

HOUSE No. 816

By Mr. Donlan of Boston, petition of Edmond J. Donlan and others for legislation relative to the allowance of probate accounts. Legal Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty.

AN ACT RELATIVE TO THE ALLOWANCE OF PROBATE ACCOUNTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 206 of the General Laws is hereby amended
2 by striking out section 24, as most recently amended
3 by section 1 of chapter 154 of the acts of 1938, and
4 inserting in place thereof the following section:—

5 *Section 24.* Upon application for the allowance of
6 an account filed in the probate court such notice as the
7 court may order shall be given by publication, unless
8 all persons interested receive actual notice, and by de-
9 livering or mailing by registered mail a copy of the
10 citation to the attorney general if there are charitable
11 interests, to the department of mental health and to
12 the veterans administration if interested, and

13 1. For accounts of administrators of intestate es-
14 tates to the heirs;

15 2. For accounts of executors and administrators
16 with the will annexed to all legatees and devisees and
17 to all other persons entitled to share in the estate whose

18 interests are not represented except by the accountant;

19 3. For accounts of guardians and conservators to
20 the ward and to the persons who would be his heirs
21 were he to die intestate at the time of the delivery or
22 mailing of such notice;

23 4. For accounts of trustees to all persons to or for
24 whom income has been paid or accumulated or in the
25 discretion of the trustee might have been paid or ac-
26 cumulated during the period covered by the account,
27 and to those persons who during such period have re-
28 ceived or were entitled to receive or in the discretion
29 of the trustee might have received principal, and to all
30 persons who at the mailing or delivery of such notice,
31 in default of any appointment or otherwise, would be
32 entitled to share in the income if an existing tenancy
33 for life or for years had then terminated or who would
34 be entitled to share in the principal of the trust estate
35 if it were then distributable in whole or in part;

36 5. For accounts of special administrators or in other
37 kinds of fiduciary accounts or where the court deems
38 special circumstances exist to such persons as the court
39 may direct;

40 and in all cases to the executor or administrator of any
41 deceased person entitled to notice or to those in being
42 who have succeeded to the interest of such deceased
43 person and to other persons who are or may become
44 interested and who shall have filed with the accountant
45 a request in writing for notice of proceedings on ac-
46 counts. The written assent to an account or the
47 waiver in writing of notice thereof by a person in-
48 terested or by his guardian or legal representative shall
49 be deemed equivalent to notice.

50 If there are other persons interested to whom such
51 notice has not been given by delivery or registered mail,

52 or if the interests of persons unborn, unascertained or
53 legally incompetent to act in their own behalf are not
54 represented except by the accountant, the court shall
55 appoint as guardian ad litem a competent and dis-
56 interested person to represent such interests and
57 persons, and such guardian ad litem shall without
58 further notice or action by the court also represent
59 with respect to such account all interested persons who
60 may be born after the date of his appointment. It
61 shall not be necessary, unless the court shall so order,
62 to designate by name persons represented by the
63 guardian ad litem other than those who are entitled to
64 notice by delivery or registered mailing. The guardian
65 ad litem so appointed shall make oath to perform his
66 duties faithfully and impartially and shall be entitled
67 to such reasonable compensation as the court shall
68 allow either in the decree on the account or upon the
69 petition of the guardian ad litem as the court may
70 direct.

71 The foregoing provisions of this section shall be sub-
72 ject to the following exception: — If a will or other
73 instrument under which an account is rendered speci-
74 fies the persons to whom notice is to be given with
75 respect to accounts thereunder, the persons so desig-
76 nated shall be deemed to be the only persons entitled
77 to notice and no guardian ad litem shall be appointed
78 to represent any interests or any persons except those
79 designated as aforesaid who may be unborn, unascer-
80 tained or legally incompetent to act in their own
81 behalf and who are not represented except by the
82 accountant.

83 After a final decree has been entered on any account
84 hereunder it shall not be impeached except for fraud
85 or manifest error.

86 In the case of a minor entitled to notice by delivery
87 or mailing hereunder who is under the age of fourteen
88 at the date of the citation, such notice may be de-
89 livered or mailed to the legal or natural guardian of
90 said minor or if the court shall so direct to some other
91 person in his behalf.