

certain term; providing for the application of this Act; and generally relating to altering certain procedures, valuations, and payments concerning an elective share of a surviving spouse.

BY repealing and reenacting, with amendments,

Article - Estates and Trusts

Section 3-203, 3-206(a), and 3-208(b)(2)

Annotated Code of Maryland

(2001 Replacement Volume and 2002 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Estates and Trusts

3-203.

(A) IN THIS SECTION, "NET ESTATE" MEANS THE PROPERTY OF THE DECEDENT PASSING BY TESTATE SUCCESSION, WITHOUT A DEDUCTION FOR STATE OR FEDERAL ESTATE OR INHERITANCE TAXES, AND REDUCED BY:

- (1) FUNERAL AND ADMINISTRATION EXPENSES;
- (2) FAMILY ALLOWANCES; AND
- (3) ENFORCEABLE CLAIMS AND DEBTS AGAINST THE ESTATE.

[(a)] (B) Instead of property left to [him] THE SURVIVING SPOUSE by will, the surviving spouse may elect to take a one-third share of the net estate if there is also a surviving issue, or a one-half share of the net estate if there is no surviving issue.

[(b)] (C) The surviving spouse who makes this election may not take more than a one-half share of the net estate.

[(c)] For the purposes of this section, the net estate shall be calculated without a deduction for the tax as defined in § 7-308 of the Tax - General Article.]

(D) FOR THE PURPOSES OF THIS SECTION, THE NET ESTATE AND THE PROPERTY ALLOCABLE TO A SHARE OF A SURVIVING SPOUSE SHALL BE VALUED AS OF THE DATE OR DATES OF DISTRIBUTION.

(E) (1) FOR THE PURPOSES OF THIS SECTION, A SURVIVING SPOUSE WHO HAS ELECTED TO TAKE AGAINST A WILL SHALL BE ENTITLED TO THE SURVIVING SPOUSE'S PORTION OF THE INCOME EARNED ON THE NET ESTATE DURING THE PERIOD OF ADMINISTRATION BASED ON A ONE-THIRD OR ONE-HALF SHARE, WHICHEVER IS APPLICABLE.

(2) IF ONE OR MORE DISTRIBUTIONS HAVE BEEN MADE TO A SURVIVING SPOUSE OR ANOTHER PERSON THAT REQUIRE AN ADJUSTMENT IN THE RELATIVE INTERESTS OF THE BENEFICIARIES, THE APPLICABLE SHARE SHALL BE ADJUSTED.