

HOUSE BILL NO. 148

Introduced: 01/10/83

Referred to Committee on Judiciary: 01/10/83

Hearing: 1/17/83

Report: 01/17/83, Do Pass, As Amended

2nd Reading: 01/19/83, Do Pass

3rd Reading: 01/21/83, Do Pass

Transmitted to Senate: 1/21/83

Referred to Committee on Judiciary: 01/22/83

Hearing: 2/8/83

Died in Senate Committee

1 *House* BILL NO. *148*
 2 INTRODUCED BY *Boyer, Schultz, Hand, Rousar*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE INSURANCE
 5 PROCEEDS FROM AN ESTATE FOR PURPOSES OF COMPUTING THE
 6 COMPENSATION OF A PERSONAL REPRESENTATIVE AND ATTORNEYS
 7 ENGAGED BY THE PERSONAL REPRESENTATIVE; AMENDING SECTION
 8 72-3-631, MCA; AND PROVIDING AN APPLICABILITY DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 72-3-631, MCA, is amended to read:

12 "72-3-631. Compensation of personal representative.

13 (1) A personal representative is entitled to reasonable
 14 compensation for his services. Such compensation shall not
 15 exceed ~~the sum of:~~

16 ~~(a) 3% of the first \$40,000 of the larger of:~~

17 ~~(i) the value of the estate as reported for federal~~
 18 ~~estate tax less any money derived from insurance payments;~~
 19 or

20 ~~(ii) the value of the estate as reported for state~~
 21 ~~inheritance tax purposes less any money derived from~~
 22 ~~insurance payments, whichever is larger; and~~

23 ~~(b) 2% of the value of the estate less any money~~
 24 ~~derived from insurance payments in excess of \$40,000 as~~
 25 reported for federal estate tax or state inheritance tax

1 purposes, whichever is larger.

2 ~~(2) Notwithstanding the provisions of subsection (1),~~
 3 However, a personal representative is entitled to a minimum
 4 compensation of the lesser of \$100 or the value of the gross
 5 estate.

6 ~~(3)(3)~~ In proceedings conducted for the termination of
 7 joint tenancies, the compensation of the personal
 8 representative shall not exceed 2% of the interest passing.

9 ~~(3)(4)~~ In proceedings conducted for the termination of
 10 a life estate, the compensation allowed the personal
 11 representative shall not exceed 2% of the value of the life
 12 estate if it is terminated in connection with a probate or
 13 joint tenancy termination. If a life estate is terminated
 14 separately, the personal representative's compensation shall
 15 not exceed 2% of the value of the estate, except that it
 16 shall not be less than \$100.

17 ~~(4)(5)~~ If there is more than one personal
 18 representative, only one compensation is allowed.

19 ~~(5)(6)~~ The court may allow additional compensation for
 20 extraordinary services. Such additional compensation shall
 21 not be greater than the amount which is allowed for the
 22 original compensation.

23 ~~(6)(7)~~ If the will provides for the compensation of
 24 the personal representative and there is no contract with
 25 the decedent regarding compensation, the personal

-2- INTRODUCED BILL

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1 representative may renounce the provision before qualifying
2 and be entitled to compensation under the terms of this
3 section. A personal representative also may renounce his
4 right to all or any part of the compensation. A written
5 renunciation of fee may be filed with the court."

6 NEW SECTION. Section 2. Applicability. This act
7 applies to estates of decedents dying after October 1, 1983.

-End-

Approved by Committee
on Judiciary

HOUSE BILL NO. 148

INTRODUCED BY KEYSER, SCHULTZ, HAND, ROUSH

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE LIFE INSURANCE PROCEEDS FROM AN ESTATE FOR PURPOSES OF COMPUTING THE COMPENSATION OF A PERSONAL REPRESENTATIVE AND ATTORNEYS ENGAGED BY THE PERSONAL REPRESENTATIVE; AMENDING SECTION 72-3-631, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 72-3-631, MCA, is amended to read:

"72-3-631. Compensation of personal representative.

(1) A personal representative is entitled to reasonable compensation for his services. Such compensation shall not exceed the sum of:

(a) 3% of the first \$40,000 of the larger of:

(i) the value of the estate as reported for federal estate tax less any money derived from LIFE insurance payments; or

(ii) the value of the estate as reported for state inheritance tax purposes less any money derived from LIFE insurance payments; ~~whichever is larger;~~ and

(b) 2% of the value of the estate less any money derived from LIFE insurance payments in excess of \$40,000 as reported for federal estate tax or state inheritance tax

purposes, whichever is larger.

~~(2) Notwithstanding the provisions of subsection (1),~~
However, a personal representative is entitled to a minimum compensation of the lesser of \$100 or the value of the gross estate.

~~(2)(3)~~ In proceedings conducted for the termination of joint tenancies, the compensation of the personal representative shall not exceed 2% of the interest passing.

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

~~(4)(5)~~ If there is more than one personal representative, only one compensation is allowed.

~~(5)(6)~~ The court may allow additional compensation for extraordinary services. Such additional compensation shall not be greater than the amount which is allowed for the original compensation.

~~(6)(7)~~ If the will provides for the compensation of the personal representative and there is no contract with the decedent regarding compensation, the personal

1 representative may renounce the provision before qualifying
2 and be entitled to compensation under the terms of this
3 section. A personal representative also may renounce his
4 right to all or any part of the compensation. A written
5 renunciation of fee may be filed with the court."

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(1) A personal representative is entitled to reasonable compensation for his services. Such compensation shall not exceed the sum of:

(a) 3% of the first \$40,000 of the larger of:

(i) the value of the estate as reported for federal estate tax less any money derived from LIFE insurance payments; or

(ii) the value of the estate as reported for state inheritance tax purposes less any money derived from LIFE insurance payments, whichever is larger; and

(b) 2% of the value of the estate less any money derived from LIFE insurance payments in excess of \$40,000 as reported for federal estate tax or state inheritance tax

purposes, whichever is larger.

~~(2) Notwithstanding the provisions of subsection (1),~~

~~However,~~ a personal representative is entitled to a minimum compensation of the lesser of \$100 or the value of the gross estate.

~~(2)(3)~~ In proceedings conducted for the termination of joint tenancies, the compensation of the personal representative shall not exceed 2% of the interest passing.

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

~~(4)(5)~~ If there is more than one personal representative, only one compensation is allowed.

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~~(6)(7)~~ If the will provides for the compensation of the personal representative and there is no contract with the decedent regarding compensation, the personal

1 representative may renounce the provision before qualifying
2 and be entitled to compensation under the terms of this
3 section. A personal representative also may renounce his
4 right to all or any part of the compensation. A written
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