

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE**Revised**

Senate Bill 341

(Senator Frosh)

Judicial Proceedings

Judiciary

Real Property - Effect of Deed Granting Property from Trust or Estate

This bill establishes that a grant of property by deed from a grantor designated in the deed as an estate of a deceased person or a trust has the same effect as if the person granted the property had received the property from the personal representative(s) for the estate or trustee(s) appointed and acting for the trust on the effective date of the deed, if the grant is executed by the personal representative(s) or trustee(s). The bill applies to any grant of property by a trust or estate contained in a deed existing on or after October 1, 2010.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Under § 2-122 of the Real Property Article, a grant of property by deed to a grantee designated in the deed as an estate of a deceased person or a trust has the same effect as if the property had been granted to the personal representative(s) for the estate or trustee(s) appointed and acting for the trust, respectively, on the effective date of the deed. The effect of a grant of property by deed from a grantor designated in the deed as an estate of a deceased person or a trust is not specified.

Background: The Estate and Trust Law Section of the Maryland State Bar Association indicates that in Maryland, because a trust or probate estate is a fiduciary relationship between one or more fiduciaries and the person to whom a fiduciary duty is owed, it

cannot be the transferor or transferee of property. Instead, the trustee(s) or personal representative(s) for the trust or estate, respectively, are the owners of the property subject to a trust or in an estate. According to the Estate and Trust Law Section, significant title problems are created when a trust or estate is inadvertently designated in a deed as the grantor of property. The bill would specify the effect of such a grant.

Additional Information

Prior Introductions: None.

Cross File: HB 337 (Delegate Carter, *et al.*) - Judiciary.

Information Source(s): Estate and Trust Law Section, Maryland State Bar Association; Judiciary (Administrative Office of the Courts); Register of Wills; Department of Legislative Services

Fiscal Note History: First Reader - February 9, 2010
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