

HOUSE BILL REPORT

HB 1566

As Reported By House Committee On:
Judiciary

Title: An act relating to notice of estate tax findings filings.

Brief Description: Changing who gives notice of estate tax findings filings.

Sponsors: Representative H. Myers.

Brief History:

Reported by House Committee on:
Judiciary, February 23, 1993, DPS.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Patricia Shelledy (786-7149).

Background: The Estate and Transfer Tax Act of 1988 imposes state taxes on property that is transferred pursuant to the provisions in an estate. The person, such as the personal representative of an estate, who is required to file the federal and state estate tax return must file the state return with the Department of Revenue, which collects estate taxes. If the personal representative fails to file the return or pay the taxes, the Department of Revenue may make findings regarding the amount of the tax due, the federal credit, the person required to file the federal tax return, and all persons having an interest in property subject to the tax. The Department of Revenue may file its findings with the clerk of the Superior Court where the probate of the estate is being administered, or in another Superior Court depending on the residency of the decedent.

When the Department of Revenue files its findings with the court, the court clerk must give notice of the filing to all persons interested in the proceedings by posting a notice of

the findings at the county courthouse, and by mailing a copy of the notice to all persons having an interest in the property subject to the tax.

Apparently, the court clerk may lack information which identifies interested persons and their addresses.

Summary of Substitute Bill: County court clerks no longer have the responsibility to provide notice of the filing of the Department of Revenue's findings concerning the estate tax due on property. The Department of Revenue must give notice of the filing to all interested persons by posting a notice at the county courthouse and mailing a copy of the notice to all interested persons. The Department of Revenue is not required to conduct a search for heirs and is only required to notify persons of whom the department has received actual notice to have an interest in the proceedings or property, or who are listed in the court file as having an interest, if a probate action has been commenced.

Substitute Bill Compared to Original Bill: An original provision which placed the responsibility on the attorney, estate representative, or the Department of Revenue to give notice but did not specify which among the three was ultimately responsible for issuing notice is stricken. Instead, the responsibility is shifted to the Department of Revenue. The law is clarified to provide that the Department of Revenue is not required to conduct a search for heirs and is only required to notify persons of whom the department has received actual notice to have an interest in the proceedings or property, or who are listed in the court file as having an interest, if a probate action has been commenced.

Fiscal Note: Requested February 15, 1993.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The county clerks do not know who is entitled to notice, because they do not know who is interested in the proceedings or property. The requirement is cumbersome on the clerks.

Testimony Against: None.

Witnesses: Betty J. Gould, County Clerks (pro).