

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

House Bill 903
 Judiciary

(Delegate Hixson, *et al.*)

Estates and Trusts - Registers of Wills - Fees

This bill increases fees charged and collected by the registers of wills and specifies that, unless otherwise provided by law, a register of wills is not required to record a paper filed with the register, or to provide to a person with a copy of a paper, until the applicable charge has been paid.

Fiscal Summary

State Effect: General fund revenues are expected to increase significantly due to additional excess revenues remitted by registers of wills to the Comptroller and deposited in the general fund. Under one set of assumptions, general fund revenues may increase by at least \$1.8 million annually beginning in FY 2010. Expenditures are not affected.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	\$1,800,000	\$1,800,000	\$1,800,000	\$1,800,000	\$1,800,000
Expenditure	0	0	0	0	0
Net Effect	\$1,800,000	\$1,800,000	\$1,800,000	\$1,800,000	\$1,800,000

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Probate fees are increased as shown in **Exhibit 1**.

Various other fees are increased or established for generally administrative functions performed by registers of wills. Fees for administration of a small estate (having a value of \$30,000 or less) are also increased. Some nominal fees are eliminated.

Exhibit 1
Proposed Increases in Probate Fees Under HB 903

Fees

<u>Value of Estate</u>	<u>Current Law</u>	<u>HB 903</u>	<u>Percent Increase</u>
Less than \$10,000	\$50	\$100	100%
\$10,000 - \$20,000	\$100	\$150	50%
\$20,000 - \$50,000	\$150	\$200	33%
\$50,000 - \$75,000	\$200	\$300	50%
\$75,000 - \$100,000	\$300	\$400	33%
\$100,000 - \$250,000	\$400	\$500	25%
\$250,000 - \$500,000	\$500	\$750	50%
\$500,000 - \$750,000	\$750	\$1,000	33%
\$750,000 - \$1,000,000	\$1,000	\$1,500	50%
\$1,000,000 - \$2,000,000	\$1,500	\$2,500	67%
\$2,000,000 - \$5,000,000	\$2,500	\$3,500	40%
\$5,000,000 +	\$2,500*	\$3,500*	40%

* plus .02% of excess over \$5,000,000

Current Law: Registers of wills are entitled to charge and collect various fees for the performance of their duties, including probate fees for performing various actions in relation to the administration of a decedent's estate, and various other enumerated fees.

A register of wills is also allowed a 25% commission on inheritance tax collected, with the remainder paid into the State Treasury each month. Annually, every register must return to the Comptroller a full and accurate account of the fees and receipts of the register's office and incurred expenses. The excess of fees and receipts over expenses is delivered to the Comptroller with each report and deposited in the general fund.

Salaries of the registers are paid semimonthly from the fees and receipts of the office, after deducting the expenses of the office. If the fees and receipts of an office are insufficient in any fiscal year to pay all or a part of the expenses of the office and authorized salary of a register, the deficiency is funded from the taxes remitted to the Comptroller by the register during that fiscal year. If the tax collections for the

fiscal year are insufficient, the Comptroller makes up the deficit from excess fees remitted from all other registers.

The current probate fees and fees for administration of a small estate were established under Chapter 656 of 1989 (though the fees for administration of a small estate have been slightly modified since, under Chapter 118 of 2000). Other enumerated fees were last modified under Chapter 693 of 1997.

Background: In each jurisdiction, registers of wills are responsible for the administration of estates by providing proper forms and direction, assisting and advising any person who requests assistance in the preparation of a form for administrative probate, admitting wills to probate, issuing letters of administration, auditing accounts, and maintaining accurate records of all estate matters.

Total collections by registers of wills from taxes and fees have declined by almost 3% annually during the last 10 years. In the same timeframe, registers of wills' expenditures have grown approximately 5.6% annually. Accordingly, registers of wills are experiencing deficits at a greater rate. In fiscal 1998, four registers of wills posted a year-end deficit compared to 15 registers in fiscal 2008 as shown in **Exhibit 2**.

Despite an increase in the total number of year-end deficits, net revenues (including fees and taxes) collected from all registers of wills are more than sufficient to mitigate any deficits. As mentioned above, if the fees and receipts of any registers of wills are insufficient in any fiscal year to pay all or a part of the authorized salaries and expenses of the office, the deficiency is funded from the taxes remitted to the Comptroller by the register during that fiscal year, and in the event that tax collections for the register for the fiscal year are insufficient, the Comptroller makes up the deficit from excess fees remitted from all other registers. The revenues from the nondeficit counties more than make up that difference. In fiscal 2008, net excess revenues were approximately \$5.4 million.

State Fiscal Effect: General fund revenues are expected to increase significantly due to additional excess revenue remitted by registers of wills to the Comptroller for deposit in the general fund due to the fee increases. Under the set of assumptions employed by the Department of Legislative Services (DLS), general fund revenues increase by at least \$1.8 million. DLS advises, however, that due to the varying ranges of rate increases proposed by the bill and any fluctuations that may occur in the number of individuals requesting services, the total amount of increased general fund revenues may vary from this estimate.

In fiscal 2008, \$7.1 million in fees were collected by registers of wills; \$23.9 million was retained by registers of wills to account for salaries and expenses (accounting for both the

fees collected and 25% of taxes collected). Of the retained revenues, \$5.4 million was not needed for salaries and expenses and was deposited in the State's general fund.

The increases in probate fees (generally the largest fees collected by registers of wills) under the bill range from 25% to 100%, and other fees are established or increased by varying amounts. Assuming fee revenues increase by at least 25% as a result of the fee increases, general fund revenues may increase by \$1.8 million annually. This assumes:

- expenses of the registers of wills remain constant and fee revenues otherwise remain constant;
- the number of individuals paying probate and other fees and the number of occurrences of fees being paid remain constant; and
- an increase in fee revenue results in a direct increase in excess revenues deposited in the general fund.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 9, 2009
mam/kdm

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Exhibit 2
Revenues and Expenses at the Registers of Wills
Fiscal 2008

<u>County</u>	<u>Probate Fees</u>	<u>Total Revenues Collected</u>	<u>Taxes Remitted to the State</u>	<u>Revenues Retained by Registers</u>	<u>Excess Fees to General Fund</u>
Allegany	\$107,648	\$853,937	\$559,663	\$294,274	-\$105,729
Anne Arundel	657,740	5,601,735	3,686,249	1,915,486	465,525
Baltimore City	545,971	5,912,286	4,000,443	1,911,843	-38,877
Baltimore	1,353,177	15,935,727	10,869,251	5,066,476	2,770,106
Calvert	114,026	1,082,562	724,730	357,832	-49,594
Caroline	49,271	389,802	255,319	134,483	-156,994
Carroll	222,991	2,431,895	1,647,750	784,144	394,351
Cecil	111,959	1,387,543	949,386	438,157	-14,980
Charles	115,869	806,166	515,320	290,846	-279,451
Dorchester	61,119	344,306	212,055	132,251	-170,353
Frederick	226,255	2,222,848	1,489,217	733,630	140,749
Garrett	41,967	463,700	316,004	147,696	-154,470
Harford	233,976	2,268,685	1,518,304	750,382	234,044
Howard	248,642	3,182,207	2,183,807	998,401	464,406
Kent	67,057	521,764	338,085	183,679	-72,493
Montgomery	1,441,409	15,762,373	10,652,645	5,109,729	2,333,437
Prince George's	709,470	4,995,859	3,185,874	1,809,985	-305,420
Queen Anne's	71,943	1,075,689	750,407	325,282	-71,193
St. Mary's	110,386	899,632	588,979	310,653	-109,682
Somerset	26,361	346,586	240,062	106,525	-187,244
Talbot	141,222	1,039,868	671,514	368,354	-118,343
Washington	209,954	2,387,229	1,621,364	765,864	286,883
Wicomico	111,671	1,162,608	784,052	378,556	-39,294
Worcester	94,244	1,965,176	1,393,722	571,454	224,509
Total	\$7,074,331	\$73,040,181	\$49,154,199	\$23,885,982	\$5,439,892

