

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 1111 (Delegate Finifter)
Judiciary

Estates and Trusts - Protections to Revocable Trusts

This bill makes two changes to State estates and trusts law. First, the bill clarifies that claims against a decedent -- whether asserted against the probate estate or otherwise -- must be made within the existing time for presentation of claims against an estate. Second, the bill extends certain existing probate provisions to cover revocable inter vivos trusts.

The bill takes effect October 1, 2001, although the effective date for one of the provisions regarding revocable trusts is delayed until June 1, 2002.

Fiscal Summary

State Effect: None. The bill would not directly affect State governmental operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill provides that in the absence of express language to the contrary, the current probate rules governing execution, revocation, and revival of a will shall be applicable to the testamentary aspects of a revocable inter vivos trust. Whenever any of those statutory sections refer to a "will," "estate," or similar terms relevant primarily to wills and estates or the takers under them, the terms shall be modified to mean "trust

instrument,” “trust,” or similar terms to reflect the application of the principles of those sections to inter vivos trusts.

The effective date of one specific provision of the bill, which applies to revocable trusts the existing probate provisions specifically governing the writing, signature, and attestation of a will, is delayed to June 1, 2002.

Current Law: Revocable inter vivos trusts exist under current law, but existing statutory provisions governing wills do not automatically apply to such trusts.

Background: Revocable trusts are becoming increasingly popular as a means to avoid the probate process.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Registers of Wills, Department of Legislative Services

Fiscal Note History: First Reader – March 12, 2001
ef/jr

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