

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 766
(Delegate Terrasa)
Judiciary

Estates and Trusts – Administration of Estates – Fees

This bill alters the existing statutory fee schedule that may be assessed by the Register of Wills, including (1) eliminating the probate fees assessed for small estates (valued at \$50,000 or less); (2) reducing the probate fees for estates of at least \$50,000 but less than \$250,000; and (3) increasing the probate fees for estates of at least \$500,000 and higher. The bill applies prospectively and may not be applied to any estate opened before the bill's October 1, 2021 effective date.

Fiscal Summary

State Effect: General fund revenues increase by approximately \$940,000 in FY 2022 and by approximately \$1.3 million annually thereafter. Expenditures are not materially affected.

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Revenue	\$0.9	\$1.3	\$1.3	\$1.3	\$1.3
Expenditure	0	0	0	0	0
Net Effect	\$0.9	\$1.3	\$1.3	\$1.3	\$1.3

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

Local Effect: The bill does not affect local government operations or finances.

Small Business Effect: None.

Analysis

Current Law/Bill Summary: Generally, Registers of Wills are entitled to charge and collect fees for the performance of specified duties, which include, among other things,

taking probate of wills, furnishing certified copies of the will and codicils, granting letters of administration, furnishing certificates of letters as specified, issuing warrants to appraise, entering on estate docket, filing elections of surviving spouses to take intestate shares, filing renunciations and disclaimers, and filing and recording wills, bonds, inventories, accounts of sale, releases, administration accounts, and petitions and orders.

Under the bill, probate fees are increased as shown in **Exhibit 1**. Certain other fees are modified or established for specified administrative functions performed by the Register of Wills. Unless otherwise provided by law, a Register of Wills is not required to record any document filed with the register or provide to any person a copy of a document until the appropriate fee for the document has been paid. The bill also prohibits the Register of Wills from receiving fees in connection with a small estate in which (1) the surviving spouse is the sole legatee or heir and has qualified for administration as a small estate and (2) the property of the decedent subject to administration in Maryland is established to have a value of \$100,000 or less as of the date of death of the decedent.

Exhibit 1
Probate Fees Assessed on the Value of the Probate Estate

<u>Value of Probate Estate</u>		<u>Current Law</u>	<u>Under the Bill</u>
At Least	Less Than		
---	\$10,000	\$50	\$0
\$10,000	\$20,000	100	0
\$20,000	\$50,000	150	0
\$50,000	\$75,000	200	100
\$75,000	\$100,000	300	150
\$100,000	\$250,000	400	200
\$250,000	\$500,000	500	500
\$500,000	\$750,000	750	1,000
\$750,000	\$1,000,000	1,000	1,500
\$1,000,000	\$2,000,000	1,500	0.2%*
\$2,000,000	\$5,000,000	2,500	0.2%*
\$5,000,000	---	2,500	0.2%*
		plus 0.02% of excess over	
		\$5,000,000	

*of the value of the estate.

Source: Department of Legislative Services

State Revenues: General fund revenues increase by approximately \$940,000 in fiscal 2022 (reflecting the bill's October 1, 2021 effective date) and by approximately \$1.3 million annually thereafter due to additional excess revenues remitted by Registers of Wills to the Comptroller. This estimate is based on fiscal 2019 probate fee revenue information provided by the Registers of Wills. The Registers of Wills indicate that \$922,900 in fee revenue was generated in fiscal 2019 from small estates (which would no longer be subject to fees under the bill) and estimate that revenues from the remaining estates would have increased overall by \$2.2 million under the probate fees established by the bill (reflecting the net of fee reductions and fee increases for the remaining estates). If similar impacts in future years are assumed (the Registers of Wills indicate that fee revenues are relatively consistent from year to year), this results in a net increase in revenue of \$1.3 million annually.

The excess of fees and receipts of Registers of Wills, after deduction of expenses, is delivered to the Comptroller and deposited in the general fund. The Registers of Wills are a net revenue generator for the State and advise that all of the additional revenues resulting from this bill go to the general fund.

The bill's changes to other administrative fees, other than the probate fees, are not expected to have a material fiscal impact.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

Fiscal Note History: First Reader - February 19, 2021
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