

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 291

(Senator Edwards)

Judicial Proceedings

Environment and Transportation

Real Property - Recording Costs - Exemption

This bill exempts any unit of State government from being charged a fee to record land records unless the unit of State government first gives its consent.

Fiscal Summary

State Effect: Any potential minimal decrease in general and special fund revenues from recordation fees that may no longer be charged does not materially affect State finances or operations.

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

Small Business Effect: None.

Analysis

Current Law/Background: Statutory provisions in the Real Property Article set forth various requirements related to the recordation of land records. The clerk of the circuit court may not charge any county or municipality, the Maryland-National Capital Park and Planning Commission, or the Washington Suburban Sanitary Commission any fee associated with such recordation, unless any of the listed entities first gives its consent. The State government is not expressly exempted from payment of these fees.

The Courts and Judicial Proceedings Article also requires the clerk of the circuit court to impose a surcharge on each recordable instrument that is recorded among the jurisdiction's land records. The surcharges are deposited in the Circuit Court Real Property Records Improvement Fund, which supports all personnel and operating costs within the land

records of the clerks of the circuit court. Pursuant to the Courts and Judicial Proceedings Article, the surcharge may not be charged to an entity that is exempt from the payment of fees under § 3-603 of the Real Property Article.

A 2001 letter from the Office of the Attorney General opined that State agencies, for practical reasons, should not be required to pay recording fees, even though statutory language does not expressly exempt them. The Maryland Department of Agriculture advises that, based on the advice in the 2001 letter, it does not pay recording fees for documents in which it is a grantee. According to the Department of Natural Resources (DNR), the Land Acquisition and Planning unit purchases land for DNR through Program Open Space and submits the documents to the clerks of the circuit courts for recordation throughout the State. Currently, DNR is only paying recording costs on acquisitions in Washington County. Recordation fees may be up to \$115 per instrument, which includes the surcharge.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 676 (Delegates Buckel and Beitzel) - Environment and Transportation.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; Department of General Services; Department of Natural Resources; Maryland Department of Transportation; Office of the Attorney General; Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2020
mr/jkb Third Reader - February 21, 2020

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