

# Chapter 521 of the Acts of 2008

## AN ACT RELATIVE TO THE UNIFORM PROBATE CODE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:*

**SECTION 1.** Sections 5 and 5A of chapter 65A of the General Laws are hereby repealed.

**SECTION 2.** Chapter 114 of the General Laws is hereby amended by striking out section 32, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:—

Section 32. A person shall be entitled to a right of interment for his own body in any burial lot or tomb of which his spouse was seized at any time during marriage, which shall be exempt from the operation of the laws relating to conveyance, descent and devise, but may be released by him.

**SECTION 3.** Sections 33A and 33B of chapter 184 of the General Laws are hereby repealed.

**SECTION 4.** Sections 1 to 4, inclusive, 6 and 11 of chapter 184A of the General Laws are hereby repealed.

**SECTION 5.** Section 1 of chapter 186 of the General Laws is hereby repealed.

**SECTION 6.** Chapter 189 of the General Laws is hereby repealed.

**SECTION 7.** Chapter 190 of the General Laws is hereby repealed.

**SECTION 8.** Chapter 190A of the General Laws is hereby repealed.

**SECTION 9.** The General Laws are hereby amended by inserting after chapter 190A the following chapter:—

CHAPTER 190B.  
MASSACHUSETTS UNIFORM PROBATE CODE  
[reproduced separately]

**SECTION 10.** Sections 1 to 14, inclusive, and sections 17 to 30, inclusive, of chapter 191 of the General Laws are hereby repealed.

**SECTION 11.** Chapter 191A of the General Laws is hereby repealed.

**SECTION 12.** Chapter 192 of the General Laws is hereby repealed.

**SECTION 13.** Chapter 193 of the General Laws is hereby repealed.

**SECTION 14.** Chapter 195 of the General Laws is hereby repealed.

**SECTION 15.** Chapter 196 of the General Laws is hereby repealed.

**SECTION 16.** Chapter 197 of the General Laws is hereby repealed.

**SECTION 17.** Sections 1 to 7, inclusive, of chapter 198 of the General Laws are hereby repealed.

**SECTION 18.** Sections 8 to 10, inclusive, of said chapter 198 of the General Laws are hereby repealed.

**SECTION 19.** Sections 11 to 33, inclusive, of said chapter 198 of the General Laws are hereby repealed.

**SECTION 20.** Chapter 199A of the General Laws is hereby repealed.

**SECTION 21.** Chapter 201 of the General Laws is hereby repealed.

**SECTION 22.** Chapter 201B of the General Laws is hereby repealed.

**SECTION 23.** Chapter 201C of the General Laws is hereby repealed.

**SECTION 24.** Chapter 201E of the General Laws is hereby repealed.

**SECTION 25.** Section 3B of chapter 203 of the General Laws is hereby repealed.

**SECTION 26.** Sections 5 to 14A, inclusive, of said chapter 203 are hereby repealed.

**SECTION 27.** Sections 15 to 39, inclusive, of said chapter 203 are hereby repealed.

**SECTION 28.** Sections 3 and 3A of chapter 204 of the General Laws are hereby repealed.

**SECTION 29.** Sections 13 to 18, inclusive, of said chapter 204 are hereby repealed.

**SECTION 30.** Section 37 of said chapter 204 is hereby repealed.

**SECTION 31.** Chapter 205 is hereby amended by striking out section 1, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-  
Section 1. An executor, temporary executor or temporary administrator with the will annexed, administrator, administrator with the will annexed, special administrator, receiver of an absentee, conservator, temporary guardian and, unless otherwise expressly provided, a guardian or trustee under a will or appointed by the probate court, including a

trustee under a will holding property for public charitable purposes, before entering upon the duties of his trust, shall give bond with sufficient sureties, in such sum as the probate court may order, payable to the judge of said court and his successors, and with condition substantially as follows:

1. In the case of an executor or administrator with the will annexed:

First, To make and return to the probate court within three months a true inventory of all the testator's real and personal property which at the time of making such inventory shall have come to his possession or knowledge;

Second, To administer according to law and to the will of the testator all personal property of the testator which may come into his possession or into the possession of any person for him, and also the proceeds of any of the real estate of the testator which may be sold or mortgaged by him;

Third, To render upon oath a true account of his administration at least once a year until his trust is fulfilled, unless he is excused therefrom in any year by the court, and also to render such account at such other times as the court may order.

2. In the case of an administrator:

First, To make and return to the probate court within three months a true inventory of all the intestate's real and personal property which at the time of making such inventory shall have come to his possession or knowledge;

Second, To administer according to law all the personal property of the deceased which may come into his possession or into the possession of any person for him, and also the proceeds of any of the real property of the deceased which may be sold or mortgaged by him;

Third, To render upon oath a true account of his administration at least once a year until his trust is fulfilled, unless he is excused therefrom in any year by the court, and also to render such account at such other times as the court orders;

Fourth, To pay to such persons as the court orders any balance remaining in his hands upon the settlement of his accounts;

Fifth, To deliver his letters of administration into the court if a will of the deceased is thereafter duly proved and allowed.

3. In the case of a special administrator:

That he will make and return to the probate court within such time as it orders a true inventory of all the personal property of the deceased which at the time of making such inventory shall have come to his possession or knowledge, and that he will, whenever required by the probate court, truly account on oath for all the property of the deceased which may be received by him as such special administrator, and will deliver the same to any person who may be appointed executor or administrator of the deceased, or may be otherwise lawfully authorized to receive the same.

4. In the case of a receiver of an absentee under chapter two hundred:

With condition substantially as provided for the bond of an executor or administrator, and with the further condition to obey all orders and decrees made by the probate court.

5. In the case of a trustee under a will or appointed by the probate court:

First, To make and return to the probate court at such time as it orders a true inventory of all the real and personal property belonging to him as trustee which at the time of the making of such inventory shall have come to his possession or knowledge;

Second, To manage and dispose of all such property, and faithfully to perform his trust

relative thereto according to law and to the will of the testator or the terms of the trust as the case may be;

Third, To render upon oath at least once a year until his trust is fulfilled, unless he is excused therefrom in any year by the court, a true account of the property in his hands and of the management and disposition thereof, and also to render such account at such other times as said court orders;

Fourth, At the expiration of his trust to settle his account in the probate court, and to pay over and deliver all the property remaining in his hands, or due from him on such settlement, to the person or persons entitled thereto.

6. In the case of a temporary executor appointed under section thirteen of chapter one hundred and ninety-two or a temporary administrator with the will annexed appointed under section seven A of chapter one hundred and ninety-three:

First, when required by the provisions of chapter one hundred and ninety-two and whenever required by the probate court, to make and return to the probate court a true inventory of all the deceased's real and personal property which at the time of making such inventory shall have come to his possession or knowledge, and to render upon oath a true account of his administration;

Second, to deliver all the property of the deceased which may be received by him as such temporary executor or temporary administrator with the will annexed to any person who may be appointed executor, administrator or administrator with the will annexed of the deceased, or may be otherwise lawfully authorized to receive the same.

**SECTION 32.** Said chapter 205 is hereby amended by striking out section 1, as so appearing, and inserting in place thereof the following section:—

Section 1. A receiver of an absentee, and, unless otherwise expressly provided, a guardian before entering upon the duties of his trust, shall give bond with sufficient sureties, in such sum as the probate court may order payable to the judge of said court and his successors, and with condition substantially as follows:

1. In the case of a receiver of an absentee under chapter 200:

With condition substantially as provided for the bond of an executor or administrator, and with the further condition to obey all orders and decrees made by the probate court.

**SECTION 33.** Sections 2 to 5, inclusive, of said chapter 205 are hereby repealed.

**SECTION 34.** Said chapter 205 is hereby further amended by striking out section 5 and inserting in place thereof the following section:-

Section 5. A trustee under a will shall be exempt from giving sureties on his bond, if the testator has ordered or requested such exemption, or that no bond be required, or if all the persons beneficially interested in the trust, of full age and legal capacity, other than creditors, request such exemption; but not until the conservator of any person under disability interested therein and such other persons as the court orders have been notified and had opportunity to show cause against the same. The probate court may, however, at any time require such trustee, or a trustee appointed by the probate court, to give a bond with sureties. The court may, with or without notice, exempt a trustee under a will holding property for public charitable purposes from giving surety on his bond.

**SECTION 35.** Section 6 of said chapter 205 of the General Laws is hereby repealed.

**SECTION 36.** Said chapter 205 is hereby further amended by striking out section 6A, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:—

Section 6A. No surety shall be required upon bonds filed by national banks, located in the commonwealth and duly permitted to act in a fiduciary capacity, as receiver, assignee, guardian, conservator except that the court appointing such a bank as such a fiduciary, other than as trustee, may upon application of an interested person require the bank so appointed to give such security, in addition to the lien or security provided by the laws of the United States, as the court may consider proper, and upon failure of such bank to give the security required may revoke such appointment and remove such bank.

**SECTION 37.** Sections 7 to 8, inclusive, of said chapter 205 are hereby repealed.

**SECTION 38.** Sections 1, 16, 18, 20 to 22, inclusive, 23A to 30, inclusive, of chapter 206 of the General Laws are hereby repealed.

**SECTION 39.** Section 7 of chapter 210 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 6 and 7, the words “chapters one hundred ninety and one hundred and ninety-six,” and inserting in place thereof the following:— chapter 190B.

**SECTION 40.** Section 8 of chapter 215 of the General Laws is hereby repealed.

**SECTION 41.** Section 30B of said chapter 215 is hereby repealed.

**SECTION 42.** Sections 5 and 5A of chapter 259 of the General Laws are hereby repealed.

**SECTION 43.** Except as provided elsewhere in this act, on the effective date of this act:

1. this act shall apply to pre-existing governing instruments, except that it shall not apply to governing instruments which became irrevocable prior to the effective date of this act;
2. this act shall apply to any proceedings in court then pending or thereafter commenced regardless of the time of the death of decedent except to the extent that in the opinion of the court the former procedure should be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedure of this act;
3. every personal representative including a person administering an estate of a minor or incompetent holding an appointment on that date, continues to hold the appointment but has only the powers conferred by this act and is subject to the duties imposed with respect to any act occurring or done thereafter;
4. an act done before the effective date in any proceeding and any accrued right is not impaired by this act. If a right is acquired, extinguished or barred upon the expiration of a prescribed period of time which has commenced to run by the provisions of any statute before the effective date, the provisions shall remain in force with respect to that right;
5. any rule of construction or presumption provided in this act applies to governing

instruments executed before the effective date unless there is a clear indication of a contrary intent, except that it shall not apply to governing instruments which became irrevocable prior to the effective date of this act.

**SECTION 44.** Sections 1-201, 1-401, 1-404 and Article V of chapter 190B of the General Laws, inserted by section 9, and sections 21, 22, 30, 31, 34, 35 and 41 shall take effect on July 1, 2009. The remainder of this act shall take effect on July 1, 2011.

*Approved January 15, 2009*



THE 187<sup>TH</sup> GENERAL COURT OF  
THE COMMONWEALTH OF MASSACHUSETTS

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**CHAPTER 409** AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2011 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS. (see House, No. 5128) Approved by the Governor, January 3, 2011

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Whereas, The deferred operation of this act would tend to defeat its purposes, which are forthwith to make supplemental appropriations for fiscal year 2011 and to make certain changes in law, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:*

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2011, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2011. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

**SECTION 23.** Section 44 of chapter 521 of the acts of 2008 is hereby amended by striking out, in line 3, the words "July 1, 2011" and inserting in place thereof the following words:- January 2, 2012.