

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 204

(Chairman, Environmental Matters Committee)

(By Request – Departmental – Assessments and Taxation)

Environmental Matters

Judicial Proceedings

Real Property - Deeds or Other Instruments - Prerequisites to Recording

This departmental bill authorizes the clerk of a circuit court to record an instrument that effects a change of ownership in real property if the instrument is endorsed in the prescribed manner by the assessment office, as an alternative to a completed intake sheet. The bill also alters inconsistent provisions requiring a completed intake sheet as a requirement for recordation and prohibiting a clerk from refusing to record an instrument that is not accompanied by an intake sheet or is accompanied by an incomplete intake sheet.

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: None. The changes are procedural in nature and would not materially affect governmental finances.

Local Effect: None.

Small Business Effect: The State Department of Assessments and Taxation (SDAT) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. The attached assessment does not reflect amendments to the bill.

Analysis

Bill Summary: The bill prohibits a clerk from refusing to record an instrument that does not effect a change of ownership on the assessment books solely because it is not accompanied by a complete intake sheet. The bill authorizes a clerk to refuse to record a deed or instrument on the assessment books if the instrument is not accompanied by a complete intake sheet or endorsed as transferred in the assessment books by the assessment officer for the county in which the property is located.

If a deed or other instrument is submitted for transfer on the assessment books without an intake sheet, the person offering the deed or other instrument must mail or deliver the information required on the intake sheet. When property is transferred on the assessment books in this fashion, the transfer must be made to the grantee or assignee and the person recording the transfer must evidence the transfer on the deed or other instrument. An endorsement is sufficient to authorize the recording of the deed or other instrument.

Current Law: In Baltimore, Carroll, Cecil, Charles, Dorchester, Harford, Howard, Montgomery, Prince George's, St. Mary's, Washington, and Worcester counties, the clerk may record an instrument that effects a change of ownership if the instrument is: (1) endorsed with the certificate of the appropriate tax collector; and (2) accompanied by a complete intake sheet and a copy of the instrument and any survey for submission to SDAT. The Supervisor of Assessments may transfer ownership on the assessment books after receiving a copy of the deed or other instrument, a copy of the intake sheet, and any survey from the clerk's office. Under these provisions, recordation is a two-step process. The deed must go first to the county finance office and then the clerk's office for recordation.

In all other counties, a deed or other instrument that effects a change of ownership of real property may not be recorded until the property is transferred on the assessment books or records of the county where the property is located. When submitting the deed or other instrument for transfer on the assessment books, the person offering the instrument, on request, must mail or deliver a statement of any building and improvement on the property granted. When the property is transferred on the assessment books, the person recording the transfer must evidence the transfer on the deed or other instrument. This endorsement is sufficient to authorize recordation by the clerk of the appropriate circuit court. Under these provisions, recordation is a three-step process. The deed must first go to the county finance office, second to SDAT's local assessment office, and finally to the clerk's office for recordation.

Chapter 40 of 2004, which takes effect July 1, 2005, streamlines the recordation process by repealing the requirement that deeds be presented at the local assessment office prior

to recordation. Recordation will be subject to the provisions establishing the two-step process in all jurisdictions.

With limited exceptions, a deed or other instrument affecting property and presented for recordation must be accompanied by a completed intake sheet. However, a clerk may not refuse to record an instrument because it is not accompanied by an intake sheet or is accompanied by an incomplete intake sheet.

Background: Chapter 508 of 2004, which became effective October 1, 2004, added Prince George's County to the list of counties with the two-step recordation process.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Somerset County, Montgomery County, Prince George's County, Charles County, Judiciary (Administrative Office of the Courts), Baltimore County, Frederick County, Department of Legislative Services

Fiscal Note History: First Reader - February 1, 2005
mam/jr Revised - House Third Reader - March 25, 2005

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