

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 114

(Chairman, Judiciary Committee)
(Maryland Judicial Conference)

Judiciary

Judicial Proceedings

Clerks of Circuit Courts - Auditor's Reports and Bonds - Recording and Indexing

This bill repeals the requirement that each circuit court clerk record, index, and maintain:

- an auditor's report of distribution of proceeds of a sale of real or personal property if ratified by the court; and
- all bonds of every nature and kind given in any proceeding in the court.

Uncodified language clarifies that the General Assembly's intent is that no fee be charged for an auditor's report or bond included in a case file and that the State Court Administrator propose to the Board of Public Works an amendment to the fee schedule of the clerks of the circuit courts as necessary to carry out this intent.

The bill takes effect June 1, 2002.

Fiscal Summary

State Effect: None. The change would not directly impact State finances.

Local Effect: Efficiency savings for circuit court clerks' offices. Any loss of revenue from collection of a \$15 recordation fee per recorded instrument is expected to be minimal.

Small Business Effect: None.

Analysis

Current Law: Each circuit court clerk must record, index, and maintain the following information when filed in the court:

- an auditor's report of distribution of proceeds of a sale of real or personal property if ratified by the court;
- all bonds of every nature and kind given in any proceeding in the court; and
- a test book containing the oaths of office and signatures of every person who takes the oath before the clerk.

By statute, a circuit court clerk must collect a \$15 fee for recordation of any court instrument that is required by law to be recorded.

Background: According to the Maryland Circuit Court Clerks' Association, an auditor's report of distribution of proceeds of the sale of property and a bond given in a court proceeding are kept in the corresponding court files during and after the court proceeding; thus, there is no need to separately record and index these materials. At one time, the original bond was returned to the surety instead of being maintained in the court file, but that practice is no longer followed.

Additional Information

Prior Introductions: HB 765/SB 655 of 2001 were identical to this bill. HB 765 received an unfavorable report from the House Judiciary Committee. SB 655 passed the Senate, but received an unfavorable report from the House Judiciary Committee.

Cross File: SB 199 (Chairman, Judicial Proceedings Committee) (Maryland Judicial Conference) – Judicial Proceedings.

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

Fiscal Note History: First Reader - January 28, 2002
lsc/cer

Analysis by: Debra A. Dickstein

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510