

**Department of Legislative Services**  
 Maryland General Assembly  
 2017 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 588 (Senator McFadden)  
 Judicial Proceedings

**Real Property - Residential Foreclosures - Filing Fees**

This bill increases, from \$300 to \$500, the filing fee that must accompany an order to docket (OTD) or a complaint to foreclose a mortgage or deed of trust on residential property.

**Fiscal Summary**

**State Effect:** Special fund revenues increase by approximately \$3.2 million in FY 2018 due to the increase in the filing fee, which reflects the bill’s October 1, 2017 effective date; future year revenues are annualized but decline by approximately 10% annually. Expenditures are not directly affected.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
SF Revenue	\$3,160,000	\$3,792,000	\$3,412,800	\$3,071,500	\$2,764,400
Expenditure	0	0	0	0	0
Net Effect	\$3,160,000	\$3,792,000	\$3,412,800	\$3,071,500	\$2,764,400

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

**Local Effect:** The bill does not materially affect local finances or operations.

**Small Business Effect:** Minimal.

## Analysis

### Current Law:

#### *Foreclosure Process in Maryland*

Generally, to foreclose on residential property in Maryland, the secured party must first send a notice of intent to foreclose to the mortgagor or grantor and the record owner, and then file and serve an OTD or a complaint to foreclose. Whether an OTD or a complaint to foreclose is appropriate is based on the lien instrument held by the secured party. An OTD or a complaint to foreclose a mortgage or deed of trust on residential property must be accompanied by, in addition to any other filing fees required by law, a \$300 filing fee.

#### *Housing Counseling and Foreclosure Mediation Fund*

Revenue collected from the filing fee is required to be distributed to the Housing Counseling and Foreclosure Mediation Fund administered by the Department of Housing and Community Development (DHCD). The fund may only be used for foreclosure prevention and mediation programs, housing counseling programs, and administrative expenses related to those programs at DHCD; the Department of Labor, Licensing, and Regulation; the Judiciary; and the Office of Administrative Hearings. Revenue for the fund is generated by the collection of a \$50 fee when a borrower requests specified foreclosure mediation services, in addition to the \$300 filing fee.

**Background:** DHCD advises that the filing fee is collected by the circuit court, and transferred to the Housing Counseling and Foreclosure Mediation Fund on a monthly basis. The fund supports a number of services related to home purchases and foreclosure activities, including supporting nonprofit and government housing counselors and other nonprofit entities with providing (1) legal assistance to homeowners or occupants who are trying to avoid foreclosure or manage foreclosure proceedings and (2) homebuyer education, housing advice, or financial counseling for homeowners and prospective homeowners. DHCD further advises that the primary use of the fund is to provide grants to housing counselors. According to DHCD, in fiscal 2016, the closing balance of the fund was \$6.5 million. The estimated closing balance for fiscal 2017 is \$4.2 million

The Administrative Office of the Courts (AOC) advises that, while it is responsible for the collection and transfer of the filing fees in a majority of jurisdictions, Prince George's and Montgomery counties maintain their own register system to transfers funds to DHCD.

**State Revenues:** Special fund revenues for DHCD increase by approximately \$3.2 million in fiscal 2018 due to the increase in the filing fee effective October 1, 2017. AOC advises that, in fiscal 2016, a total \$6.3 million in revenue from the \$300 filing fee was transferred

to DHCD. This amount equates to the assessment of 21,067 filing fees per year. Based on the number of filings for which fees were collected in fiscal 2016, the \$200 increase results in another \$4.2 million being collected and transferred to DHCD on an annual basis. However, revenues in the out-years reflect not only annualization, but also a 10% annual reduction in the total number of fees collected – due to an estimated reduction in the number of foreclosure applications subject to this fee in future years, as indicated by historical information obtained from DHCD.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 200 (Delegate Lafferty, *et al.*) - Environment and Transportation.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Department of Legislative Services

**Fiscal Note History:** First Reader - February 5, 2017  
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