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Mr. Chair, Madam Co-chair and Members of the Judiciary Committee:

The Maryland Land Title Association opposes passage of HB0529 without some sunset provision. Having been a practicing title attorney during the life of Maryland's Land Records Improvement Fund, and having had, as a previous MLTA Board Member and Past President of the Association, extensive interaction with the MLTA's appointee to the LRIF Oversight Committee, I offer the following institutional memory to provide perspective on the MLTA's position.

According to Wikipedia, technical obsolescence usually occurs when a new product or technology supersedes the old one, and it is preferred to use the new technology instead. In the late 1980's and early 1990's Maryland's centralized land record system was whipsawed by the confluence of (i) rapid evolution from paper to microfiche to microfilm to digital imagery and an online world, with (ii) a sudden drop in interest rates in the late 1980's that generated a wave of heavy refinancing and resulting demand on recording, imaging and records availability.

The Circuit Court Real Property Records Improvement Fund, commonly referred to as the Land Records Improvement Fund, was introduced on a temporary basis as a \$5.00 recording surcharge. The Fund was to be used for ". . . repairing, replacing, improving modernizing and updating the office equipment and equipment related services in the land records office of the clerk of the circuit court for each county . . ." (1991 Laws of Maryland, Ch. 328). The Fund was originally designed to sunset after 5 years, in 1996.

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In 1995, an oversight committee was created with members from the Administrative Office of the Courts, the Maryland State Archives, The Circuit Court Clerks' Association, the Maryland Land Title Association and the Maryland State Bar Association to provide advice to the State Court Administrator in managing and supervising the Fund. At that time the sunset date was moved to June 30, 2001. In 2000, the sunset was once again extended to June 30, 2006. (1995 Laws of Maryland, Ch. 566; 2000 Laws of Maryland, Ch. 244). In both sessions, the purpose of the Fund remained “. . . to repair, replace, improve, modernize, and update office equipment and equipment related services in the land records office of the clerk of the circuit court for each county”

Unforeseen at the time the Fund was created, were historic refinancing and sale cycles that took place in the 1990s and early 2000s that resulted in an enormous surplus in the monies within the fund.

In 2007, after the Fund had been allowed to sunset, it was re-established. At that time its purpose was expanded to also pay for “[t]he operating expenses of the land records offices of the clerks of the circuit courts.” Monies collected for repair and maintenance of land records were diverted to pay salaries of court employees.

In 2007, the legislation also authorized use of Fund monies for fiscal years 2009 and 2010 for major information and technology projects of the judiciary department. What has transpired since that time is best summed up in the Analysis of the FY 2018 Maryland Executive Budget, 2017:

“By the mid-2000s, a substantial balance remained in the fund and Chapter 2 of the special session of 2007 moved Judiciary expenditures for major IT projects from the General Fund to the LRIF for fiscal 2009 and 2010. Chapter 484 of 2010 made this change permanent and since that time the LRIF has been used both for land records maintenance and major IT projects.

When the General Assembly acted in 2010, it was anticipated that the change would allow general fund savings of \$22.1 million over two years, at which point, the LRIF's structural surplus would be exhausted, and the fund would be unable to support major IT projects. However, the land recordation surcharge was doubled to \$40 during the 2011 session, a change that is currently scheduled to sunset in fiscal 2020, and has allowed for additional major IT expenditures. The Judiciary has requested \$19.4 million from the LRIF for major IT projects in fiscal 2018 alone and plans to fund the entirety of MDEC development (\$71.1 million) with LRIF monies.

Additionally, Chapter 488 of 2015 created a new surcharge of \$11 on civil cases filed in the circuit courts and all appellate cases. These fees (\$5.4 million in fiscal 2016) are also deposited in the LRIF to fund ongoing maintenance for the MDEC. The addition of another revenue stream completely unrelated to land records is unnecessary and pulls the LRIF further from its intended purpose. This is a permanent change to the fund that goes well beyond the sweeping of an unused balance. The State has allowed a substantial segment of its IT needs to be funded through a fee that is charged to only some individuals and bears no connection to this use of the funds. These problems can be corrected by legislative actions to redirect filing fee revenue to a separate special fund and to bar major IT expenditures from the LRIF.

DLS recommends that the General Assembly pass legislation creating a new fund in the Judiciary for the purpose of funding future MDEC maintenance and operations costs and redirecting MDEC filing fees to that account. DLS recommends legislation also be passed that eliminates

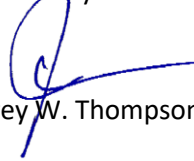
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major IT project development as an authorized use of the LRIF. Finally, DLS recommends that in the future, the Judiciary only use the LRIF for land records-related purposes.

The purpose of the Land Record Improvement Fund has strayed from its initial purposes. We do not dispute the need for the surcharge, but feel it prudent to once again sunset the matter. This will allow the Legislature to re-examine the recommendations of its auditors and refrain from inadvertently placing upon the shoulders of home buying or refinancing constituents the burden of financing the litigation arm of the judiciary at the expense of its function as the administrator of Land Records indexing and recording.

Respectfully submitted,



Jeffrey W. Thompson