

1 *House* BILL NO. *644*  
 2 INTRODUCED BY *Bekah Barrett Rasmussen*  
*John H. Anderson* *Johnathan Talley* *Debra*

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS  
 5 91A-3-719 AND 91A-3-720, R.C.M. 1947; REQUIRING THE  
 6 COMPENSATION OF PERSONAL REPRESENTATIVES AND ATTORNEYS TO BE  
 7 REASONABLE AND DETERMINED BY THE COURT UNDER THE MONTANA  
 8 UNIFORM PROBATE CODE."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 91A-3-719, R.C.M. 1947, is amended  
 12 to read as follows:

13 "91A-3-719. Compensation of personal representative.

14 (1) A personal representative is entitled to reasonable  
 15 compensation for his services determined by the court. Such  
 16 compensation shall not exceed three percent (3%) of the  
 17 first forty thousand dollars (\$40,000) of the value of the  
 18 estate as reported for federal estate tax or state  
 19 inheritance tax purposes, whichever is larger and two  
 20 percent (2%) of the value of the estate in excess of forty  
 21 thousand dollars (\$40,000) as reported for federal estate  
 22 tax or state inheritance tax purposes, whichever is larger.

23 (2) In proceedings conducted for the termination of  
 24 joint tenancies, the compensation of the personal  
 25 representative shall not exceed two percent (2%) of the

1 interest passing:

2 (3) In proceedings conducted for the termination of a  
 3 life estate, the compensation allowed the personal  
 4 representative shall not exceed two percent (2%) of the  
 5 value of the life estate if it is terminated in connection  
 6 with a probate or joint tenancy termination. If a life  
 7 estate is terminated separately, the personal  
 8 representative's compensation shall not exceed two percent  
 9 (2%) of the value of the estate, except that it shall not be  
 10 less than one hundred dollars (\$100).

11 (4) If there is more than one personal representative,  
 12 only one compensation is allowed.

13 (5) The court may allow additional compensation for  
 14 extraordinary services. Such additional compensation shall  
 15 not be greater than the amount which is allowed for the  
 16 original compensation.

17 (6) If the will provides for the compensation of the  
 18 personal representative and there is no contract with the  
 19 decedent regarding compensation, the personal representative  
 20 may renounce the provision before qualifying and be entitled  
 21 to compensation under the terms of this section. A personal  
 22 representative also may renounce his right to all or any  
 23 part of the compensation. A written renunciation of fee may  
 24 be filed with the court."

25 Section 2. Section 91A-3-720, R.C.M. 1947, is amended

1 to read as follows:

2 "91A-3-720. Compensation of attorney. ~~{1}~~ If the  
3 services of an attorney are engaged by the personal  
4 representative, the ~~compensation--of--such~~ attorney is  
5 entitled to reasonable compensation for his services  
6 determined by the court. ~~shall not exceed one and one-half~~  
7 ~~{1-1/2}-times-the-compensation--allowable--to--the--personal~~  
8 ~~representative,~~

9 ~~{2}--if--the--services--of--an--attorney--are--engaged--by--the~~  
10 ~~personal--representative--to--assist--in--the--termination--of~~  
11 ~~joint--tenancies,--the--compensation--allowed--the--attorney--shall~~  
12 ~~not--exceed--three--percent--{3%}--of--the--interest--passing,~~

13 ~~{3}--if--the--services--of--an--attorney--are--engaged--in~~  
14 ~~connection--with--the--termination--of--a--life--estate,--the~~  
15 ~~compensation--allowed--the--attorney--shall--not--exceed--three~~  
16 ~~percent--{3%}--of--the--value--of--the--life--estate--if--it--is~~  
17 ~~terminated--in--connection--with--a--probate--or--joint--tenancy~~  
18 ~~termination,--if--a--life--estate--is--terminated--separately,--the~~  
19 ~~attorney's--compensation--shall--not--exceed--three--percent--{3%}~~  
20 ~~except--that--it--shall--not--be--less--than--one--hundred--dollars~~  
21 ~~{\$100},~~

22 ~~{4}--if--the--services--of--more--than--one--attorney--are~~  
23 ~~engaged,--only--one--compensation--shall--be--allowed,~~

24 ~~{5}--in--cases--where--further--compensation--may--be--allowed~~  
25 ~~to--an--attorney,--the--same--must--be--fixed--and--determined--by--the~~

1 ~~court--upon--good--cause--shown--after--notice--and--hearing--of--an~~  
2 ~~application--therefor,"~~

-End-