



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

March 29, 2022

To: The Honorable William C. Smith
Chair, Judicial Proceedings Committee

From: Delegate Jen Terrasa
District 13, Howard County

Re: Sponsor Testimony in Support of HB 187 Estates and Trusts –
Administration of Estates – Fees

Dear Chairman Smith, Vice Chair Waldstreicher and members of the Judicial Proceedings Committee,

Thank you for the opportunity to present HB 187, which would improve access to justice in the area of probate, promote basic fairness in the fees the public is charged, and enhance efficiency in the probate process by eliminating small estate fees, correcting a regressive probate fee schedule, and making a series of changes to modernize this section of the code.

As you know, probate fees come into play during probate - the legal process of transferring probate assets to either the decedent's heirs or those named to inherit in their Last Will & Testament. "Probate assets" are only those titled in the sole name of a decedent; they do NOT include assets that are jointly-held or have a designation of beneficiary. So, for example, if you have a house that you hold jointly with your spouse, that would not be a probate asset. Similarly, a joint bank account or life insurance policy with a designated beneficiary would not be part of the probate estate.

Additionally, probate fees are NOT estate taxes, they are fees collected by the Register of Wills to cover the cost of services performed by that office, similar to court filing fees. Unlike estate and other taxes, which are collected by the Comptroller's office, probate fees are collected by the Office of the Register of Wills.

HB 187 eliminates the fees for small probate estates valued up to \$50,000. Under current law, the fees for those estates range from \$2 to \$150. They generate very little revenue, representing less than 1% of the revenue brought in by the 24 Registers of Wills collectively statewide. However, these probate fees can amount to a lot of money

for the families living in poverty who have just lost a loved one. Current probate fees on small estates can be a barrier to probate for very small estates, preventing heirs with limited means from being able to inherit the family car or house in some cases.

HB 187 also remedies the current regressive fee schedule and adjusts the probate fees for inflation after decades without change to offset these adjustments. Current probate fees represent a higher percentage of those small probate assets than larger ones. For example, an estate worth \$5,000 pays a \$50 fee – which is 1% of the value of the estate. Whereas a \$5 million estate pays a \$2,500 fee – which is only 0.05% of the value of the estate. If the estate is over \$5 million, they pay \$2,500 plus .02% of anything over \$5 million. So in reality it is even less than .05%.

If HB 187 is enacted, the probate fee for any estate with probate assets valued under \$500,000 will either be eliminated or reduced. The chart below lays out the changes being proposed in this bill.

PROBATE FEES BEFORE AND AFTER HB187						
If the Value of the Probate Estate is At Least	But Less Than	Current Fee	Fee as % of Value of Estate at Beginning of Value Range	Proposed Fee	Fee as % of Value of Estate at Beginning of Value Range	% of Probate Estates
--	\$50,000	\$50-150	1%	\$0	N/A	58.4% will have fee eliminated
\$50,000	\$100,000	\$200	0.40%	\$100	0.20%	28.6% will have fee reduced to .2%
\$100,000	\$500,000	\$400	0.40%	\$200	0.20%	
\$500,000	\$1,000,000	\$750	0.15%	\$1,000	0.20%	13.0% will see a slight increase to .2% or lower
\$1,000,000	\$2,500,000	\$1,500	0.15%	\$2,000	0.20%	
\$2,500,000	\$5,000,000	\$2,500	0.10%	\$5,000	0.20%	
\$5,000,000	\$7,500,000	\$2,500 plus .02% of excess over \$5,000,000	0.05% + .02% of excess over \$5,000,000	\$7,500.00	0.15%	
\$7,500,000	\$10,000,000	\$2,500 plus .02% of excess over \$5,000,000	0.05% + .02% of excess over \$5,000,000	\$10,000.00	0.13%	
\$10,000,000	--	\$2,500 plus .02% of excess over \$5,000,000	0.05% + .02% of excess over \$5,000,000	\$10,000 plus .02% of excess over \$10,000,000	0.10%	

HB 187 stems from recommendations made in 2020 by the Attorney General's COVID-19 Access to Justice Task Force, which was charged with developing strategies and solutions addressing the significant civil, legal challenges facing Marylanders in the wake of COVID-19. While the task force specifically examined the pandemic's impact and made recommendations on how to deploy the legal system to ensure the State's most vulnerable remain housed, fed, safe, secure, employed, healthy, and connected to civil justice, many of the challenges identified, including this one, were systemic issues faced by people long before the pandemic began.

HB 187 improves access to justice in the area of probate, promotes basic fairness in the fees the public is charged, and enhances efficiency in the probate process.

I respectfully urge a favorable report.