

SB164Fav.pdf

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

January 23rd, 2024
The Maryland State Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Building
Annapolis, Maryland 21401

Re: Senate Bill 164: *Estates and Trusts - Interested Person - Definition*

Dear Chairman Smith and Members of the Committee,

Section 1-101(j) of the Maryland Estates and Trusts Article, contains the definition of the term “*Interested Person*”, which is used throughout the Estates and Trusts Article.

Senate Bill 164 is an initiative of the Estates and Trusts Section of the Maryland State Bar Association. The purpose of this bill is to clean up and clarify the definition of the term “*Interested Person*”.

Currently, included in the definition of “*Interested Person*” is a legatee who has not been fully paid. Senate Bill 164 clarifies that all legatees of the estate qualify as “*Interested Persons*” unless their interest in the estate has been fully paid or fully adeemed. An ademption is estates and trusts lingo meaning the receipt of property bequeathed to the legatee, as distinct from money bequeathed to the legatee.

Senate Bill 164 also states for the first time that the term “*Interested Person*” also includes a surviving spouse of the decedent who has timely filed an election to take an elective share of the estate, but makes clear that such a surviving spouse ceases to be an “*Interested Person*” if the election is withdrawn or ruled ineffective by a court.

Senate Bill 164 also states for the first time that the term “*Interested Person*” also includes a person who timely files a caveat petition challenging the will of the decedent but makes clear that such a person ceases to be an “*Interested Person*” once the caveat proceeding has been disposed of.

Finally, Senate Bill 164 adds a statutory clause stating that the term “*Interested Person*” does not include an assignee of a legatee or heir.

I am pleased that Roland Schrebler from the Estates and Trusts Section is with me today to further explain the need for this bill and to assist in answering your questions about the bill.

I appreciate the Committee's consideration of Senate Bill 164 and will be happy to answer any questions the Committee may have.

SB 164 MSBA Estates and Trusts Section Counsel Wri

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To: Maryland Senate – Judicial Proceedings Committee
From: MSBA Estate & Trust Law Section
Date: January 22, 2024
Subject: **SB 164** – Estates and Trusts – Definitions – Interested Person
Position: Support

The Estate and Trust Law Section of the Maryland State Bar Association (MSBA) supports Senate Bill 164 – Estates and Trusts – Definitions – Interested Person

Description of Current Law:

Under current law, the statutory definition of an “interested person”, which in part determines who must and must not receive notice of various court filings in an estate and who can and cannot object to various aspects of the estate administration process, is incomplete and does not adequately cover individuals in certain situations, such as a person who is to receive specific property which the decedent no longer owns, a spouse electing to receive a spousal share of an estate, a person who files a challenge to a will (a “caveat” proceeding) and an assignee of a beneficiary of an estate.

Problems Addressed by this Legislation:

Currently, a person who is to receive specific property from an estate which the decedent no longer owned at death would continue to have receive notice of court filings and have the right to object to various aspects of the estate administration process, even though they have no economic interest in the estate. Similarly, neither a surviving spouse who is not otherwise named in the will of the decedent and who has filed an election to receive his or her spousal share of an estate, nor a person challenging the will of the decedent, is currently entitled to notice of certain court filings nor would they have the right to object to various aspects of the estate administration process. Further, it is currently unclear whether an assignee of an economic interest of a beneficiary of an estate is entitled to notice of court filings or has the right to object to various aspects of the estate administration process.

How the Legislation Solves the Problem:

Senate Bill 164 would make the following clarifications to § 1-101(j) to eliminate confusion and improve efficiency in the estate administration process:

1. A legatee whose interest has been fully adeemed ceases to be an interested person upon notice of the ademption.
2. A surviving spouse who files an election to take an elective share is an interested person until the election is withdrawn or ruled ineffective.
3. A person who timely files a petition to caveat a will is an interested person until the caveat proceeding ends.
4. An assignee of a legatee or an heir is not an interested person.

For the reasons stated above, the Estate and Trust Law Section of the MSBA **supports SB 164 and urges a favorable committee report. For further information, please contact:**

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SUGGESTED AMENDMENTS TO SB 164

1-101(j)

(a) In this article the following words have the meanings indicated.

(j) (1) “Interested person” means:

(i) A person named as executor in a will;

(ii) A person serving as personal representative after judicial or administrative probate;

(iii) A legatee in being, **[not fully paid,]** whether the legatee’s interest is vested or contingent, **EXCEPT THAT A LEGATEE WHOSE INTEREST HAS BEEN FULLY PAID OR FULLY ADEEMED CEASES TO BE AN “INTERESTED PERSON” ON RECEIPT OF PAYMENT OR NOTICE OF THE ADEPTION;**

(iv) 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 notice pursuant to § 2–210 or § 5–403(a) of this article; **[or]**

(v) 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 within that period;

(vi) **A SURVIVING SPOUSE WHO HAS TIMELY FILED AN ELECTION TO TAKE AN ELECTIVE SHARE UNDER § 3–403 OF THIS ARTICLE, EXCEPT THAT THE SURVIVING SPOUSE CEASES TO BE AN “INTERESTED PERSON” ON THE ELECTION BEING WITHDRAWN OR RULED INEFFECTIVE BY A COURT OF COMPETENT JURISDICTION; OR**

(vii) **A PERSON WHO TIMELY FILES A PETITION TO CAVEAT UNDER § 5–207 OF THIS ARTICLE, EXCEPT THAT THE PERSON CEASES TO BE AN “INTERESTED PERSON” ONCE THE CAVEAT PROCEEDING HAS BEEN DISPOSED OF.**

(2) “Interested person” includes:

(i) A minor or other person under a disability; or

(ii) The judicially appointed guardian, committee, conservator or trustee for such person, if any, and if none, then the parent or other person having assumed responsibility for such person.

(3) **“INTERESTED PERSON” DOES NOT INCLUDE AN ASSIGNEE OF A LEGATEE OR AN HEIR.**