

TESTIMONY ON HOUSE BILLS 4821 AND 4822

Thank you Chairman Runestad and the Judiciary Committee for allowing me to speak on the two bills before you – House Bills 4821 and 4822.

My name is Michael Moody and I am the State Public Administrator. The bills before you today amend several statutory provisions within the Estates and Protected Individuals Code (EPIC) dealing with both myself and the county public administrators.

Some background on public administration may be helpful before talking about the specific statutory provisions in these bills. To begin with, there are 108 county public administrators in approximately 60 counties within Michigan. 40 out of the current 108 were appointed by Former AG Kelley, 5 were appointed by Former AG Granholm, 25 were appointed by Former AG Cox, and 38 so far have been appointed by Attorney General Bill Schuette during his administration.

County public administrators are not paid by the state or the county. They are also not employees of either the state or the county. County public administrators are generally excellent probate attorneys that have a law practice in a county and are interested in also being designated the county public administrator to handle decedents estates where an interested person has not opened the estate within 42 days.

These interested persons can be heirs or creditors. We call these no-known-heir estates because there may be an heir but no one has yet to step up to open the estate within the time provided in the statute.

Generally, the county public administrator's job is to open these estates in order to preserve and collect all the assets (such as the selling of property, collection of life insurance, etc), conduct a search for heirs, and distribute the assets to the heirs or deposit the assets in the Department of Treasury's Unclaimed Property fund for the benefit of heirs that come forward at a later date.

Sometimes, the county will contact the county public administrator because a body was found and no one knows whether the person has a relative nearby or they know there are relatives nearby but the relatives can't or don't want to handle the funeral expenses. In those situations, the county public administrator works with DHHS and a local funeral home to arrange a burial or cremation of the body. If there is no money in the estates, then the county public administrator does not get paid for his or her services. This happens frequently around the state but more so in the more populated counties.

With that background in mind, the bills before you today make a number of changes to the way county public administrators will open these decedent estates. As noted in an earlier press release from the Attorney General, the bills address a concern regarding the practice of county public administrators opening decedent estates where there is property going through tax forfeiture or mortgage foreclosure and no interested person has opened the estate within 42 days.

A small number of county public administrators were opening decedents estates where there was property going through tax or mortgage foreclosure and failing to give proper notice to heirs. In addition to this lack of notice, this small group of county public administrators were using a realtor service to market the property and charge exorbitant fees to the estate.

These two bills eliminate this problem by doing the following:

- Extends the time to open an estate by an interested person from 42 days to 93 days. Thus, a county public administrator could not be appointed to administer a decedent estate until 93 days have elapsed unless the court finds exigent circumstances.
- Requires the county public administrator to open an estate under a formal proceeding which has greater oversight by the probate court of the process.
- When a county public administrator opens an estate that has property subject to tax or mortgage foreclosure, the county public administrator must post a notice on the property, provide a statement to the heirs explaining their rights during the proceeding, and conduct an heir search using electronic searching service.
- Failure to provide the notice required can result in a misdemeanor for the county public administrator. This ensures proper notice to the heirs and an additional remedy for failure to follow this procedure.
- Requires notice to the county treasurer's office when dealing with tax forfeitures.
- Requires court approval of any sale of property. If the property is occupied, the bills require the county public administrator to obtain a nonobjection to the sale from the State Public Administrator.

- Caps the fees for realtor or asset recovery work to 10% of the net proceeds from the sale of the property.

Accordingly, these two bills strengthen the notice requirements and protect against excessive realtor fees, thereby protecting heirs and their inheritance.

The Attorney General supports these consumer protections and urges this committee to vote in favor of them.