

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 958

(Delegates Doory and Feldman)

Economic Matters

Judicial Proceedings

Corporations and Real Estate Investment Trusts - Miscellaneous Provisions

This bill authorizes a corporation to file a certificate of notice with the State Department of Assessments and Taxation (STAT) in the manner required for charter documents and makes various other changes to the laws governing corporations and real estate investment trusts (REITs).

The bill takes effect June 1, 2005.

Fiscal Summary

State Effect: General fund expenditures could increase by up to \$10,000 in FY 2006 for computer reprogramming costs. General revenues would increase to the extent documents are filed with SDAT under the bill beginning in FY 2006, and special fund revenues would increase to the extent expedited processing of a document is requested.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
GF Revenue	-	-	-	-	-
SF Revenue	-	-	-	-	-
GF Expenditure	10,000	0	0	0	0
Net Effect	(\$10,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: A corporation's certificate of notice may describe: (1) an action by the corporation, board of directors, or stockholders; (2) facts ascertainable outside the charter; (3) the expiration of the corporation's period of existence; or (4) any other information to be disclosed. The certificate may not affect the corporation's charter or any rights or liabilities of its stockholders.

The bill expands the actions for which a director must be reimbursed for successfully defending to include a claim, issue, or matter in the proceeding that a director successfully defends. The bill also permits a corporation's charter to restrict the board of directors from altering the corporation's name or the parvalue of its stock.

The bill repeals the limit on the number of persons to whom a corporation may issue shares of its stock without consideration for the purpose of qualifying as a REIT under the Internal Revenue Code. Similarly, the bill repeals the limit on the number of persons to whom a REIT may issue shares of beneficial interest without consideration for the purpose of qualifying as a REIT under the Internal Revenue Code.

The bill repeals the statutory requirement that a REIT prepare an annual report of its operations.

Current Law: A certificate of notice by a corporation is specifically authorized by statute.

Unless limited by a corporation's charter, a director who has been successful in defending any proceeding brought based on the director's position must be indemnified against reasonable expenses incurred in connection with the proceeding.

A corporation may issue shares of its stock to up to 100 persons without consideration for the purpose of qualifying as a REIT under the Internal Revenue Code. A REIT may issue shares of beneficial interest to up to 100 persons without consideration for the purpose of qualifying as a REIT under the Internal Revenue Code.

Each year, a REIT must prepare an annual report, including a balance sheet, an income statement, and a surplus statement. The report must be submitted to shareholders at or before the annual meeting and placed on file at the REIT's principal office within a specified time.

State Revenues: The bill establishes a new document that a corporation may file with SDAT. Since the bill does not establish a separate filing fee, the fee for processing each

certificate of notice would be \$25. General fund revenues would increase by \$25 for each certificate of notice filed under the bill. The number of these documents that would be filed annually cannot be reliably projected but is assumed to be minimal.

In addition to the normal processing, if a corporation wished to have a certificate of notice processed on an expedited basis, the additional fee would be \$50. Fees for expedited processing are deposited into a special fund that helps to defray the operating costs for SDAT's charter document unit. It is assumed that at least some of the certificates of notice filed under the bill would be done on an expedited basis.

State Expenditures: SDAT does not currently process certificates of notice and would need to reprogram its computer to code and accept the new documents. General fund expenditures could increase in fiscal 2006 by up to \$10,000 to hire a contractor to reprogram the computer.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2005
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