

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 954 (Delegate Clark)
Environment and Transportation

Vessels - Certificate of Title - Transfer-on-Death Beneficiary Designation

This bill authorizes an individual who is the sole owner of a vessel to designate a beneficiary to take ownership of the vessel on the death of the owner outside of estate administration.

Fiscal Summary

State Effect: Special fund revenues may increase relatively minimally each fiscal year, beginning in FY 2023, and general fund revenues may decrease each year, potentially only minimally, beginning in FY 2023, as discussed below. Expenditures are not materially affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: An individual who is the sole owner of a vessel may apply to the Department of Natural Resources (DNR) to designate a beneficiary to take ownership of the vessel on the death of the owner, with the designation shown by the words “transfer-on-death” or the abbreviation “TOD” after the name of the registered owner on a certificate of title. DNR may charge a fee, not to exceed its costs, for issuing a certificate of title under the bill and may adopt regulations to implement the bill.

The designation of a beneficiary for a vessel does not affect the ownership of the vessel until the death of the owner of the vessel. On the death of the owner, ownership of the

vessel passes to the beneficiary if the beneficiary survives the owner. If a designated beneficiary does not survive the death of the owner, the vessel is part of the estate of the deceased owner. The owner of a vessel may cancel or change the designation of a beneficiary at any time without the consent of the beneficiary by applying to the department.

A designated beneficiary who survives the owner must apply to the department for a new certificate of title for the vessel within 30 days after the death of the owner. The application must include (1) the original certificate of title designating the beneficiary; (2) a death certificate for the deceased owner; (3) proof of the identity of the beneficiary; and (4) any applicable taxes or fees. A title tax, however, is not required.

The bill does not limit the rights of creditors of vessel owners against beneficiaries and other transferees under other laws of the State.

Current Law:

Certificate of Title for Vessels

Any owner of a vessel principally used on the waters of the State and to be numbered must apply to DNR for a certificate of title for the vessel. Subject to certain exceptions, any vessel equipped with propulsion machinery of any type on the waters of the State must be numbered for identification. A person may not sell, assign, or transfer a vessel titled by the State without delivering to the purchaser or transferee a certificate of title with an assignment on the certificate of title showing title in the purchaser or transferee. A person may not purchase or otherwise acquire a vessel required to be titled by the State without obtaining a certificate of title for the vessel in the person's name.

DNR must charge a \$2 fee to issue a certificate of title, a transfer of title, or a duplicate or corrected certificate of title. Fees collected by DNR under Title 8, Subtitle 7 ("State Boat Act") of the Natural Resources Article (to which the bill's provisions are added) are deposited in the State Boat Act Fund. The fund is used (1) for the administration of the subtitle; (2) to cover the costs of fulfilling the duties and responsibilities of the department under Title 8 ("Waters") of the Natural Resources Article; and (3) for administrative expenses related to the fund.

An excise tax also is levied on the issuance of an original certificate of title or a subsequent certificate of title for the sale, resale, or transfer of a vessel. A title tax is not required if ownership of a vessel is transferred by operation of law, such as by inheritance, order in bankruptcy, insolvency, replevin, or execution sale. In such cases, the transferee, within 30 days after the transferee has acquired the right to possession of the vessel by operation of law, must mail or deliver to DNR satisfactory proof of the transferee's ownership as the

department requires, together with the transferee's application for a new certificate of title, and the required fee.

Property of a Deceased Person

Under the Estates and Trusts Article, all property of a decedent (deceased person) is subject to the estates of decedents law, and upon the person's death must pass directly to the personal representative (a fiduciary who settles and distributes the estate of the decedent in accordance with the terms of any will and the estates of decedents law) for administration and distribution. "Property" is all real and personal property of the decedent and any right or interest in the property, which does not pass, at the time of the decedent's death, to another person by the terms of the instrument under which it is held, or by operation of law.

State Fiscal Effect: Special fund revenues may increase relatively minimally each fiscal year, beginning in fiscal 2023, to the extent additional fees are collected by DNR as a result of the bill, from (1) the existing \$2 fee for a duplicate or corrected title or (2) a fee charged pursuant to the authority granted the department under the bill (authority for the department to "charge a fee, not to exceed its costs, for issuing a certificate of title under [the bill]"). DNR advises, however, that while modifications to its licensing system and processes are necessary, including creating and procuring new forms, any impact on expenditures to implement the bill is expected to be minimal.

General fund revenues may decrease each fiscal year, beginning in fiscal 2023, due to reduced probate fee and inheritance tax revenues collected by the registers of wills, which oversee administration of decedents' estates. Vessels transferred under the bill are transferred outside of the probate estate, removing property from the probate estate, and probate fees are collected by the registers of wills based on the value of the probate estate. The transfers will still be subject to inheritance tax if the beneficiary is a taxable individual, but if the decedent has no other probate assets, the transfer may not be reported, and the tax may not be collected. The extent of any decrease in general fund revenues cannot be reliably estimated but may only be minimal. Registers of wills' salaries and office expenses are paid from fees and inheritance tax revenues collected by the registers, with the remainder of the revenues deposited in the State general fund.

Additional Information

Prior Introductions: HB 55 of 2020 received a hearing in the House Environment and Transportation Committee but was subsequently withdrawn. Its cross file, SB 998, was referred to the Senate Rules Committee, but no further action was taken.

Designated Cross File: None.

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

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