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January 17, 2022

Hon. Luke Clippinger, Chairman
Judiciary Committee
House Office Building, Room 101
Annapolis, Maryland 21401

Re: HB187 – Estates and Trusts – Administration of Estates – Fees

Dear Chairman Clippinger and Members of the Judiciary Committee,

I write to express my strong support for passage of this important legislation. It is the product of substantial research and numerous meetings and conversations among stakeholders, including the Maryland Register of Wills Association, legislators, members of the Estates & Trusts Section Council of the Maryland State Bar Association, and members of the Life and Health Planning Committee of Attorney General Frosh's COVID-19 Access to Justice Task Force. It is also the product of conversations and work done during the interim to resolve concerns raised when this legislation was debated in subcommittee last session.

In Maryland each of the 24 Registers of Wills are required by law to charge various fees for the services we provide. House Bill 187 makes several significant changes to our fee schedule using access to justice, basic fairness, and efficiency as our guiding principles.

This bill eliminates fees in small estates, corrects our regressive probate fee schedule, and makes a series of needed clarifying and technical changes. Allow me to elaborate on each of these objectives:

First, we want to take the bold step of eliminating fees for all estates in Maryland valued under \$50,000. These estates comprise 64% – nearly two-thirds – of all probate estates in Maryland. The fees charged range from \$2 to \$150 depending on the estate's value. While this may not seem like a lot to some of us, some families struggle to pay these fees. Some are forced to pay with a credit card because they have no cash and sometimes, we have to set up payment plans for them. While these fees present a hardship for some of our grieving families, they also produce little benefit to the state. The fees for 64% of our estates account for 0.98% of our statewide revenue. This fee is truly nickel-and-diming families with the smallest estates and from

an access to justice perspective and from a public management perspective hard to justify retaining. By eliminating these fees, we'll be easing the financial strain on Maryland families and streamlining government at the same time.

Second, this bill takes our current regressive fee structure and replaces it with a level playing field. Under current law, smaller estates pay a disproportionately high fee compared to larger estates. For example, a \$20,000 estate pays a \$150 probate fee, which is 0.75% of its value. A \$5 million estate pays a \$25,000 fee, which is 0.05% of its value. An estate worth 250 times as much pays a fee that's only 17 times as high. Under our proposal, estates all estates under \$50,000 would pay no fee, most between \$50,000 and under \$500,000 would pay a lower fee, a small number would pay the same fee, and only estates \$500,000 or over would pay a higher fee. This comes out to 63.4% of estates paying no fee, 24% paying a lower fee, 2.2% paying the same fee, and 10.4% paying a higher fee. HB187 also simplifies the probate fee schedule by reducing the number of estate value ranges and corresponding fees from nine to six, making fees easier to assess and less likely to change over the life of an estate. In sum, this proposal corrects a regressive fee structure that has been on the books for decades and implements one that is fundamentally fair for everyone.

Third, this bill contains several "housekeeping" matters. It provides statutory authority for the Registers to charge the actual cost for mailings and returned check fees. It provides a set dollar amount, \$25, for copies of hearings before the orphans' courts. It also clarifies that the filing fee for controversial matters and guardianships is \$20. Finally, it makes clarifying and grammatical revisions to update language in a statute that has not been changed in over 30 years.

As I stated previously, the guiding principles of this legislation are improving access to justice in probate proceedings, ensuring basic fairness with the fees charged by the Registers, and increasing efficiency in the probate process. Simply put, everyone involved wins with this bill.

I respectfully urge a favorable report to House Bill 187. Thank you for your time, attention, and service to our great state.

Sincerely,

Byron E. Macfarlane