
By: **Delegates Preis, Dembrow, Heller, Petzold, Harkins, Comeau, Jacobs,
and Bonsack**

Introduced and read first time: February 12, 1998

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts - Limitation Period for Refund Claims**

3 FOR the purpose of clarifying a limitation period for filing a claim for refund after
4 distribution of certain property to the Department of Health and Mental
5 Hygiene or a board of education under certain circumstances; and generally
6 relating to a limitation period for refund claims.

7 BY repealing and reenacting, without amendments,
8 Article - Estates and Trusts
9 Section 10-103(b)
10 Annotated Code of Maryland
11 (1991 Replacement Volume and 1997 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - Estates and Trusts
14 Section 3-105 and 9-108
15 Annotated Code of Maryland
16 (1991 Replacement Volume and 1997 Supplement)

17 **Preamble**

18 WHEREAS, § 10-103 of the Estates and Trusts Article provides that a claim
19 may not be brought against a person to whom property has been distributed at the
20 later of 3 years after the death of the decedent or 1 year after the time of
21 distribution of the property; and

22 WHEREAS, The statute of limitations provided in § 10-103 of the Estates and
23 Trusts Article applies to claims made by persons for a refund of an estate which was
24 distributed to a local board of education or the Department of Health and Mental
25 Hygiene under § 3-105 or § 9-108 of the Estates and Trusts Article; and

1 WHEREAS, It is the intent of the General Assembly to clarify the statute of
2 limitations for filing a claim for refund under § 3-105 or § 9-108 of the Estates and
3 Trusts Article; now, therefore,

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Estates and Trusts**

7 3-105.

8 (a) (1) The provisions of this subsection are applicable if there is no person
9 entitled to take under §§ 3-102 through 3-104 of this subtitle.

10 (2) (i) If an individual was a recipient of long-term care benefits
11 under the Maryland Medical Assistance Program at the time of the individual's death,
12 the net estate shall be converted to cash and paid to the Department of Health and
13 Mental Hygiene, and shall be applied for the administration of the program.

14 (ii) If the provisions of subparagraph (i) of this paragraph are not
15 applicable, the net estate shall be converted to cash and paid to the board of education
16 in the county in which the letters were granted, and shall be applied for the use of the
17 public schools in the county.

18 (b) (1) After payment has been made to the Department of Health and
19 Mental Hygiene or to the board of education, if a claim for refund is filed by a relative
20 within the fifth degree living at the death of the decedent or by the personal
21 representative of the relative, and the claim is allowed, the claimant shall be entitled
22 to a refund, without interest, of the sum paid.

23 (2) A CLAIM FOR REFUND UNDER THIS SUBSECTION MAY NOT BE FILED
24 AFTER THE LATER OF:

25 (I) 3 YEARS AFTER THE DEATH OF THE DECEDENT; OR

26 (II) 1 YEAR AFTER THE TIME OF DISTRIBUTION OF THE PROPERTY.

27 9-108.

28 (a) The personal representative shall pay over or transfer the money or
29 property or its proceeds, as directed by order of court, to the board of education in the
30 county where the letters were granted, and it shall be applied for the use of the public
31 schools in such county, whenever it appears to the satisfaction of the court that:

32 (1) The personal representative has been unable to contact an heir or
33 legatee because of the personal representative's lack of knowledge of the location of
34 the heir or legatee and the court is satisfied that reasonable efforts have been made to
35 locate the heir or legatee;

1 (2) An heir or legatee is a nonresident of the United States and would
2 not have the benefit of use or control at its full value of money or other property
3 comprising the heir's or legatee's distributive share or legacy; or

4 (3) Other special circumstances make it appear desirable that payment
5 or delivery should be withheld because of national or international action affecting
6 such money, property, value, or the full use and enjoyment of it.

7 (b) (1) If, after payment has been made to the board of education, a claim for
8 refund is filed by the heir or legatee, or by the personal representative of the heir or
9 legatee, the claimant is entitled to a refund, without interest, of the sum paid, or the
10 proceeds from the sale of property if not in the form of cash when transferred to the
11 board of education, or the fair market value at the time of transfer if not converted to
12 cash.

13 (2) A CLAIM FOR REFUND UNDER THIS SUBSECTION MAY NOT BE FILED
14 AFTER THE LATER OF:

15 (I) 3 YEARS AFTER THE DEATH OF THE DECEDENT; OR

16 (II) 1 YEAR AFTER THE TIME OF DISTRIBUTION OF THE PROPERTY.

17 10-103.

18 (b) (1) Except as provided in §§ 10-102 and 11-109 of this article, the right
19 of a person seeking to recover property improperly distributed, or the value of it, from
20 a person to whom property has been distributed is forever barred at the later of:

21 (i) Three years from the death of decedent; or

22 (ii) One year from the time of distribution of the property.

23 (2) This subsection does not bar recovery of property or the value of it
24 received as the result of the heir's or legatee's participation in a fraudulent
25 distribution.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 1998.