



SF 2099 – Probate, Small Estates (LSB5191SV.1)
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Fiscal Note Version – As amended by House Amendment [S-5142](#) and Senate Amendment to the House Amendment [H-8338](#) and passed by the Senate

Description

[Senate File 2099](#) as amended relates to probate and the administration of small estates. The Bill raises the maximum value of a small estate as defined under Iowa Code section [635.1](#) from \$100,000 to \$200,000. The Bill also makes various procedural changes to probate administration under Iowa Code chapter [635](#).

House Amendment [S-5142](#) adds the definition “probate assets” to Iowa Code section [633.3](#). The House Amendment defines “probate assets” to mean a decedent’s property subject to administration by a personal representative.

Senate Amendment [H-8338](#) amends the effective dates and applicability provisions of the Bill. Amendment [H-8338](#) sets the effective date for the provisions amending Iowa Code sections [633.3](#), [635.2](#), [635.7](#), and [635.8](#) as July 1, 2018, and would apply to estates of decedents dying on or after July 1, 2018, and other estates opened previously and for which administration has not been completed as of July 1, 2018. The provision amending Iowa Code section [635.1](#) would take effect July 1, 2020, and would apply to estates of decedents dying on or after July 1, 2020.

Background

Under Iowa Code section [633.31\(2\)\(l\)](#), the clerk of court must charge and collect a fee of \$15 for services performed in the administration of a small estate of \$100,000 or less. If the estate is valued above \$100,000, the clerk collects the fees as prescribed in Iowa Code section [633.31\(2\)\(k\)](#). The current total fee for services associated with the settlement of an estate valued at \$200,000 is \$380, and the fee for estates valued at \$150,000 is \$280.

Currently, the term “probate assets” is not defined in Iowa Code chapter [633](#). Under the new definition, any property that has a designated beneficiary or is owned as tenants in common will not be included in the calculation of gross estate value for the purpose of determining qualification as a small estate. Under current practice, these properties are included as part of the determination.

Assumptions

- In FY 2017, a total of \$12.1 million was collected in probate estate fees. The revenue collected from probate estate fees will remain consistent.
- A large majority of people with financial or real property assets have a will that designates a beneficiary or beneficiaries for the person’s financial and real property. As a result, almost all estates would qualify as a small estate under the new definition.
- The new definition of “probate assets” and its application under Iowa Code section [635.1](#) will reduce revenue collected from probate estate fees by 90.0% to 95.0%.

Fiscal Impact

[Senate File 2099](#) as amended would have a negative fiscal impact on fee revenue to the General Fund beginning in FY 2019. The new definition of “probate assets” under House Amendment [S-5142](#) would dramatically increase the number of estate cases that would qualify as a small estate. As a result, services performed in the administration of those estates would result in a \$15 fee instead of the higher fees applicable under Iowa Code section [633.31\(2\)\(k\)](#).

In addition, Senate Amendment [H-8338](#) creates a retroactivity provision which applies the new definition of “probate assets” to estates opened prior to July 1, 2018, and for which administration has not been completed by July 1, 2018. This provision would essentially allow any large estates already open to be held open until July 1, 2018, and to qualify as a small estate under the new definition. This would have an additional negative impact on fee revenues from estates opened prior to July 1, 2018.

Table 1 shows the estimated annual General Fund fiscal impact of Amendments [S-5142](#) and [H-8338](#):

Table 1

Estimated Annual Impact on Fee Revenue						
	Minimum Impact			Maximum Impact		
	Current Law	Proposed Amend. S-5142/H-8338	Difference	Current Law	Proposed Amend. S-5142/H-8338	Difference
Fee Revenue	\$12,100,000	\$1,200,000	-\$10,900,000	\$12,100,000	\$600,000	-\$11,500,000

Source

Iowa Judicial Branch

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
