

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 106
 Judiciary

(Delegate Dumais, *et al.*)

Judicial Proceedings

Civil Cases - Maryland Legal Services Corporation Fund

This bill increases the surcharge on civil cases filed in circuit court from a maximum of \$25 to a maximum of \$50. In the District Court, the maximum authorized surcharge increases from \$5 to \$7 for summary ejectment cases; and from \$10 to \$15 for all other civil cases. Money from the surcharge is deposited into the Maryland Legal Services Corporation (MLSC) Fund, which is used to finance civil legal services to indigent clients.

The bill takes effect July 1, 2010, and terminates June 30, 2013.

Fiscal Summary

State Effect: Special fund revenues increase by \$4.9 million annually in FY 2011 through 2013, assuming the maximum surcharges are imposed and the number of cases remains constant. Expenditures are not affected.

(\$ in millions)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
SF Revenue	\$4.9	\$4.9	\$4.9	\$0	\$0
Expenditure	0	0	0	0	0
Net Effect	\$4.9	\$4.9	\$4.9	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal. Small businesses filing cases in either the District Court or circuit courts will pay increased filing costs.

Analysis

Bill Summary: The bill requires the executive director of MLSC to prepare an annual budget. The bill requires MLSC to submit the budget to the General Assembly annually for informational purposes only and specifies items that must be included in the budget submission.

Current Law: Court costs and charges for the circuit courts are set by the State Court Administrator with the approval of the Board of Public Works. The initial filing fee for a civil case in the circuit courts is \$80 plus the \$25 surcharge for MLSC authorized by statute.

In the District Court, the filing fee for summary ejectments is \$13 in Baltimore City and \$9 in all other counties. These fees include the \$5 surcharge for MLSC authorized by statute. Filing fees for other civil cases also include a \$10 MLSC surcharge authorized by statute, and range from \$20 to \$35.

A judge may waive the prepayment of filing fees and costs in a civil case because of indigency.

The Governor is required to appropriate at least \$500,000 annually to support the activities of MLSC. This money comes from the State Unclaimed Property Fund. Additionally, lawyers are required to place small or short-term client trust funds into an Interest on Lawyer Trust Accounts (IOLTA) account, the interest on which is paid into the MLSC fund. (*See Article 10 § 45-O and Courts and Judicial Proceedings Article § 7-408.*)

Background: MLSC was established by the Maryland General Assembly in 1982. It receives and distributes funds to nonprofit grantees that provide legal assistance to eligible clients in civil cases. The MLSC fund and the surcharge on filing fees were established in 1998. Since MLSC's creation, it has made grants of more than \$138 million.

Grantees reported handling more than 124,000 cases in fiscal 2009, which included legal assistance with housing, family, employment, disability, public benefits, and special education. The total fiscal 2009 appropriation for MLSC was \$15.5 million, based on projected revenue from IOLTA accounts and filing fee surcharges and including the \$500,000 appropriation from the State Unclaimed Property Fund. Although income from the filing fees increased by 9% over the prior year, IOLTA income declined by 45% and generated less than \$4 million for MLSC. To meet grant obligations for fiscal 2009, MLSC had to use emergency reserves. Although the fiscal 2010 appropriation remained at \$15.5 million, because IOLTA revenue has continued to decline, MLSC reduced grant awards by an average of 20%.

The Maryland Access to Justice Commission was created by the Chief Judge of the Court of Appeals in 2008 to develop, coordinate, and implement policy initiatives to enhance the quality of justice in civil legal matters. Increasing the surcharge for filing fees was one recommendation of the commission. The maximum surcharge was last increased in 2004 (Chapter 448).

State Revenues: According to the Administrative Office of the Courts, there were 633,425 summary ejectment cases in the District Court (eviction procedures for failure to pay rent), and 325,712 other civil cases filed in the District and circuit courts to which the surcharge applied in fiscal 2009. While the number of cases varies each year, this estimate assumes that the maximum surcharge will be imposed and the number of cases to which the surcharges are imposed will remain constant. Accordingly, special fund revenues increase by \$4,916,030 annually from fiscal 2011 through 2013 as shown in **Exhibit 1**.

Exhibit 1
Estimated Increase in MLSC Fund Revenues

<u>Cases</u>	<u>Fiscal 2011</u>
Summary Ejectment Cases (633,425 cases @ \$2 increase)	\$1,266,850
Other Civil Cases Filed in District Court (224,681 cases @ \$5 increase)	1,123,405
Civil Cases Filed in Circuit Courts (101,031 cases @ \$25 increase)	2,525,775
Total	\$4,916,030

Small Business Impact: Landlords and management companies filing summary ejectment (tenant eviction) cases will pay increased filing costs. Other small businesses filing civil cases in either the District or circuit courts will pay increased filing costs.

Additional Information

Prior Introductions: None.

Cross File: SB 248 (Senator Frosh, *et al.*) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Legal Services Corporation, Department of Legislative Services

Fiscal Note History: First Reader - January 25, 2010
ncs/kdm Revised - House Third Reader - March 30, 2010

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