

**Department of Legislative Services**  
Maryland General Assembly  
2022 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 802  
Judiciary

(Delegate Williams)

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**Estates and Trusts – Claims Against an Estate – Statute of Limitations**

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This bill alters the statute of limitations for filing claims against a decedent’s estate. The bill applies only prospectively and does not apply to claims that arise before the bill’s effective date.

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**Fiscal Summary**

**State Effect:** General fund revenues may decrease, as discussed below.

**Local Effect:** The bill is not expected to materially affect local government finances.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary/Current Law:** The statute of limitations, under current law and the bill, is subject to a specified exception with respect to claims of the United States or the State.

Under current law, a claim against an estate of a decedent is forever barred against the estate, the personal representative, and the heirs and legatees, unless presented within the earlier of six months after the decedent’s death or two months after the personal representative mails or otherwise delivers to the creditor a specified notice that the claim will be barred unless the creditor presents the claim within two months after mailing or delivery of the notice.

The bill repeals the above statute of limitations and establishes that:

- a claim against an individual that arises before the individual's death and is not barred at the time of the individual's death by the applicable statute of limitations may be presented against the decedent's estate with the *later* of (1) the date that the period of limitations terminates or (2) one year after the appointment of the personal representative; and
- a claim against an individual that arises after the individual's death may be presented against the decedent's estate within the *later* of (1) the date that the period of limitations for filing the claim terminates or (2) two years after the appointment of the personal representative.

The bill further establishes that if a period of more than two years passes after the decedent's death, but before the personal representative for the decedent's estate is appointed, the personal representative is deemed to have been appointed on the last day of the two-year period.

Under current law, a claim for slander against an estate of a decedent that arose before the death of the decedent is barred even if an action was commenced against and service of process was effected on the decedent before death. The bill *retains* this provision.

Under current law, a claim against the estate based on the conduct of or a contract with a personal representative is barred unless an action is commenced against the estate within six months after the date the claim arose. The bill *repeals* this provision.

The statute of limitations established under current law and the bill do not affect or prevent an action or proceeding to enforce a mortgage, pledge, judgment or other lien, or security interest on property of the estate.

If the decedent had been duly served with process before the decedent's death, the statute of limitations under current law does not affect an action for injuries to the person or damage to property that was commenced against the decedent. The bill *repeals* this provision.

Under current law, a claim filed by the Maryland Department of Health (MDH) against the estate of a deceased Maryland Medical Assistance Program recipient, as authorized under the Health-General Article, is forever barred against the estate, the personal representative, and the heirs and legatees, unless the claim is presented within the earlier of (1) six months after the publication of notice of the first appointment of a personal representative or (2) two months after the personal representative mails or otherwise delivers to the Division of Medical Assistance Recoveries for MDH a specified notice that the claim will be barred

unless MDH presents the claim within two months from receipt of the notice. The bill *retains* these provisions.

**State Revenues:** The bill does not appear to alter the timing of the payment of probate fees and inheritance and estate taxes (that are based on the value of the estate passing to beneficiaries), or the distribution of an estate to beneficiaries, established by provisions elsewhere in statute. However, to the extent additional claims are made against estates before payment of fees and taxes, or fees and taxes are refunded (in an amount equal to the portion of fees and taxes already paid that is associated with the claimed amounts), general fund revenues decrease. The general fund receives probate fee and inheritance tax revenues not needed to cover registers of wills' salaries and office expenses, and estate tax revenues are distributed to the general fund. The extent of any revenue decrease cannot be reliably estimated. The Comptroller advises that it does not have sufficient data to estimate the change in inheritance and estate tax revenues under the bill but expects the impact on revenues to be relatively small. Presumably, probate fees would be similarly affected.

For context, in its June 2021 inheritance and estate tax comparative revenue summary, the Comptroller reported receiving \$53.3 million in inheritance tax revenues and \$178.5 million in estate tax revenues (net of refunds) in fiscal 2021. The registers of wills received \$7.4 million in probate fees in fiscal 2021.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 730 (Senator Watson, *et al.*) - Judicial Proceedings.

**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 22, 2022  
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