



Am. H.B. 96

127th General Assembly
(As Reported by H. Judiciary)

Reps. Healy, Garrison, Evans, Okey, B. Williams, Otterman, Brown, Luckie, Fende, Strahorn, Blessing, Wagoner, Harwood, Bacon, Batchelder, Coley, Dolan, Latta, Seitz, Budish, Carano, Dyer, Foley, Skindell

BILL SUMMARY

- Exempts from certain fees the estate of a decedent who died while in active service as a member of the United States armed forces if the death occurred while the decedent was serving in a combat zone or as a result of wounds, disease, or injury incurred while serving in a combat zone.

CONTENT AND OPERATION

Exemption from certain fees of the estate of a decedent who died or incurred a fatal injury or disease in a combat zone

Existing law sets forth a list of fees to be collected by a probate judge for a wide variety of services, many of them related to the estates of decedents. The fees range from \$1 for providing a certified copy of a page of a journal entry, record, or proceeding to \$60 for relieving an estate from administration under R.C. 2113.03 or granting an order for a summary release from administration under R.C. 2113.031 (see **COMMENT**). (R.C. 2101.16.)

The bill exempts from certain fees the estate of a decedent who died while in active service as a member of the United States armed forces if the death occurred while the decedent was serving in a combat zone or as a result of wounds, disease, or injury incurred while serving in a combat zone. "Combat zone" means an area that the President, by executive order, designates for purpose of 26 U.S.C. 112 as an area in which the armed forces are or have been engaged in combat. (26 U.S.C. 112 exempts certain combat-zone pay from the federal income tax.) (R.C. 2101.164(A) and (B) and 2101.16(A).)

The fees from which the estate is exempted are the following (R.C. 2101.064(B)):

(1) Any fee for or associated with the filing of the decedent's will for probate;

(2) Any fee for any service rendered by the probate court that is associated with the administration of the decedent's estate;

(3) Any fee for relieving (see **COMMENT**) the decedent's estate from administration under R.C. 2113.03 or granting an order for a summary release from administration under R.C. 2113.031.

The bill provides that the probate judge, in determining whether a decedent died in a place or manner that exempts the decedent's estate from the foregoing fees, may consider a casualty report issued pursuant to Army Regulation 600-8-1 or the regulations of any of the armed services of the United States, the list of combat zones set forth in Publication 3, "The Armed Forces' Tax Guide," of the Internal Revenue Service, or any other form of documentation satisfactory to the judge (R.C. 2101.164(C)).

COMMENT

The bill refers to *relieving* an estate from administration under R.C. 2113.03. The list of fees in R.C. 2101.16 also uses the term *relieving an estate* (R.C. 2101.16(A)(59)). However, R.C. 2113.03 and 2113.031 both speak of *releasing* as well as *relieving* an estate from administration.

By releasing a small estate from administration, a probate court directs the distribution of the decedent's property without all the formalities required in the case of larger estates. R.C. 2113.03 authorizes the court to release an estate from administration if (1) the value of the estate's assets is \$35,000 or less or (2) if the value of the estate's assets is \$100,000 or less and all of the assets will go to a surviving spouse pursuant to a will or by operation of law. Under R.C. 2113.031, a probate court may issue an order granting summary release from administration. The applicant for the order may be a surviving spouse if (1) the value of the estate's assets does not exceed the total of the statutory allowance for the decedent's surviving spouse and minor children plus funeral and burial expenses of up to \$2,000 and (2) either the decedent's funeral and burial expenses have been prepaid or the surviving spouse has paid or is obligated in writing to pay the funeral and burial expenses. The applicant may be a person other than the surviving spouse if the value of the estate's assets does not exceed the lesser of \$2,000 or the amount of the decedent's funeral and burial expenses and the applicant has paid or is obligated in writing to pay the funeral and burial expenses.

HISTORY

ACTION	DATE
Introduced	03-06-07
Reported, H. Judiciary	04-24-07

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