

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 466

(Senator Eckardt, *et al.*)

Judicial Proceedings

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Estates and Trusts - Administration of Estates - Waiver of Fees

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This bill authorizes a register of wills to waive the fees for administration of an estate if the estate is unable to pay the fees by reason of poverty *and* the real property of the decedent is (1) to be transferred to an heir of the decedent who resides or intends to reside on the property or (2) encumbered by a lien and subject to a tax sale. The bill has prospective application and, accordingly, does not apply to the estate of any decedent who died before the bill's October 1, 2018 effective date.

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Fiscal Summary

**State Effect:** Potential minimal decrease in general revenues due to reduced probate fees collected by local registers of wills, as discussed below. Expenditures are not affected.

**Local Effect:** Potential minimal decrease in local revenues due to reduced probate fees collected by local registers of wills, as discussed below. Expenditures are not affected.

**Small Business Effect:** None.

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Analysis

**Current Law:** An "heir" means a person entitled to any part of the net estate of a decedent not effectively disposed of by will pursuant to the rules of intestate succession.

*Administration Fees:* 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,

filing elections of surviving spouses to take intestate shares, and filing and recording wills, bonds, inventories, accounts of sale, releases, administration accounts, petitions and orders. **Exhibit 1** lists the probate fees based on the assessed value of the probate estate as set forth in State law.

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

<u>Value of Probate Estate</u>	<u>Probate Fee</u>
\$0 – but less than \$10,000	\$50
At least \$10,000 – but less than \$20,000	\$100
At least \$20,000 – but less than \$50,000	\$150
At least \$50,000 –but less than \$75,000	\$200
At least \$75,000 – but less than \$100,000	\$300
At least \$100,000 – but less than \$250,000	\$400
At least \$250,000 – but less than \$500,000	\$500
At least \$500,000 – but less than \$750,000	\$750
At least \$750,000 – but less than \$1,000,000	\$1,000
At least \$1,000,000 – but less than \$2,000,000	\$1,500
At least \$2,000,000 – but less than \$5,000,000	\$2,500
At least \$5,000,000 and over	\$2,500 plus 0.2% of excess over \$5,000,000

Source: Department of Legislative Services

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Unless otherwise specified, the value of a probate estate is the amount, as reflected in filed administration accounts, that equals the sum of:

- the value of all inventories filed in the proceedings;
- all principal and income receipts; and
- other than a distribution to beneficiaries, all increases less any decreases realized on a disposition of any probate asset.

*Real Property Tax Liens and Sales:* A county or municipal corporation must sell real property that has been attached with a lien for unpaid property taxes at the time specified by local law, unless an exception applies. Except in Baltimore City, the sale must be executed no later than two years from the date the tax is in arrears. However, failure of the county or municipality to sell within the two-year period does not affect the validity or collectability of any tax, or the validity of any sale made after the two-year time period.

**State Revenues:** General fund revenues may decrease minimally depending on the frequency with which local registers of wills elect to waive probate fees on an estate. Probate fees and inheritance taxes collected by the registers of wills that are not used for salaries and expenses are deposited in the general fund. Data is not readily available to reliably estimate the number of estates that meet the requirements of the bill, or the portion of that number for which a register of wills might grant a fee waiver. However, it is anticipated that the number of estates affected by the bill is minimal. The Office of the Register of Wills reports that it collected \$6,128,730 from probate fees and small estate fees for fiscal 2017.

**Local Revenues:** Probate fees and inheritance taxes collected by the registers of wills are used to offset the costs for salaries and expenses. To the extent the local registers of wills exercise their discretionary authority under the bill to waive a probate fee, local revenues decrease. It is anticipated that any such decrease in revenues is minimal.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 556 (Delegate Sydnor) - Health and Government Operations.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Register of Wills; State Department of Assessments and Taxation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 7, 2018  
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