



COMMISSION ON AGING

February 26, 2019

The Honorable Bobby A. Zirkin
Chair, Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
11 Bladen Street Annapolis, MD 21401

bobby.zirkin@senate.state.email.md.us

Re: SB 261, Estates and Trusts – Administration of Estates – Waiver of Fees - Required

Dear Senator Zirkin:

I am writing to express the Montgomery County Commission on Aging's support for SB 261, which would require the Register of Wills to waive filing and other fees in certain circumstances where an heir to an estate comprised only of real property cannot afford to probate that estate.

In 2018, we supported HB 556, which was enacted into law and which authorized (but did not require) the Register of Wills to waive probate fees. Witnesses at the hearing convened by this Committee on February 13, 2019, testified that since HB 566 was enacted into law, no Register of Wills has in fact waived these fees. SB 261 would strengthen the language of HB 566.

Higher-income homeowners have the resources to engage in estate planning, and when needed, their heirs are likely to be able to afford the fees necessary to probate an estate. In contrast, individuals with fewer resources and limited access to the legal system are less likely to do such planning, and their heirs may not be able to afford probate fees. This can leave real property in a state of limbo, in which heirs to a family home lack the legal title they need to manage the property, or to improve or sell it. This scenario can play out across several generations.

The Commission on Aging is particularly concerned about the situation in which an heir has resided on family property for years, dutifully paying taxes and utilities. As she ages, her income goes down and her health may decline, making her less able to pay property taxes or manage upkeep of the home. Since she does not have legal title to the property, she cannot take advantage of property tax credit, home repair, or other programs for which she would otherwise be eligible. To obtain legal title, she needs to probate the estate.

Department of Health and Human Services

401 Hungerford Drive, 4th Floor, Rockville, Maryland, 20850 240-777-1120, FAX 240-777-1436

www.montgomerycountymd.gov/hhs

However, she cannot afford the fees. If those fees were waived, she could probate the estate, obtain title to the property, and apply for assistance through programs that could help her to remain safely in her home and community.

The Montgomery County Commission on Aging was established in 1974 to advise County government on the needs, interests, and issues of older adult residents, and to advocate on their behalf. We continue to prioritize the need for more affordable housing options for older adults and more opportunities to allow older adults to live safely in their communities. By requiring

Registers of Wills to waive fees for low-income heirs seeking to clear title to what is essentially the family home, SB 261 removes a barrier to that goal.

Thank you for your consideration of the Commission on Aging's support for this bill.

Sincerely,
Jean M. Dinwiddie, Chair

cc Senator Bill Ferguson
Committee members
MC delegation
Leslie Frey
File