



# Ohio Legislative Service Commission

*Robert Meeker*

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 432 of the 131st G.A.

**Date:** February 22, 2016

**Status:** As Introduced

**Sponsor:** Reps. Cupp and Rezabek

**Local Impact Statement Procedure Required:** No

**Contents:** Law governing decedent's estates

### State Fiscal Highlights

- No direct fiscal effect on the state.

### Local Fiscal Highlights

- The bill may produce a savings effect for local civil and criminal justice systems that might otherwise be required to adjudicate matters related to a decedent's estate.

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### Detailed Fiscal Analysis

The bill modifies numerous portions of the Revised Code concerning the duties and responsibilities of the probate court. Most notably from a fiscal perspective, the bill: (1) increases the fee for deposit of a will to \$25 from \$5, (2) requires the court to retain a deposited will for 100 years and requires an electronic copy of the will to be made before destruction, (3) eliminates liability for a person acting in good faith on a death determination made by a medical profession, and (4) allows a guardian of an estate to sell real property with the consent of all parties involved rather than through an action in the courts as is required under current law.

#### Deposit of a will

Under current law, a testator may deposit a will for safekeeping with the probate court. The bill changes the state minimum fee for this service and requires a will to be kept for 100 years and an electronic copy to be made prior to destruction for all wills that have not been delivered. Destruction of the will is not mandatory, so fees associated with electronic copies are not mandatory, but there is a potential cost to scan and store the wills should a court decide to do that. The increase in the fee should offset the cost.

The bill raises the statutory fee for the deposit of a will with a probate court from \$5 to \$25. Probate courts in the state may already charge an amount greater than the \$5 statutory fee. The increased fee may result in a fee in some courts that is greater than \$25. The average fee for the deposit of a will is \$12.50.

### **Reductions in probate court activity**

Under the bill, (1) a person acting in good faith upon a determination of death by a qualified determiner of death has no civil or criminal liability, and (2) a guardian is permitted to sell property on behalf of an estate if all parties agree in writing (e.g., spouse, beneficiaries) rather than requiring a hearing to be conducted by the court as under current law. These two provisions may produce a savings effect for local civil and criminal justice systems, as there will likely be some reduction in the time and effort that might otherwise have been expended in adjudicating related probate filings and possible criminal charges.