

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** HB 542 (Proposed Committee Substitute)

**SHORT TITLE:** Estate Amount Changes

**SPONSOR(S):** Representative Kennedy

**FISCAL IMPACT:**

<b>Expenditures:</b>	<b>Increase ( )</b>	<b>Decrease ( )</b>
<b>Revenues:</b>	<b>Increase ( )</b>	<b>Decrease ( )</b>
<b>No Impact (X)</b>		
<b>No Estimate Available ( )</b>		

**FUND AFFECTED:**

<b>General Fund ( )</b>	<b>Highway Fund ( )</b>	<b>Local Fund ( )</b>
<b>Other Fund ( )</b>		

**BILL SUMMARY:** (From Institute of Government Summary)

"TO IMPLEMENT A RECOMMENDATION OF THE GENERAL STATUTES COMMISSION TO INCREASE THE AMOUNT OF PROPERTY COLLECTIBLE BY SMALL ESTATE AFFIDAVIT, TO INCREASE THE MINIMUM AMOUNT OF INTESTATE PERSONAL PROPERTY PASSING TO THE SURVIVING SPOUSE, AND TO INCREASE THE AMOUNT OF THE YEAR'S ALLOWANCE FOR A SURVIVING SPOUSE AND CHILDREN." Amends G.S. 28A-25-1(a) (intestate: decedent dies without a will) and 28A-25-1.1(a) (testate: decedent dies leaving a will) to increase from \$10,000 to \$20,000 the maximum amount of property collectible by small estate affidavit. Current G.S. 29-14(b)(1) provides that share of surviving spouse in personal property is, if intestate is survived by one child or by any lineal descendant of only one deceased child, and net personal property does not exceed \$15,000 (bill changes this amount to \$30,000) in value, all of the personal property; if net personal property exceeds \$15,000 (bill changes this amount to \$30,000), the sum of \$15,000 (bill changes this amount to \$30,000) plus one half of balance of personal property. Current G.S. 29-14(b)(2) provides that share of surviving spouse in personal property is, if intestate is survived by two or more children, or by one child and any lineal descendant of one or more deceased children, or by lineal descendants of two or more deceased children, and net personal property does not exceed \$15,000 (bill changes this amount to \$30,000) in value, all of the personal property; if net personal property exceeds \$15,000 (bill changes this amount to \$30,000), the sum of \$15,000 (bill changes this amount to \$30,000) plus one third of balance of personal property. Current G.S. 29-14(b)(3) provides that if intestate is not survived by child, children, or any lineal descendant of deceased child or children, but is survived by one or more parents, and net personal property does not exceed \$25,000 (bill changes this amount to \$50,000) in value, all of the personal property; if net personal property exceeds \$25,000 (bill changes this amount to \$50,000) value, sum of \$25,000 (bill changes this amount to \$50,000) plus one half of balance of the personal property. Amends G.S. 30-15 and 30-17 to increase surviving spouse's allowance from \$5,000 to \$10,000 and surviving children's allowance from \$1,000 to \$2,000.

**COMMITTEE SUBSTITUTE:** Proposed House Committee Substitute limits the increase in the maximum amount of property collectible by small estate

affidavit under 28-25-1(a) (intestate cases) to only those cases "in which the affiant is the surviving spouse and sole heir of the decedent." Likewise, it limits the increased maximum amount of property collectible by small estate affidavit under 28A-25-1.1(a) (testate cases) to only those cases "in which the affiant is the surviving spouse" and "is entitled to all of the property of the decedent."

**EFFECTIVE DATE:** October 1, 1993.

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:** Judicial Department

**FISCAL IMPACT**

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98
<b>EXPENDITURES</b>	0	0	0	0	0
<b>NON-RECURRING</b>					
<b>REVENUES/RECEIPTS</b>	0	0	0	0	0
<b>RECURRING</b>					
<b>NON-RECURRING</b>					

**POSITIONS:** No new positions.

**ASSUMPTIONS AND METHODOLOGY:** It is not anticipated that the proposed legislation would have a substantial impact on the Judicial Department. It is noted by Jim Drennan, Director of the Administrative Office of the Courts (AOC), that the bill would increase the number of cases processed by Clerks of Courts under G.S. 28A-25-1(a) and 28A-25-1.1(a). However, the Director states that the increase could be absorbed within existing resources.

Although the AOC is not predicting a substantial impact on the Judicial Branch due to this individual bill, at some point, the cumulative additional workload from bills that impact upon the courts cannot simply be absorbed, and additional resources will be required.

[Note: The proposed legislation has also been reviewed by a representative of the Inheritance Tax Division for the Department of Revenue. The proposed legislation would not impact potential revenues.]

**SOURCES OF DATA:** Administrative Office of the Courts; Department of Revenue, Inheritance Tax Division.

**FISCAL RESEARCH DIVISION: 733-4910**

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**[FRD#003]**

