

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 187
 Judiciary

(Delegate Terrasa)

Judicial Proceedings

Estates and Trusts – Administration of Estates – Fees

This bill alters the existing statutory fee schedule that may be assessed by the registers of wills, including (1) eliminating the probate fees assessed for small estates (valued at \$50,000 or less) and (2) altering the probate fees for other estates in a manner that in most cases reduces fees for smaller estates and increases fees for larger estates. The bill applies prospectively and may not be applied to any estate opened before the bill’s October 1, 2022 effective date.

Fiscal Summary

State Effect: General fund revenues increase by approximately \$300,000 in FY 2023 and by approximately \$400,000 annually thereafter. Expenditures are not affected.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
GF Revenue	\$300,000	\$400,000	\$400,000	\$400,000	\$400,000
Expenditure	0	0	0	0	0
Net Effect	\$300,000	\$400,000	\$400,000	\$400,000	\$400,000

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not affect local government operations or finances.

Small Business Effect: None.

Analysis

Current Law/Bill Summary: Generally, registers of wills are entitled to charge and collect fees for the performance of specified duties, which include, among other things, taking probate of wills, furnishing certified copies of the will and codicils, granting letters of administration, furnishing certificates of letters as specified, issuing warrants to appraise, entering on estate docket, filing elections of surviving spouses to take intestate

shares, filing renunciations and disclaimers, and filing and recording wills, bonds, inventories, accounts of sale, releases, administration accounts, and petitions and orders.

Under the bill, probate fees are modified as shown in **Exhibit 1**. Certain other fees are modified or established for specified administrative functions performed by the registers of wills. Unless otherwise provided by law, a register of wills is not required to record any document filed with the register or provide to any person a copy of a document until the appropriate fee for the document has been paid. The bill also prohibits a register of wills from receiving fees in connection with a small estate in which (1) the surviving spouse is the sole legatee or heir and has qualified for administration as a small estate and (2) the property of the decedent subject to administration in Maryland is established to have a value of \$100,000 or less as of the date of death of the decedent.

Exhibit 1
Probate Fees Assessed on the Value of the Probate Estate

<u>Value of Probate Estate</u>		<u>Current Law</u>	<u>Under the Bill</u>
At Least	Less Than		
---	\$10,000	\$50	\$0
\$10,000	\$20,000	\$100	\$0
\$20,000	\$50,000	\$150	\$0
\$50,000	\$75,000	\$200	\$100
\$75,000	\$100,000	\$300	\$100
\$100,000	\$250,000	\$400	\$200
\$250,000	\$500,000	\$500	\$200
\$500,000	\$750,000	\$750	\$1,000
\$750,000	\$1,000,000	\$1,000	\$1,000
\$1,000,000	\$2,000,000	\$1,500	\$2,000
\$2,000,000	\$2,500,000	\$2,500	\$2,000
\$2,500,000	\$5,000,000	\$2,500	\$5,000
\$5,000,000	\$7,500,000	\$2,500	\$7,500
		plus 0.02% of excess over \$5,000,000	
\$7,500,000	\$10,000,000	\$2,500	\$10,000
		plus 0.02% of excess over \$5,000,000	
\$10,000,000	---	\$2,500	\$10,000
		plus 0.02% of excess over \$5,000,000	plus 0.02% of excess over \$10,000,000

Source: Department of Legislative Services

State Revenues: General fund revenues increase by approximately \$300,000 in fiscal 2023 (reflecting the bill's October 1, 2022 effective date) and by approximately \$400,000 annually thereafter due to additional excess revenues remitted by registers of wills to the Comptroller. This estimate is based on an evaluation the registers of wills conducted of Howard County's probate estates during fiscal 2021 and how changes in probate fees substantially similar to the changes in the bill would affect probate fee revenues generated from the estates. The registers of wills advise that the percentages of small and regular estates across jurisdictions is similar enough to apply the net percentage increase in revenues from Howard County (just over 5.5%) to the State's total revenues from all probate fees (\$7.36 million in fiscal 2021) to obtain a realistic Statewide estimate. It should be further noted that the estimated net increase in revenues takes into account an approximate \$1.0 million reduction in revenues from the elimination of the small estate fees.

The excess of fees and receipts of registers of wills, after deduction of expenses, is delivered to the Comptroller and deposited in the general fund. The registers of wills are a net revenue generator for the State and advise that all of the additional revenues resulting from this bill go to the general fund.

The bill's changes to other administrative fees, other than the probate fees, are not expected to have a material fiscal impact.

Additional Information

Prior Introductions: HB 766 of 2021, a similar bill, received a hearing in the House Judiciary Committee, but no further action was taken.

Designated Cross File: None.

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

Fiscal Note History: First Reader - January 14, 2022
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Analysis by: Amber R. Gundlach

Direct Inquiries to:
(410) 946-5510
(301) 970-5510