



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/06/04, by Michael J. Madigan

SYNOPSIS AS INTRODUCED:

740 ILCS 180/2.1

from Ch. 70, par. 2.1

Amends the Wrongful Death Act. Makes a stylistic change in provisions concerning special administrators.

LRB093 17102 LCB 42768 b

1 AN ACT concerning civil liabilities.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Wrongful Death Act is amended by changing
5 Section 2.1 as follows:

6 (740 ILCS 180/2.1) (from Ch. 70, par. 2.1)

7 Sec. 2.1. If ~~In the event that~~ the only asset of the
8 deceased estate is a cause of action arising under this Act,
9 and no petition for letters of office for his or her estate has
10 been filed, the court, upon motion of any person who would be
11 entitled to a recovery under this Act, and after such notice to
12 the party's heirs or legatees as the court directs, and without
13 opening of an estate, may appoint a special administrator for
14 the deceased party for the purpose of prosecuting or defending
15 the action. If there is more than one special administrator
16 appointed and one of the administrators is a corporation
17 qualified to act as a representative of the estate of a
18 decedent and if the compensation of the attorney or attorneys
19 representing the special administrators is solely determined
20 under a contingent fee arrangement, then upon petition and
21 approval by the court, the special administrator which is a
22 corporation shall not participate in or have any duty to review
23 the prosecution of the action, to participate in or review the
24 appropriateness of any settlement of the action, or to
25 participate in or review any determination of the
26 appropriateness of any fees awarded to the attorney or
27 attorneys employed in the prosecution of the action.

28 If a judgment is entered or the action is settled in favor
29 of the special administrator, he or she shall distribute the
30 proceeds as provided by law, except that if proceeds in excess
31 of \$5,000 are distributable to a minor or person under legal
32 disability, the court shall allow disbursements and fees to the

1 special administrator and his or her attorney and the balance
2 shall be administered and distributed under the supervision of
3 the probate division of the court if the circuit court has a
4 probate division.

5 (Source: P.A. 92-288, eff. 8-9-01.)