

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 788 (Delegate Rosenberg)
Health and Government Operations

**Estates and Trusts - De Minimis Check or Instrument Payable to Closed Estate -
Presumption of Abandonment**

This bill authorizes a personal representative of a decedent’s estate, following the discovery of a check or written instrument of less than \$100 after an estate is closed and the appointment of the personal representative is terminated, to provide proof to the “holder” of the check or instrument that the estate has been closed, and that the property may be presumed abandoned. The bill also specifies that any sum less than \$100, payable on a check certified in this State or on a written instrument issued in this State on which a banking or financial organization or business association is directly liable, is presumed abandoned on the date that the holder receives proof that the estate of the decedent to whom the check is payable is closed. The bill also makes other technical changes.

Fiscal Summary

State Effect: The bill is not anticipated to materially impact State finances or operations.

Local Effect: The bill is not anticipated to impact local government finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law/Background: Under Title 17 of the Commercial Law Article, which addresses with the disposition of abandoned property, “holder” means any person who is (1) in possession of property subject to provisions of the Commercial Law Article related to the disposition of abandoned property that belongs to another; (2) a trustee, in the case

of a trust; or (3) indebted to another on an obligation subject to provisions of the Commercial Law Article related to the disposition of abandoned property.

If property is discovered after an estate has been closed and the appointment of the personal representative has been terminated, the court, on petition of an interested person and on any notice as the court may direct, may appoint the same or a successor personal representative and make other appropriate orders. Further proceedings must be conducted in accordance with the provisions of the estates of decedents law as may be applicable, but no claim previously barred may be asserted in the reopened administration.

Abandoned Property

Any holder of presumed abandoned property is required to send written notice to the apparent owner of the presumed abandoned property, at the apparent owner's last known address, informing the owner that the holder is in possession of the property and that the property will be considered abandoned unless the owner responds to the holder within 30 days after the notification.

Generally, property is presumed to be abandoned if it is left unclaimed for three years. A person holding abandoned property must file a report with the Comptroller including information on the nature of the property and the property's presumed owner. Within 365 days after the report's filing, the Comptroller must publish a notice in a newspaper of general circulation in the county where the presumed owner's last known residence is located, naming the owner and holder of the property, and stating the means by which the owner may claim the property. The Comptroller must then mail out notices to owners of abandoned property valued at \$100 or more within 120 days of receipt of the report filed by the holders. Notice of property valued at \$100 or less is not required to be published, unless the Comptroller considers publication to be in the public interest. The property must be delivered or paid to the Comptroller at the time an abandoned property report is filed, at which time the State takes custody of the property.

Within one year of taking custody of abandoned personal property the Comptroller must sell the property at auction. A person who claims a legal interest in property delivered to the Comptroller must file a claim to the property or to the proceeds from its sale. For property sold at auction, if the Comptroller allows the claim, the Comptroller must pay the claimant an amount equal to the sales price. The Comptroller has an electronic [abandoned property database](#) on the agency's website.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Register of Wills; Comptroller's Office; Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2019
sb/kdm

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