

Sec. 2127.04. (A) With the consent of all persons entitled to share in an estate upon distribution, the executor, administrator, or administrator with the will annexed may, and upon the request of these persons shall, commence an action in the probate court for authority to sell any part or all of the decedent's real estate, even though the real estate is not required to be sold to pay debts or legacies. A guardian may make ~~such~~ a request under this division, or give consent, on behalf of ~~his~~ the guardian's ward.

(B) An executor, administrator, or administrator with the will annexed may commence an action in the probate court, on ~~his~~ the executor or administrator's own motion, to sell any part or all of the decedent's real estate, even though ~~it~~ the real estate is not required to be sold to pay debts or legacies. The court shall not issue an order of sale in the action unless one of the ~~following~~ categories specified in divisions (B)(1)(a), (b), AND (c), (B)(2)(a), (b), AND (c), AND (B)(3) of this section applies:

(1)(a) At least fifty per cent of all the persons interested in the real estate proposed to be sold have consented to the sale; ~~and, prior,~~

(b) Prior to the issuance of the order, no written objection is filed with the court by any person or persons who hold aggregate interests in the interest of the decedent in the real estate proposed to be sold, that total in excess of twenty-five per cent; ~~and the,~~

(c) The court determines that the sale is in the best interest of the decedent's estate.

(2)(a) No person's interest in the interest of the decedent in the real estate proposed to be sold exceeds ten per cent; ~~and, prior,~~

(b) Prior to the issuance of the order, no written objection is filed with the court by any person or persons who hold aggregate interests in the interest of the decedent in the real estate proposed to be sold, that total in excess of twenty-five per cent; ~~and the,~~

(c) The court determines that the sale is in the best interest of the decedent's estate.

(3) The real estate proposed to be sold escheats to the state under division ~~(J)~~(K) of section 2105.06 of the Revised Code.

(C) Notwithstanding any provision of the Revised Code, an executor, administrator, or administrator with the will annexed shall commence an action in the probate court to sell any part or all of the decedent's real estate if any person who is entitled to inherit all or part of the real estate cannot be found after a due and diligent search. The court shall not issue an order of sale in the action unless the sale is in the best interest of the person who cannot be found and in the best interest of the decedent's estate.

If a sale is ordered under this division, the costs of its administration shall be taken from the proceeds of the sale.

(D) A surviving spouse who is an executor or administrator of the decedent spouse's estate is not disqualified, by reason of being executor or administrator, as a person to whom a parcel of real estate may be sold pursuant to this section.

SECTION 2. That existing sections 2105.06, 2105.061, 2106.11, and 2127.04 of the Revised Code are hereby repealed.

SECTION 3. Sections 2105.06, 2105.061, 2106.11, and 2127.04 of the Revised Code, as amended by this act, shall 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.

Sub. S. B. No. 152

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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 _____