

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: Senate Bill 606 (Fourth Edition)

SHORT TITLE: Notice to Creditors Without Estate Admin.

SPONSOR(S): Senator Berger of Rockingham

FISCAL IMPACT

Yes () No (X) No Estimate Available ()

FY 2009-10 FY 2010-11 FY 2011-12 FY 2012-13 FY 2013-14

REVENUES: **Some loss in revenue anticipated, unable to determine exact amount**

EXPENDITURES: **No significant expenditures anticipated**

POSITIONS
(cumulative): **No additional positions required**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Judicial Branch

EFFECTIVE DATE: Effective October 1, 2009, and applies to estates of persons dying on or after that date

BILL SUMMARY:

This bill adds a new Article, Notice to Creditors without Estate Administration, to G.S. Chapter 28A. Provisions apply to a decedent who (1) dies testate (with a will) or intestate (without a will) and (2) leaves no property that is subject to probate; however, this procedure is not available if the decedent has a will that provides that it is not available. Allows any person otherwise qualified to serve as a personal representative of the estate under G.S. Chapter 28A, Article 4, or as a trustee under the terms of a revocable trust created by the decedent, to file a petition to be appointed as a limited personal representative who can provide notice to creditors without the administration of an estate before the clerk of Superior Court of the county where the decedent was domiciled at the time of death. Provides that if the clerk finds that the application and supporting evidence meet the requirements, the clerk is to issue letters of limited administration. Directs the appointed limited personal representative to provide notice to creditors have claims against the decedent. Requires the limited personal representative to administer claims in accordance with the procedures and priorities provided in Article 19 of Chapter 28. Failure to file a claim within the time required after notice results in the claim being barred. States that nothing in the proposed Article precludes the right to petition for the appointment of a personal representative to administer the decedent's estate. Requires the limited personal representative to file a final accounting with the clerk once all claims have been satisfied, compromised, or denied. Amends G.S. 7A-307(a) to require the payment of a fee of \$20 upon filing the petition. Effective October 1, 2009, and applies to estates of persons dying on or after that date.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

The Administrative Office of the Courts (AOC) reports to Fiscal Research that this bill will likely affect some estates without probate assets, such as large estates with estate planning or estates in which all assets have been transferred to a trust. *AOC is not able to estimate the number of estates that may be affected. Based on the type of work done by the Clerks of Court in these estates, it does not appear that the statutory changes in this bill would substantially affect workload.*

Under the proposed legislation, some estates would be assessed a \$20 fee, rather than the \$61 currently assessed for an administered estate with no probate assets.

Fee	Remitted to	Current	SB 606
County facilities	County	\$10	0
Court Information Technology Fund	AOC for Judicial and county courthouse telephone systems	\$1	0
General Court of Justice	State General Fund	\$50	\$20
Total:		\$61	\$20

Note that the proposed language in G.S. 7A-307(a) (2d) does not specify the purpose of the fee (see technical considerations). For the purpose of this analysis, it is assumed that the \$20 fee would be remitted to the State Treasurer to be credited to the General Fund for the support of the General Court of Justice. *Thus, for each estate that shifts from full administration to the appointment of a limited personal representative appointed, there would be a loss of \$10 in revenue to the county, \$1 to the Court Information Technology Fund, and \$30 to the State General Fund.*

SOURCES OF DATA: Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: New G.S. 7A-307(a) (2d), which establishes a \$20 fee, does not specify where the fee is to be remitted. See, for example, G.S. 7A-307(a) (3), which states “shall assess for support of the General Court of Justice, the sum of twenty dollars (\$20.00).”

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DATE: July 15, 2009



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