

Recent Maryland Legislation

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Corporations — Resignation Of Corporation's Resident Agent. Md. Laws 1963, Ch. 190 (H.B. 227). This is an addition to the Annotated Code of Maryland (1957), Art. 23, §§ 8 and 130(a)(4). The pertinent provision of the amendment reads: "Any resident agent may resign as resident agent but his resignation shall not be effective until ten days after an original counterpart has been filed with the Commission unless at the time of such resignation such corporation has one or more other resident agents." This is a new section and fills a void in Maryland corporate law. The addition is essentially the same as section 12(G) of the Model Business Corporation Act. It is unlike Title 8, §§ 135 and 136 of the Delaware Code Annotated, which conditions the time of effective resignation on whether or not the resignation statement is coupled with an appointment of a successor. For further reference see 19 C. J. S. 452, Corporations, § 989, and Model Bus. Corp. Act Anno. § 12, ¶ 1.

Evidence — Records Held In A Custodial Or Fiduciary Capacity. Md. Laws 1963, Ch. 189 (H.B. 128). This statute is an amendment to the Uniform Photographic Copies of Business and Public Records as Evidence Act, the purpose of which is to bring records held in a custodial or fiduciary capacity within the scope thereof. Prior to this amendment, Art. 35, § 60(a) of the Annotated Code of Maryland (1957), provided that when a business or governmental body, in the regular course of business or activity, kept a record of some occurrence or event which caused to be reproduced by one of various photographic processes, the original could be destroyed in the regular course of business "unless held in a custodial or fiduciary capacity or unless its preservation is required by law," and such reproduction, when satisfactorily identified, was admissible in evidence. By this amendment "unless held in a custodial or fiduciary capacity" has been stricken from the law, so that reproductions of such records are now admissible in evidence under the provisions of the uniform act.

Jurisdiction — Specifying Where Disbarment Suits Shall Be Brought. Md. Laws 1963, Ch. 207 (H.B. 465). This statute amends Art. 10, § 13 of the Annotated Code of Maryland (1957) by specifying where suits for attorney disbarment shall be brought in the event an attorney has not been admitted to practice by the Circuit Court of any county or by the Supreme Bench of Baltimore City. Previous to this amendment, an attorney charged with violation of § 13 could apparently only be sued where he was admitted to practice. The statute adds the alternative condition that "if he has not been admitted to practice by the Circuit Court of any County or by the Supreme Bench of Baltimore City, but has been admitted to practice by the Court of Appeals of Maryland, then such charges may be filed in the Circuit Court of the County or in the Supreme Bench of Baltimore City, where such attorney resides, or last resided in Maryland, or where the offense was committed."

Jurisdiction — Suit On Contract Performance And Payment Bonds. Md. Laws 1963, Ch. 15 (S.B. 41). This statute is an amendment to the jurisdictional provision of Art. 90, § 11 of the Annotated Code of Maryland (1957). Sec. 11 provides for performance and payment bonds to be furnished by contractors engaged in the building or repair of any public property. Subsection (d) of § 11 formerly required that any suit instituted on such bonds was to be brought "in the political subdivision in which the contract was to be performed and executed and not elsewhere." The 1963 amendment broadens the jurisdictional provision by permitting such suits "in the political subdivision in which the contract was to be performed and executed or in the political subdivision where the contractor has his principal place of business and not elsewhere." Maryland's statute is similar to the Miller Act, 40 U.S.C.A. § 270, which applies to contractors building on or making repairs to U. S. government property. Judicial jurisdiction under the Miller Act, however, is limited to the district "in which the contract was to be performed and executed and not elsewhere. . . ."

Motor Vehicles — Persons Who Can Make Claim Against The Unsatisfied Claim And Judgment Fund. Md. Laws 1963, Ch. 111 (H.B. 79), Article 66½, §167(c) of the Anno-

tated Code of Maryland (1957) provides a limit to those persons who can make claim against the Unsatisfied Claim and Judgment Fund by precluding claims made by any operator or owner of an uninsured motor vehicle, or a claim by a personal representative of such person. Before repeal and re-enactment, with amendments, the statute only prevented claims at the institution of those who were not at the time of the accident operating . . . "an uninsured motor vehicle owned by him." The present statute, by striking the aforementioned quoted phrase and adding new matter, further limits the class of claimants by ruling out claims by those who are "at the time of the accident operating or riding in any uninsured motor vehicle owned by him, [or] . . . the personal representative of a person who was so operating or riding in such a vehicle."

Testamentary Law — Administration Of Title To Motor Vehicles. Md. Laws 1963, Ch. 113 (H.B. 127). Article 66½, § 51 of the Annotated Code of Maryland provides that when the title or interest of an owner in or to a motor vehicle, registered under Maryland law shall pass to another, other than by voluntary transfer, the vehicle shall not be operated upon the public highways of the state more than 200 miles until a new registration and certificate of title are obtained. Unless otherwise provided within the Section, this cannot be done, in the case of a decedent, until the final administration of his estate. The statute was amended by § 51(cc) in 1960 to provide that if the title passes, through testamentary disposition or intestate devolution, to the surviving spouse, said spouse may operate the vehicle during the administration of the estate, without applying for new registration and title. The present statute amends and re-enacts Art. 66½, § 51(cc) and provides that any legatee or distributee of a deceased owner of a motor vehicle, whether by testamentary disposition or intestate devolution, shall be entitled to operate the vehicle as the spouse under the prior law, and further that the representative of said distributee or legatee may petition the Orphans Court during the administration, stating that the estate is solvent and able to pay the necessary taxes, and the vehicle has been appraised; whereupon, the said court may pass an order for the immediate transfer of the title and registration of the vehicle.

Testamentary Law — Rights Of Adopted Persons. Md. Laws 1963, Ch. 174 (S.B. 277). This statute repeals and re-enacts Art. 16, § 78 of the Annotated Code of Maryland (1957). Under the previous statute an adopted person could inherit from his adopting parents as well as his natural parents and relatives under the laws of Maryland or any other state. The statute as amended provides that: "Upon the entry of a Decree of Adoption, the adopted child shall lose all rights of inheritance from its natural parents and from their natural collateral or lineal relatives. The rights of the natural parents as their collateral or lineal relatives to inherit from such child shall cease upon the said adoption." The amendment further provides: "When the adopting parent is married to the natural parent of the child, nothing contained in this section shall affect the rights of a parent's inheritance between the child and the natural parent or their collateral or lineal relatives." These amendments to the prior law appear to have the effect of making an adopted child the same as a natural child of the adopting parent, completely severing the natural parent-child relationship, so far as testamentary rights are concerned.

Trusts — Real Estate Investment Trust Permitted. Md. Laws 1963, Ch. 93 (S.B. 16). This statute, which adds a new Article (Art. 78C) to the Annotated Code of Maryland, has been enacted to recognize real estate investment trusts as a permitted form of unincorporated trust or association. In such trusts property is acquired and managed by trustees for the benefit of holders of shares of the trust. To qualify, at least 75% of the value of the assets of the trust must be represented by real estate, case and cash items (including receivables), and government securities. In addition, the beneficial ownership of the trust must be held by 100 or more persons for at least 75% of each year and no less than five persons may own more than 50% of the outstanding shares. Sec. 1(3) of this statute gives the trust broad powers of control, management, investment and distribution, provided that the powers are not inconsistent with §§ 856-858 of the Federal Internal Revenue Code of 1954. Sec. 2 provides for an addition to Art. 81 of the Annotated Code of Maryland (1957), by adding a new § 313A which stipulates the tax liability of such a real estate investment trust. By § 3, no trust established prior to the enactment of this statute will be subject thereto, unless it shall have

qualified as a real estate investment trust under the provisions of the act.

Trusts — Trustees' Commissions Shall Be Computed Upon Income Of The Trust Before Taxes. Md. Laws 1963, Ch. 216 (H.B. 236). This statute amends Subsection 199(b) of Article 16 of Annotated Code of Maryland (1957) by clarifying the use of the phrase "income collected." The phrase is used in the present statute to designate the amount of income upon which trustees' commissions of six per cent shall be computed. The word "collected" implies that such amounts must in fact be received in the hands of the trustee. The new statute makes clear that such is not the implication with regard to monies not received by the trustee because withheld for the payment of taxes. It provides: "Income collected shall include any portion of income payable to a trustee but withheld by the payor in compliance with any revenue law of the United States, any State thereof or any other government or governmental unit."

Uniform Commercial Code — Adoption by Maryland. Md. Laws 1963, Ch. (S.B. 77). Effective February 1, 1964, commercial transactions in Maryland will be subject to the provisions of the Uniform Commercial Code. Maryland thus joins a growing number of jurisdictions which have adopted the Code including: Alaska, Arkansas, Connecticut, Georgia, Illinois, Kentucky, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, and Wyoming.