

As Introduced

**125th General Assembly
Regular Session
2003-2004**

H. B. No. 51

Representative Hughes

A BILL

To amend sections 2106.01, 2106.02, 2107.19, 1
2109.301, 2113.53, 2117.06, 2117.11, and 2117.12 2
and to enact section 2101.163 of the Revised Code 3
relative to the election by a surviving spouse, 4
notice of admission of a will to probate, accounts 5
of administrators and executors, distribution of 6
estate assets, presentation of creditors' claims 7
to distributees, and dispute resolution procedures 8
in probate court. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2106.01, 2106.02, 2107.19, 2109.301, 10
2113.53, 2117.06, 2117.11, and 2117.12 be amended and section 11
2101.163 of the Revised Code be enacted to read as follows: 12

Sec. 2101.163. (A) A probate judge may establish by rule 13
procedures for the resolution of disputes between parties to any 14
civil action or proceeding that is within the jurisdiction of the 15
probate court. Any procedures so adopted shall include, but are 16
not limited to, mediation. If the probate judge establishes any 17
procedures under this division, the probate judge may charge, in 18
addition to the fees and costs authorized under section 2101.16 of 19
the Revised Code, a reasonable fee that is to be collected on the 20
filing of each action or proceeding and that is to be used to 21
implement the procedures. 22

(B) The probate court shall pay to the county treasurer of 23
the county in which the court is located all fees collected under 24
division (A) of this section. The treasurer shall place the funds 25
from the fees in a separate fund to be disbursed upon an order of 26
the probate judge. 27

(C) If the probate judge determines that the amount of the 28
moneys in the fund described in division (B) of this section is 29
more than the amount that is sufficient to satisfy the purpose for 30
which the additional fee described in division (A) of this section 31
was imposed, the probate judge may declare a surplus in the fund 32
and expend the surplus moneys for other appropriate expenses of 33
the probate court. 34

Sec. 2106.01. (A) After the initial appointment of an 35
administrator or executor of the estate, the probate court shall 36
issue a citation to the surviving spouse, if any is living at the 37
time of the issuance of the citation, to elect whether to exercise 38
the surviving spouse's rights under Chapter 2106. of the Revised 39
Code, including, after the probate of a will, the right to elect 40
to take under the will or under section 2105.06 of the Revised 41
Code. 42

A surviving spouse may waive the service of the citation 43
required under this division by filing in the probate court a 44
written waiver of the citation. The waiver shall include an 45
acknowledgment of receipt of the description of the general rights 46
of the surviving spouse required by division (B) of section 47
2106.02 of the Revised Code. 48

(B) If the surviving spouse elects to take under section 49
2105.06 of the Revised Code and if the value of the property that 50
the surviving spouse is entitled to receive is equal to or greater 51
than the value of the decedent's interest in the mansion house as 52
determined under section 2106.10 of the Revised Code, the 53
surviving spouse also is entitled to make an election pursuant to 54
division (A) of section 2106.10 of the Revised Code. 55

(C) If the surviving spouse elects to take under section 56
2105.06 of the Revised Code, the surviving spouse shall take not 57
to exceed one-half of the net estate, unless two or more of the 58
decedent's children or their lineal descendants survive, in which 59
case the surviving spouse shall take not to exceed one-third of 60
the net estate. 61

For purposes of this division, the net estate shall be 62
determined before payment of federal estate tax, estate taxes 63
under Chapter 5731. of the Revised Code, or any other tax that is 64
subject to apportionment under section 2113.86 or 2113.861 of the 65
Revised Code. 66

(D) Unless the will expressly provides that in case of an 67
election under division (A) of this section there shall be no 68
acceleration of remainder or other interests bequeathed or devised 69
by the will, the balance of the net estate shall be disposed of as 70
though the surviving spouse had predeceased the testator. If there 71
is a disposition by a will to an inter vivos trust that was 72
created by the testator, if under the terms of the trust the 73

surviving spouse is entitled to any interest in the trust or is 74
granted any power or nomination with respect to the trust, and if 75
the surviving spouse makes an election to take under section 76
2105.06 of the Revised Code, then, unless the trust instrument 77
provides otherwise, the surviving spouse is deemed for purposes of 78
the trust to have predeceased the testator, and there shall be an 79
acceleration of remainder or other interests in all property 80
bequeathed or devised to the trust by the will, in all property 81
held by the trustee at the time of the death of the decedent, and 82
in all property that comes into the hands of the trustee by reason 83
of the death of the decedent. 84

(E) The election of a surviving spouse to take under a will 85
or under section 2105.06 of the Revised Code may be made at any 86
time after the death of the decedent, but the surviving spouse 87
shall not make the election later than five months from the date 88
of the initial appointment of an administrator or executor of the 89
estate. On a motion filed before the expiration of the five-month 90
period, and for good cause shown, the court may allow further time 91
for the making of the election. If no action is taken by the 92
surviving spouse before the expiration of the five-month period, 93
it is conclusively presumed that the surviving spouse elects to 94
take under the will. The election shall be entered on the journal 95
of the court. 96

When proceedings for advice or to contest the validity of a 97
will are begun within the time allowed by this division for making 98
the election, the election may be made within three months after 99
the final disposition of the proceedings, if the will is not set 100
aside. 101

(F) When a surviving spouse succeeds to the entire estate of 102
the testator, having been named the sole devisee and legatee, it 103
shall be presumed that the spouse elects to take under the will of 104
the testator, unless the surviving spouse manifests a contrary 105

intention. 106

Sec. 2106.02. (A) The citation to make the election referred 107
to in section 2106.01 of the Revised Code shall be sent to the 108
surviving spouse by certified mail, except as provided in division 109
(C) of this section. Notice that the citation has been issued by 110
the court shall be given to the administrator or executor of the 111
estate of the deceased spouse. 112

(B) The citation shall be accompanied by a general 113
description of the effect of the election to take under the will 114
or under section 2105.06 of the Revised Code and the general 115
rights of the surviving spouse under Chapter 2106. of the Revised 116
Code. If the surviving spouse waives the service of the citation 117
as provided in division (A) of section 2106.01 of the Revised 118
Code, the court shall deliver to the surviving spouse in advance 119
of execution of the waiver a description of the general rights of 120
the surviving spouse under Chapter 2106. of the Revised Code. The 121
description descriptions described in this division shall include 122
a specific reference to the procedures available to the surviving 123
spouse under section 2106.03 of the Revised Code and to the 124
presumption that arises if the surviving spouse does not make the 125
election in accordance with division (E) of section 2106.01 of the 126
Revised Code. The description of the general rights of the 127
surviving spouse under Chapter 2106. of the Revised Code shall 128
include a specific reference to the presumption that arises if the 129
surviving spouse does not ~~make~~ exercise the election rights under 130
Chapter 2106. of the Revised Code within the time period specified 131
by section 2106.25 of the Revised Code. The description of the 132
effect of the election and of the general rights of the surviving 133
spouse need not relate to the nature of any particular estate. 134

(C) If for any reason the probate court, within thirty days 135
after the court initially issues the citation, is unable to 136

reflect service of the citation on the surviving spouse by certified 137
mail pursuant to division (A) of this section, the court shall 138
serve the citation by publication of the notice of the citation in 139
a newspaper of general circulation in the county of residence of 140
the surviving spouse. If the county of residence of the surviving 141
spouse is unknown, the probate court shall serve the citation by 142
publication of the notice of the citation in a newspaper of 143
general circulation in the county in which the estate is being 144
administered. The costs of the publication shall be assessed to 145
the estate involved. 146

(D) A surviving spouse electing to take under the will may 147
manifest the election in writing within the times described in 148
division (E) of section 2106.01 of the Revised Code. 149

Sec. 2107.19. (A)(1) Subject to divisions (A)(2) and (B) of 150
this section, when a will has been admitted to probate, the 151
fiduciary for the estate or another person specified in division 152
(A)(4) of this section shall, within two weeks of the admission of 153
the will to probate, give a notice as described in this division 154
and in the manner provided by Civil Rule 73(E) to the surviving 155
spouse of the testator, to all persons who would be entitled to 156
inherit from the testator under Chapter 2105. of the Revised Code 157
if the testator had died intestate, and to all legatees and 158
devisees named in the will. The notice shall mention the probate 159
of the will and, if a particular person being given the notice is 160
a legatee or devisee named in the will, shall state that the 161
person is named in the will as beneficiary. A copy of the will 162
admitted to probate is not required to be given with the notice. 163

(2) A person entitled to be given the notice described in 164
division (A)(1) of this section may waive that right by filing a 165
written waiver of the right to receive the notice in the probate 166
court. The person may file the waiver of the right to receive the 167

notice at any time prior to or after the will has been admitted to probate. 168
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(3) The fact that the notice described in division (A)(1) of this section has been given, subject to division (B) of this section, to all persons described in division (A)(1) of this section who have not waived their right to receive the notice, and, if applicable, the fact that certain persons described in that division have waived their right to receive the notice in accordance with division (A)(2) of this section, shall be evidenced by a certificate that shall be filed in the probate court in accordance with division (A)(4) of this section. 170
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(4) The notice of the admission of the will to probate required by division (A)(1) of this section and the certificate of giving notice or waiver of notice required by division (A)(3) of this section shall be given or filed by the fiduciary for the estate or by the applicant for the admission of the will to probate, the applicant for a release from administration, any other interested person, or the attorney for the fiduciary or for any of the preceding persons. The certificate of giving notice shall be filed not later than two months after the appointment of the fiduciary or, if no fiduciary has been appointed, not later than two months after the admission of the will to probate, unless the court grants an extension of that time. Failure to file the certificate in a timely manner shall subject the fiduciary to the citation and penalty provisions of section 2109.31 of the Revised Code. 179
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(B) The fiduciary or another person specified in division (A)(4) of this section is not required to give a notice pursuant to division (A)(1) of this section to persons who have been notified of the application for probate of the will or of a contest as to jurisdiction or to persons whose names or places of residence are unknown and cannot with reasonable diligence be 194
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ascertained, and a person authorized by division (A)(4) of this 200
section to give notice shall file in the probate court a 201
certificate to that effect. 202

Sec. 2109.301. (A) An administrator or executor shall render 203
an account at any time other than a time otherwise mentioned in 204
this section upon an order of the probate court issued for good 205
cause shown either at its own instance or upon the motion of any 206
person interested in the estate. Except as otherwise provided in 207
division (B)(2) of this section, an administrator or executor 208
shall render a final account within thirty days after completing 209
the administration of the estate or within any other period of 210
time that the court may order. 211

Every account shall include an itemized statement of all 212
receipts of the administrator or executor during the accounting 213
period and of all disbursements and distributions made by the 214
executor or administrator during the accounting period. In 215
addition, the account shall include an itemized statement of all 216
funds, assets, and investments of the estate known to or in the 217
possession of the administrator or executor at the end of the 218
accounting period and shall show any changes in investments since 219
the last previous account. 220

Every account shall be upon the signature of the 221
administrator or executor. When two or more administrators or 222
executors render an account, the court may allow the account upon 223
the signature of one of them. The court may examine the 224
administrator or executor under oath concerning the account. 225

When an administrator or executor is authorized by law or by 226
the instrument governing distribution to distribute the assets of 227
the estate, in whole or in part, the administrator or executor may 228
do so and include a report of the distribution in the 229
administrator's or executor's succeeding account. 230

In estates of decedents in which none of the legatees, 231
devises, or heirs is under a legal disability, each partial 232
accounting of an executor or administrator may be waived by the 233
written consent of all the legatees, devisees, or heirs filed in 234
lieu of a partial accounting otherwise required. 235

(B)(1) Every administrator and executor, within six months 236
after appointment, shall render a final and distributive account 237
of the administrator's or executor's administration of the estate 238
unless one or more of the following circumstances apply: 239

(a) An Ohio estate tax return must be filed for the estate. 240

(b) A proceeding contesting the validity of the decedent's 241
will pursuant to section 2107.71 of the Revised Code has been 242
commenced. 243

(c) The surviving spouse has filed an election to take 244
against the will. 245

(d) The administrator or executor is a party in a civil 246
action. 247

(e) The estate is insolvent. 248

(f) For other reasons set forth by the administrator or 249
executor, subject to court approval, it would be detrimental to 250
the estate and its beneficiaries or heirs to file a final and 251
distributive account. 252

(2) In estates of decedents in which the sole legatee, 253
devisee, or heir is also the administrator or executor of the 254
estate, no partial accountings are required, ~~and the.~~ The 255
administrator or executor of an estate of that type shall ~~not~~ file 256
a final account or final and distributive account. ~~In or, in~~ lieu 257
of filing a final account, the administrator or executor ~~of an~~ 258
~~estate of that type shall be discharged by filing~~ may file with 259
the court within thirty days after completing the administration 260

of the estate a certificate of termination of an estate that 261
states all of the following: 262

(a) All debts and claims presented to the estate have been 263
paid in full or settled finally. 264

(b) An estate tax return, if required under the provisions of 265
the Internal Revenue Code or Chapter 5731. of the Revised Code, 266
has been filed, and any estate tax has been paid. 267

(c) All attorney's fees have been waived by or paid to 268
counsel of record of the estate, and all executor or administrator 269
fees have been waived or paid. 270

(d) The amount of attorney's fees and the amount of 271
administrator or executor fees that have been paid. 272

(e) All assets remaining after completion of the activities 273
described in divisions (B)(2)(a) to (d) of this section have been 274
distributed to the sole legatee, devisee, or heir. 275

(3) In an estate of the type described in division (B)(2) of 276
this section, a sole legatee, devisee, or heir of a decedent may 277
be liable to creditors for debts of and claims against the estate 278
that are presented after the filing of the certificate of 279
termination described in that division and within the time allowed 280
by section 2117.06 of the Revised Code for presentation of the 281
creditors' claims. 282

(4) Not later than thirteen months after appointment, every 283
administrator and executor shall render an account of the 284
administrator's or executor's administration, unless a certificate 285
of termination is filed under division (B)(2) of this section. 286
Except as provided in divisions (B)(1) and (2) of this section, 287
after the initial account is rendered, every administrator and 288
executor shall render further accounts at least once each year. 289

Sec. 2113.53. (A) At any time after the appointment of an 290

executor or administrator, the executor or administrator may 291
distribute to the beneficiaries entitled to assets of the estate 292
under the will, if there is no action pending to set aside the 293
will, or to the heirs entitled to assets of the estate by law, in 294
cash or in kind, any part or all of the assets of the estate. Each 295
beneficiary or heir is liable to return the assets, or the 296
proceeds from the assets, to the estate if they are necessary to 297
satisfy the share of a surviving spouse who elects to take against 298
the will pursuant to section 2106.01 of the Revised Code, ~~if they~~ 299
~~are necessary to satisfy any claims against the estate as provided~~ 300
~~in this section,~~ or if the will is set aside. 301

(B) After distribution pursuant to division (A) of this 302
section, a distributee shall be personally liable to a claimant 303
who presents a valid claim within the time set forth in division 304
(B) of section 2117.06 of the Revised Code, subject to the 305
limitations described in this division. 306

If presentation of a claim is made pursuant to division 307
(A)(2) of section 2117.06 of the Revised Code, only those 308
distributees who have received timely presentation of the claim 309
pursuant to division (B) of that section have any liability for 310
the claim, subject to the limitations described in this division. 311

The personal liability of any distributee shall not exceed 312
the lesser of the following: 313

(1) The amount the distributee has received reduced by the 314
amount, if any, previously returned or otherwise used for the 315
payment of the spouse's share or claims finally allowed; 316

(2) The distributee's proportionate share of the spouse's 317
share or of claims finally allowed. Any distributee's 318
proportionate share of the spouse's share or of claims finally 319
allowed shall be determined by the following fraction: 320

(a) The numerator shall be the total amount received by the distributee, reduced by all amounts, if any, previously returned or otherwise used for the payment of the spouse's share or claims finally allowed.

(b) The denominator shall be the total amount received by all distributees reduced by all amounts, if any, previously returned or otherwise used for the payment of the spouse's share or claims finally allowed.

(C) If there is a surviving spouse and if the executor or administrator distributes any part of the assets of the estate before the expiration of the times described in division (E) of section 2106.01 of the Revised Code for the making of an election by a surviving spouse, the executor or administrator shall be personally liable to any surviving spouse who subsequently elects to take against the will. If the executor or administrator distributes any part of the assets of the estate within three months after the death of the decedent, the executor or administrator shall be personally liable only to those claimants who present their claims within that three-month period. If the executor or administrator distributes any part of the assets of the estate more than three months but less than one year after the death of the decedent, the executor or administrator shall be personally liable only to those claimants who present their claims before the time of distribution and within the time set forth in division (B) of section 2117.06 of the Revised Code.

The executor or administrator shall be liable only to the extent that the sum of the remaining assets of the estate and the assets returned by the beneficiaries or heirs is insufficient to satisfy the share of the surviving spouse and to satisfy the claims against the estate. The executor or administrator shall not be liable in any case for an amount greater than the value of the estate that existed at the time that the distribution of assets

was made and that was subject to the spouse's share or to the 353
claims. 354

(D) The executor or administrator may provide for the payment 355
of rejected claims or claims in suit by setting aside a sufficient 356
amount of the assets of the estate for paying the claims. The 357
assets shall be set aside for the payment of the claims in a 358
manner approved by the probate court. Each claimant for whom 359
assets are to be set aside shall be given notice, in the manner as 360
the court shall order, of the hearing upon the application to set 361
aside assets and shall have the right to be fully heard as to the 362
nature and amount of the assets to be set aside for payment of the 363
claim and as to all other conditions in connection with the claim. 364
In any case in which the executor or administrator may set aside 365
assets as provided in this section, the court, upon its own motion 366
or upon application of the executor or administrator, as a 367
condition precedent to any distribution, may require any 368
beneficiary or heir to give a bond to the state with surety 369
approved and in an amount fixed by the court, conditioned to 370
secure the return of the assets to be distributed, or the proceeds 371
from the assets or as much of the assets as may be necessary to 372
satisfy the claims that may be recovered against the estate, and 373
to indemnify the executor or administrator against loss and damage 374
on account of such distribution. The bond may be in addition to 375
the assets to be set aside or partially or wholly in lieu of the 376
assets, as the court shall determine. 377

Sec. 2117.06. (A) All creditors having claims against an 378
estate, including claims arising out of contract, out of tort, on 379
cognovit notes, or on judgments, whether due or not due, secured 380
or unsecured, liquidated or unliquidated, shall present their 381
claims in one of the following manners: 382

(1) After the appointment of an executor or administrator and 383

prior to the filing of a final account or a certificate of 384
termination, in one of the following manners: 385

(a) To the executor or administrator in a writing; 386

~~(2)~~(b) To the executor or administrator in a writing, and to 387
the probate court by filing a copy of the writing with it; 388

~~(3)~~(c) In a writing that is sent by ordinary mail addressed 389
to the decedent and that is actually received by the executor or 390
administrator within the appropriate time specified in division 391
(B) of this section. For purposes of this division, if an executor 392
or administrator is not a natural person, the writing shall be 393
considered as being actually received by the executor or 394
administrator only if the person charged with the primary 395
responsibility of administering the estate of the decedent 396
actually receives the writing within the appropriate time 397
specified in division (B) of this section. 398

(2) If the final account or certificate of termination has 399
been filed, in a writing to those distributees of the decedent's 400
estate who may share liability for the payment of the claim. 401

(B) All claims shall be presented within one year after the 402
death of the decedent, whether or not the estate is released from 403
administration or an executor or administrator is appointed during 404
that one-year period. Every claim presented shall set forth the 405
claimant's address. 406

(C) A claim that is not presented within one year after the 407
death of the decedent shall be forever barred as to all parties, 408
including, but not limited to, devisees, legatees, and 409
distributees. No payment shall be made on the claim and no action 410
shall be maintained on the claim, except as otherwise provided in 411
sections 2117.37 to 2117.42 of the Revised Code with reference to 412
contingent claims. 413

(D) In the absence of any prior demand for allowance, the 414

executor or administrator shall allow or reject all claims, except 415
tax assessment claims, within thirty days after their 416
presentation, provided that failure of the executor or 417
administrator to allow or reject within that time shall not 418
prevent the executor or administrator from doing so after that 419
time and shall not prejudice the rights of any claimant. Upon the 420
allowance of a claim, the executor or the administrator, on demand 421
of the creditor, shall furnish the creditor with a written 422
statement or memorandum of the fact and date of the allowance. 423

(E) If the executor or administrator has actual knowledge of 424
a pending action commenced against the decedent prior to the 425
decedent's death in a court of record in this state, the executor 426
or administrator shall file a notice of ~~his~~ the appointment of the 427
executor or administrator in the pending action within ten days 428
after acquiring that knowledge. If the administrator or executor 429
is not a natural person, actual knowledge of a pending suit 430
against the decedent shall be limited to the actual knowledge of 431
the person charged with the primary responsibility of 432
administering the estate of the decedent. Failure to file the 433
notice within the ten-day period does not extend the claim period 434
established by this section. 435

(F) This section applies to any person who is required to 436
give written notice to the executor or administrator of a motion 437
or application to revive an action pending against the decedent at 438
the date of the death of the decedent. 439

(G) Nothing in this section or in section 2117.07 of the 440
Revised Code shall be construed to reduce the time mentioned in 441
section 2125.02, 2305.09, 2305.10, 2305.11, or 2305.12 of the 442
Revised Code, provided that no portion of any recovery on a claim 443
brought pursuant to any of those sections shall come from the 444
assets of an estate unless the claim has been presented against 445
the estate in accordance with Chapter 2117. of the Revised Code. 446

(H) Any person whose claim has been presented and has not
been rejected after presentment is a creditor as that term is used
in Chapters 2113. to 2125. of the Revised Code. Claims that are
contingent need not be presented except as provided in sections
2117.37 to 2117.42 of the Revised Code, but, whether presented
pursuant to those sections or this section, contingent claims may
be presented in any of the manners described in division (A) of
this section.

(I) If a creditor presents a claim against an estate in
accordance with division (A)~~(2)~~(1)(b) of this section, the probate
court shall not close the administration of the estate until that
claim is allowed or rejected.

(J) The probate court shall not require an executor or
administrator to make and return into the court a schedule of
claims against the estate.

(K) If the executor or administrator makes a distribution of
the assets of the estate pursuant to section 2113.53 of the
Revised Code and prior to the expiration of the time for the
~~filing~~ presentation of claims as set forth in this section, the
executor or administrator shall provide notice on the account
delivered to each distributee that the distributee may be liable
to the estate if a claim is presented prior to the filing of the
final account and may be liable to the claimant if the claim is
presented after the filing of the final account up to the value of
the distribution and may be required to return all or any part of
the value of the distribution if a valid claim is subsequently
made against the estate within the time permitted under this
section.

Sec. 2117.11. An executor or administrator, or a distributee
who receives the presentation of a claim as provided in division
(A)(2) of section 2117.06 of the Revised Code, shall reject a

creditor's claim against the estate ~~he represents~~ by giving the 478
claimant written notice of the disallowance ~~thereof~~ of the claim. 479
~~Such~~ The notice shall be given to the claimant personally or by 480
~~registered~~ certified mail with return receipt requested, addressed 481
to the claimant at the address given on the claim. Notice by mail 482
shall be effective on delivery of the mail at the address given. A 483
claim may be rejected in whole or in part. A claim ~~which~~ that has 484
been allowed may be rejected at any time ~~thereafter~~ after 485
allowance of the claim. 486

A claim is rejected if the executor or administrator, or a 487
distributee who receives the presentation of a claim as provided 488
in division (A)(2) of section 2117.06 of the Revised Code, on 489
demand in writing by the claimant for an allowance ~~thereof~~ of the 490
claim within five days, which demand may be made at presentation 491
or at any time ~~thereafter~~ after presentation, fails to give to the 492
claimant, within ~~such~~ that five-day period, a written statement of 493
the allowance of ~~such~~ the claim. ~~Such~~ The rejection shall become 494
effective at the expiration of ~~such~~ that period. 495

Sec. 2117.12. When a claim against an estate has been 496
rejected in whole or in part but not referred to referees, or when 497
a claim has been allowed in whole or in part and thereafter 498
rejected, the claimant must commence an action on the claim, or 499
that part ~~thereof~~ of the claim that was rejected, within two 500
months after ~~such~~ the rejection if the debt or that part ~~thereof~~ 501
of the debt that was rejected is then due, or within two months 502
after ~~the same~~ that debt or part of the debt that was rejected 503
becomes due, or be forever barred from maintaining an action 504
thereon on the claim or part of the claim that was rejected. If 505
the executor or administrator dies, resigns, or is removed within 506
~~such two months~~ that two-month period and before action is 507
commenced ~~thereon~~ on the claim or part of the claim that was 508

rejected, the action may be commenced within two months after the 509
appointment of a successor. 510

For the purposes of this section, the action of a claimant is 511
commenced when the ~~petition~~ complaint and praecipe for service of 512
summons on the executor or administrator, or on the distributee 513
who received the presentation of the claim as provided in division 514
(A)(2) of section 2117.06 of the Revised Code, have been filed. 515

Section 2. That existing sections 2106.01, 2106.02, 2107.19, 516
2109.301, 2113.53, 2117.06, 2117.11, and 2117.12 of the Revised 517
Code are hereby repealed. 518

Section 3. (A) The General Assembly hereby encourages the 519
Supreme Court to amend Rule 60 of the Rules of Superintendence for 520
the Courts of Ohio to require a probate court to issue the 521
citation to the surviving spouse to elect whether to exercise the 522
surviving spouse's rights under Chapter 2106. of the Revised Code 523
within seven days after the initial appointment of the executor or 524
administrator of the estate, unless a different time period is 525
established by local court rule or the surviving spouse executes a 526
waiver of the citation and acknowledgment of receipt of the 527
description of the general rights of the surviving spouse under 528
Chapter 2106. of the Revised Code. 529

(B) The General Assembly hereby encourages the Supreme Court 530
to amend division (A) of Rule 64 of the Rules of Superintendence 531
for the Courts of Ohio pertaining to accounts of fiduciaries to 532
change the reference to "vouchers required by section 2109.30 of 533
the Revised Code" to a reference to "vouchers required by sections 534
2109.302, 2109.303, and, if ordered by the court, 2109.301 of the 535
Revised Code." 536

Section 4. Section 2117.06 of the Revised Code is presented 537

in this act as a composite of the section as amended by both Sub. 538
H.B. 85 and Sub. S.B. 108 of the 124th General Assembly. The 539
General Assembly, applying the principle stated in division (B) of 540
section 1.52 of the Revised Code that amendments are to be 541
harmonized if reasonably capable of simultaneous operation, finds 542
that the composite is the resulting version of the section in 543
effect prior to the effective date of the section as presented in 544
this act. 545

Section 5. (A) Sections 2106.01, 2106.02, 2107.19, 2109.301, 546
2113.53, 2117.06, 2117.11, and 2117.12 of the Revised Code, as 547
amended by this act, apply to estates that are in existence or are 548
initiated on or after the effective date of this act. 549

(B) Section 2101.163 of the Revised Code, as enacted by this 550
act, applies to civil actions and proceedings that are pending in 551
or brought before the probate court on or after the effective date 552
of this act. 553