

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 151

(Senator West)

Judicial Proceedings

Judiciary

Estates and Trusts - Closed Estates - Subsequent Discovery of Check

This bill authorizes an orphans' court – following the discovery of a check payable to a decedent or the estate of a decedent equal to or less than \$1,000, after an estate is closed and the appointment of the personal representative is terminated – to enter an order authorizing an interested person, who has made a verified petition, to indorse and deposit the check into the interested person's bank account for the limited purpose of distributing the funds in accordance with the will or, if the decedent died intestate, in accordance with applicable statutory provisions. However, such an order may not be entered if (1) the estate of the decedent was insolvent when it was closed; (2) the check discovered after the estate was closed increases the value of the estate above the value that qualifies for administration as a small estate; or (3) any additional fees and inheritance taxes due as a result of the discovered check are not paid with the petition. The order may be entered without a hearing, unless requested by an interested person, and distribution of the funds must be made within 60 days after the court's order.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Current Law: Under § 10-101 of the Estates and Trust Article, the final approval of the final account automatically closes an estate. If the final account requests it, it also automatically terminates the appointment of the personal representative.

If the appointment of the personal representative is not terminated by the final account, a personal representative may, after the time has passed for presenting claims that arose before the death of the decedent, petition the orphans' court for an order to terminate the personal representative's appointment as personal representative. After notice to all interested persons, including creditors who have presented their claims and legatees who have not been paid in full, the court may enter an appropriate order if a written request for a hearing has not been filed within 20 days.

If property is discovered after an estate has been closed and the appointment of the personal representative has been terminated, the orphans' court, on petition of an interested person and on such notice as it may direct, may appoint the same or a successor personal representative and make other appropriate orders. Further proceedings must be conducted pursuant to the provisions of the estates of decedents law as may be applicable, but no claim previously barred may be asserted in the reopened administration.

Generally, if the property of the decedent subject to administration in the State is established to have a value of \$50,000 or less as of the date of the death of the decedent, the estate may be administered under existing statutory provisions that govern small estates.

An "interested person" is (1) a person named as executor in a will; (2) a person serving as personal representative after judicial or administrative probate; (3) a legatee in being, not fully paid, whether the legatee's interest is vested or contingent; (4) an heir even if the decedent dies testate, except that an heir of a testate decedent ceases to be an interested person when the register has given specified notice; or (5) an heir or legatee whose interest is contingent solely on whether some other heir or legatee survives the decedent by a stated period if the other heir or legatee has died with that period.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 543 (Delegate Bhandari, *et al.*) - Judiciary.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Register of Wills; Department of Legislative Services

Fiscal Note History: First Reader - January 20, 2020
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