

**Department of Legislative Services**

Maryland General Assembly

2007 Session

**FISCAL AND POLICY NOTE**

Senate Bill 435

(Senator Frosh)

Judicial Proceedings

Judiciary

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**Estates and Trusts - Personal Representatives and Fiduciaries - Powers**

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This bill allows a personal representative to become a limited partner in any partnership or a member in any limited liability company, including a single member limited liability company. In addition, the bill allows a fiduciary to continue as or become a member in any limited liability company, including a single member limited liability company.

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**Fiscal Summary**

**State Effect:** None. The bill's changes will not directly affect State operations or finances.

**Local Effect:** None.

**Small Business Effect:** Meaningful.

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**Analysis**

**Current Law:** A personal representative may exercise all of the power or authority conferred on the personal representative by statute or in the will. State law sets out various powers and authority that a personal representative may exercise unless validly limited by the will or a court order, including the power to convert a sole proprietorship the decedent was engaged in at the time of his death to a limited liability company.

State law sets out various functions and duties a fiduciary may perform, including that a fiduciary may continue or become a limited partner in any partnership and may convert a sole proprietorship the decedent was engaged in at the time of his death to a limited

liability company. The various functions and duties may be limited by the governing instrument or extended or limited by the appropriate court. A fiduciary is a trustee acting under a deed, will, declaration of trust or other instrument in the nature of a trust, or appointed by a court, a committee, or a guardian of the property of a minor or a disabled person. A fiduciary does not include a personal representative, administrator, executor, receiver, or trustee of a trust for the benefit of creditors.

**Small Business Effect:** The bill would help a personal representative to keep a small business running for the estate of a decedent, which would help preserve its value, especially if the decedent was an owner or a major partner in the business. The personal representative would also be protected from personal liability in the business.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Assessments and Taxation, Register of Wills, Department of Legislative Services

**Fiscal Note History:** First Reader - February 12, 2007  
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