§ 1811. Payment of debts and funeral expenses

1. The reasonable funeral expenses of the decedent subject to the payment of expenses of administration shall be preferred to all debts and claims against his estate and shall be paid out of the first moneys received by his fiduciary.

2. Every fiduciary must proceed with diligence to pay the debts of the decedent according to the following order:

(a) Debts entitled to a preference under the laws of the United States and the state of New York.

(b) Taxes assessed on property of the deceased previous to his death. Any taxes so paid by a fiduciary on real property which descends to a distributee or passes to a devisee shall be a charge thereon for which the beneficiary must reimburse the estate unless in the case of wills the testator has indicated expressly or by necessary implication that such taxes be otherwise paid.

(c) Judgments docketed and decrees entered against the decedent according to the priority thereof respectively.

(d) All recognizances, bonds, sealed instruments, notes, bills and unliquidated demands and accounts.

3. Preference shall not be given in the payment of a debt over other debts of the same class, except those specified in subparagraph (c) of subdivision 2. A debt due and payable shall not be entitled to a preference over debts not due. The commencement of a suit for the recovery of a debt or the obtaining of a judgment thereon against the fiduciary shall not entitle this debt to preference over others of the same class. Debts not due may be paid according to the class to which they belong, after deducting a rebate of legal interest on the sum paid for the unexpired term of credit without interest. A debt or claim of the fiduciary shall not have preference over others of the same class, except that if the claim of the fiduciary is secured by collateral the fiduciary may apply to the court for leave to surrender the collateral and make payment of the claim upon such conditions as directed by the court. Preference may be given to rents due or accruing on leases held by the decedent at the time of his death over other debts specified in

subdivision 2 (d) if it appears to the court's satisfaction that such preference will benefit the estate of the decedent.

4. Dividends payable to secured creditors in insolvent estates shall be computed only upon the difference between the face amount of the claim without security and the value of the security itself as of a date to be determined by the court for the fixation of the rights of creditors, unless the creditor shall surrender his security to the fiduciary, in which event the dividend upon such claim when established as valid shall be computed on the full face amount thereof.