

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 726

(Senator Giannetti)

Judicial Proceedings

Judiciary

Estates - Elective Share - Election of Surviving Spouse

This bill alters the time period during which a surviving spouse may make an election to take an elective share of a net estate from nine to eight months after the date of the decedent's death.

The bill is to be construed prospectively only and may not be applied or interpreted to apply to an estate of a decedent who dies before the bill's October 1, 2004 effective date.

Fiscal Summary

State Effect: None. Since the valuation of a net estate is made on the date of distribution, changing the date of election is not expected to have any effect on estate or inheritance tax revenues.

Local Effect: None. Altering the time period for taking an elective share of an estate would not materially affect local government finances.

Small Business Effect: None.

Analysis

Current Law: A surviving spouse may elect to take a one-third share of a net estate in lieu of property left to the spouse by will if there is surviving issue, or one-half share if there is no surviving issue. Chapter 234 of 2003 defined "net estate" as the property of the decedent passing by testate succession, without a deduction for State or federal estate or inheritance taxes, and reduced by funeral and administration expenses, family allowances, and enforceable claims and debts against the estate. In addition, the date on

which a net estate is valued was changed from the date on which the election is made to the date of distribution. The time period for making an election to take an elective share is the later of:

- nine months after the date of a decedent's death; or
- six months after the first appointment of a personal representative under a will.

Additional Information

Prior Introductions: SB 312, enacted as Chapter 234 of 2003, altered the time periods for making an election and modified several other provisions of the code.

Cross File: None.

Information Source(s): Register of Wills, Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2004
n/jr

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