

Committee on Judiciary

CS/HB 505 — Estates and Trusts

by Civil Justice Subcommittee and Rep. Driskell and others (CS/SB 358 by Judiciary Committee and Senator Berman)

The bill amends several sections of the probate code relating to compensation of attorneys who serve as personal representatives, who may sue to recover property for an estate, conflicts of interest by personal representatives, and notice in probate proceedings. The bill also amends the trust code regarding compensation of attorneys who serve as trustees.

More specifically, the bill:

- Prohibits an attorney who prepared or supervised the preparation of a will from being compensated as a personal representative of the estate unless the attorney is a relative of the decedent or makes specified disclosures to the testator before the will is prepared;
- Prohibits an attorney who prepared or supervised the preparation of a trust from being compensated as a trustee unless the attorney is a relative of the “settlor” (trust creator) or makes specified disclosures to the settlor before the trust is created;
- Provides that causes of action that a decedent held at death are estate property, and therefore subject to the control and possession of the personal representative (not the beneficiaries);
- Brings more types of transactions involving a personal representative’s conflict of interest under the statute that renders these transactions voidable by an interested person;
- Clarifies what constitutes sufficient notice for a court to exercise personal jurisdiction over a person in a probate proceeding; and
- Categorizes as tangible property bullion and coins that are not used as money, such as collectible coins.

If approved by the Governor, these provisions take effect October 1, 2020, except where otherwise provided.

Vote: Senate 39-0; House 118-0