

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 292 (Senator McFadden) (Baltimore City Administration)
Judicial Proceedings

Criminal Procedure - Baltimore City - Bail Bonds

This bill provides for the licensure of bail bondsmen in Baltimore City and requires bail bondsmen to pay a monthly license fee equal to 1% of the gross value of all bonds written in Baltimore City courts during the previous month.

The bill takes effect January 1, 2003.

Fiscal Summary

State Effect: It is expected that any additional costs associated with monthly communications between the District Court and the Baltimore City director of finance and with a potential increase in pretrial detentions could be handled using existing resources. Revenues would not be affected.

Local Effect: Baltimore City revenues could increase by \$800,000 annually. Start-up expenditures in FY 2003 are estimated to be \$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 requires that before any surety, property bondsman, or other bondsman is approved to file bonds in the circuit court for Baltimore City and District Court of Maryland for District 1 (Baltimore City), the bondsman must: (1) be licensed

with Baltimore City; (2) pay a license fee; and (3) register annually with Baltimore City's director of finance. Each registered bondsman who is approved by the courts must also pay to the director of finance a monthly license fee equal to 1% of the gross value of all bonds written during the prior month in the circuit court or District Court for Baltimore City.

The circuit court and District Court in Baltimore City each must:

- maintain a registry of bondsmen eligible to post bond;
- provide a monthly list of the bonds posted by each bondsman to the director of finance indicating the gross amount of the bonds, the date they were filed, and any other information necessary to collect the license fee;
- strike a bondsman from the registry upon notice from the director of finance that the bondsman has failed to pay the license fee; and
- reinstate a bondsman to the registry upon notice from the director of finance that the overdue payment has been received.

Current Law: Under Maryland Rule 16-817, a majority of the judges of the circuit court in any appellate judicial circuit may appoint a bail bond commissioner and license and regulate bail bondsmen and acceptance of bail bonds. The bail bond commissioner must prepare, maintain, and periodically distribute to all District Court commissioners and others an alphabetical list of bail bondsmen licensed to write bail bonds within the appellate judicial circuit, showing the bail bondsman's name, business address, and telephone number, any limit on the amount of any one bond, and the aggregate limit on all bonds each bail bondsman is authorized to write. Under Maryland Rule 4-217, the Chief Clerk of the District Court must maintain a list of authorized bail bondsmen, the limits on any one bond, and surety insurers who are in default.

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 clerk's office, which is a State funded operation. In a prior year response to similar

legislation, the Administrative Office of the Courts reported that an estimated \$5 million in bonds is 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 commissioners because most of this activity occurs at night and over weekends when court clerks are unavailable. In 2001, there were 337 property bonds, 3,418 corporate bonds, and 410 cash bonds taken in the District Court in Baltimore City.

State Fiscal Effect: 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 Effect, 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 currently estimated to be \$62 per inmate.

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 2003, which includes one additional full-time clerk, fringe benefits, and one-time start-up costs relating generally to computer programming needs. For fiscal 2004 and beyond, expenditures would include only the salary and fringe benefits for the clerk's position (approximately \$30,000).

Small Business Effect: This bill would require bail bond agencies, on a monthly basis, to pay Baltimore City 1% of the gross value of all bonds written in the courts (both State and local) 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 that 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: SB 770 of 2000 received an unfavorable report from the Judicial Proceedings Committee. Similar bills were also introduced during the 1999 session (HB 1132) and the 1997 session (SB 740 and HB 919). In 1999, HB 1132 received an unfavorable report by the House Judiciary Committee. 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.

Cross File: None.

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

Fiscal Note History: First Reader - March 3, 2002
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