

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** Frank M. Ruff, Jr.

2. **Bill Number** SB 692

House of Origin:

☐ **Introduced**

☐ **Substitute**

☐ **Engrossed**

3. **Committee** Passed by House and Senate

4. **Title** Tax in Lieu of Probate Tax

Second House:

☐ **In Committee**

☐ **Substitute**

☒ **Enrolled**

5. **Summary/Purpose:**

This bill would impose a fee in the amount of \$25 for the recordation of a list of heirs or a specified affidavit, unless a will has been probated for the decedent or there has been a grant of administration on the decedent's estate.

This bill would also allow localities to impose a \$25 fee for the recordation of the list of heirs or the specified affidavit.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

Administrative Costs

This bill would have no administrative impact for TAX. Local clerks of the Circuit Court may incur some implementation costs.

Revenue Impact

This bill would result in an unknown increase in General Fund revenues. There would be a positive local revenue impact to the extent that localities impose this additional fee.

9. **Specific agency or political subdivisions affected:**

Department of Taxation
Virginia Local Circuit Courts

10. **Technical amendment necessary:** No.

11. Other comments:

Current Law

When a decedent dies, Virginia law requires the personal representative of a decedent or other qualified person to furnish the court or clerk a list of heirs under oath in accordance with a form provided to each clerk of court. The list of heirs must be furnished to the clerk of the circuit court in the city or county where real estate belonging to the decedent is located and where the personal representative has qualified. If no personal representative qualifies within thirty days following the death of the property owner, any heir of the decedent who died intestate may come forward to file the list of heirs.

A list of heirs provides evidence regarding who is entitled to the estate of a decedent that dies without a will, but it does not specifically convey or transfer a decedent's estate to his or her heirs.

A probate tax is imposed on the probate of most wills and grants of administration, and applies to property in Virginia. No tax is imposed on estates valued at \$15,000 or less. The tax is assessed at a rate of ten cents per \$100 on estates valued at more than \$15,000, including the first \$15,000 of assets. For example, the tax on an estate valued at \$16,000 is \$16.00. Localities may also impose a local probate tax equal to 1/3 of the state probate tax.

Proposed Legislation

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cc : Secretary of Finance

Date: 3/5/2010 TG
SB692FER161