

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

Senate Bill 770 (Senator McFadden)

Judicial Proceedings

Baltimore City - Bail Bond License Fee

This bill provides for the licensure of bail bondspersons in the City of Baltimore.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary could increase depending on a number of factors. In any event, FY 2001 expenditures could be nearly \$200,000 for administrative and operating costs for the Judiciary. Potential costs for additional pretrial detentions. Future year costs would reflect expenditures for additional staff, if needed. Revenues would not be affected.

Local Effect: Baltimore City revenues increase by \$800,000 annually. Estimated start-up expenditures in FY 2001 of \$75,000 with out-year costs of about \$30,000 annually.

Small Business Effect: Meaningful impact on small businesses in Baltimore City providing bail bond services.

Analysis

Bill Summary: The bill provides that each surety, property, or other bondsperson must be licensed with Baltimore City in order to be approved to file bonds in the circuit court for Baltimore City (the Eighth Circuit) or the District Court of Maryland in Baltimore City (District 1). Each bondsperson in Baltimore City is required to pay a monthly license fee and register annually with the city's Director of Finance. The monthly license fee is set at 1% of the gross value of all bonds written in the circuit court or the District Court for the city. Each court is required to maintain a registry of eligible bondspersons and provide the city with a monthly list of bonds posted by each bondsperson with information necessary for the collection of monthly license fees. The courts are also charged with, as specified, striking or

reinstating bondspersons from the registry based on information provided by the city as to the timely payment of license fees.

Current Law: Each of the State's circuit courts already has the authority to regulate bail bondsmen, by rule, within the circuit and to appoint a bail bond commissioner. Under Maryland Rule 4-217, the Chief Clerk of the District Court has established requirements for the maintenance of a centralized statewide list of authorized bail bondspersons for the District Court.

Background: A similar program to that provided under this bill currently operates in the Seventh Judicial Circuit (Calvert, Charles, Prince George's, and St. Mary's counties). The Office of the Bail Bond Commissioner in the Seventh Circuit oversees and administers bail bonding activity pertaining to licensed bondsmen or surety companies. The office is maintained by a 1% license fee charged against the gross value of each bail bond written in the circuit court and the District Court. The Bail Bond Commissioner collects the license fees and all absolute circuit court bond forfeitures where a licensed bondsman or surety company is involved. Approximately \$350,000 in 1% license fees is collected in the circuit court and District Court in Prince George's County alone. Revenues generated by the office are deposited in the county's general fund. This commissioner is a local government official in this circuit and not attached to the circuit court clerks office, which is a State funded operation. The Administrative Office of the Courts reports that an estimated \$5 million in bonds are filed yearly in the Baltimore City Circuit Court.

The Chief Clerk of the District Court of Maryland maintains a central list of surety insurers who are authorized to write bonds in the District Court, as well as those who are in default to the court. Unlike the circuit courts, the District Court accepts bonds 24 hours a day, seven days a week written by the clerks of the courts as well as the District Court Commissioners. As in most jurisdictions, in Baltimore City the vast majority are written by the District Court's 45 commissioners because most of this activity occurs at night and over weekends when court clerks are unavailable. Based on information provided for a similar bill last year, there were 1,213 property bonds and 11,072 corporate bonds written in the District Court for Baltimore City in 1998. The District Court also wrote 895 cash bonds in the city in 1998 with a total cash value of approximately \$1.6 million. However, the total value of District Court bonds is unknown because the amount of private or corporate property used to cover a bond amount may greatly exceed the amount required and no cash currently changes hands.

State Fiscal Effect: The Administrative Office of the Courts (AOC) reports that the requirements of this bill could require the hiring of an additional clerk in the Baltimore City Circuit Court to maintain a bondsperson list, and coordinate related activities with the District Court and the city. Assuming such costs would occur in the clerks office, general fund expenditures would increase by approximately \$23,800 in fiscal 2001, plus some

additional costs for modifications to existing automated systems.

However, the AOC believes that the need for hiring an additional clerk would depend on the actual operating exigencies of this bill which are unclear under the provisions of the bill. The AOC is also unclear as to the effect of this bill on bonds already written by a bondsperson after the city orders their name stricken from the list for non-payment of the monthly licensing fee. The AOC notes that this bill would likely require a change in the Maryland Rules to allow for this regulation of bondspersons.

The District Court expects the cost of this bill to be “substantial.” The District Court believes that general fund expenditures would increase by approximately \$214,500 in fiscal 2001, which includes the salaries and fringe benefits for two full-time clerks and automated computer system costs. The District Court estimates out-year costs to reflect only the salaries of the new clerks and incidental operating expenses beginning at \$73,700 in fiscal 2002 and growing at a rate of 5% annually.

The District Court reports that these costs arise from monthly bondsperson list maintenance responsibilities, and the conflicts between this program and the centralized statewide bondsperson registration program already in place in the District Court. The clerks are expected to be responsible for lists maintenance, and information coordination among the courts, District Court Headquarters, and the city.

The Department of Legislative Services advises that all potential costs for the Judiciary under the provisions of this bill would depend, in part, on planning and design of automated systems between the city and the two court systems. Due to the already existing dissimilar bondsperson registry system in the District Court, at least one additional clerk and software modifications would be needed in the District Court. However, it is difficult to verify or reliably assess the full impact of this bill on either court system at this time. It is noted that none of the cost recovery revenue from this program would accrue to the District Court, and its availability to the circuit court would depend upon the budgetary decisions of the city.

The Department of Legislative Services notes that this bill would likely lead to a 10% increase in bail bond costs for criminal defendants (see Small Business discussion, below). This could lead to more persons being unable to post bail, and increased pretrial detention costs at the Baltimore City Detention Center (BCDC), a State operated facility. Quantification of the magnitude of such potential costs cannot be reliably estimated at this time. Per diem operating costs at BCDC are expected to be \$57 per inmate in fiscal 2001.

Local Fiscal Effect: Baltimore City’s Department of Finance reports that the bail bondsperson licensure program mandated by this bill would yield an additional \$800,000 annually in general fund revenue. Expenditures for operating this program are estimated at

\$75,000 in fiscal 2001, which includes one additional full-time clerk, fringe benefits, and one-time start-up costs relating generally to computer programming needs. For fiscal 2002, and beyond, expenditures would include only the salary and fringe benefits for the clerks position (approximately \$30,000).

Small Business Effect: This bill would require bail bond agencies to monthly pay Baltimore City 1% of the gross value of all bonds written in the State and local court systems operating in Baltimore City. Presumably, bail bond agencies would pass this additional cost on to their clients in the form of higher fees. However, the bail bond agencies' fees are determined by the insurance companies who promulgate rate filings. A rate filing is the stated premium that a bail bondsman may charge on a bond. The current rate filing is 10% of the face value of a bond. Two percent of the fee is paid to the underwriting insurance company, and 8% goes to the bail bond agency as commission. In order for the bail bond agencies to pass the additional cost on to their clients, they would have to have the insurance company submit a rate filing increase request to the Maryland Insurance Administration.

If the 1% license fee cannot be passed on to their clients, bail bond agencies may have to absorb the fee and thus reduce their revenues significantly.

Additional Information

Prior Introductions: Similar bills were introduced during the 1997 session (SB 740 and House Bill 919) and the 1999 session (HB 1132). In 1997, SB 740 passed the Senate, was heard by the House Judiciary Committee, but no action was taken on it; HB 919 was heard by the House Judiciary Committee and was later withdrawn. In 1999, HB 1132 received an unfavorable report by the House Judiciary Committee.

Cross File: HB 726 (Delegate Marriott) - Judiciary.

Information Source(s): Judiciary (The District Court, Administrative Office of the Courts), Baltimore City, Department of Legislative Services

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