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

Introduced and read first time: February 12, 1998

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 1998

CHAPTER _____

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; providing for the
6 application of this Act; and generally relating to a limitation period for refund
7 claims.

8 BY repealing and reenacting, without amendments,
9 Article - Estates and Trusts
10 Section 10-103(b)
11 Annotated Code of Maryland
12 (1991 Replacement Volume and 1997 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Estates and Trusts
15 Section 3-105 and 9-108
16 Annotated Code of Maryland
17 (1991 Replacement Volume and 1997 Supplement)

18 **Preamble**

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

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

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

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

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

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

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

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

21 10-103.

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

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

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

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That the limitation periods
31 specified by this Act are declaratory of existing law, and shall apply whether a
32 distribution of property occurred before, on, or after the effective date of this Act.

33 SECTION 2-3. AND BE IT FURTHER ENACTED, That this Act shall take
34 effect October 1, 1998.

