

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1286 (Delegate Jennings)
Environmental Matters

Real Property - Recordation of Deeds - Liability

This bill requires a person to record a deed in accordance with existing law within 180 days after the transfer of ownership if that person assumes the duty of recording a deed as part of a service provided for compensation in connection with a sale of property. The bill authorizes a purchaser of property to bring an action against a person who violates the bill's requirement to recover • damages in the amount of the greater of \$250 or actual damages sustained by the purchaser due to the violation; and • reasonable attorney's fees and costs of the action.

Fiscal Summary

State Effect: The bill would not directly affect State finances or operations.

Local Effect: The bill would not directly affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law/Background: Generally, a deed granting a freehold estate, an estate of inheritance, a declaration or limitation of use, or an estate above seven years must be executed and recorded before it may pass or take effect. Generally, a deed or other instrument that effects a change of ownership on the assessment books may not be recorded until the property granted is transferred on the assessment books or records of the county where the property is located.

Generally, property may not be transferred on the assessment books or records until all public taxes, assessments, and charges due on the property have been paid to the treasurer, tax collector, or director of finance where it is assessed. The certificate of the collecting agent showing that all taxes, assessments, and charges have been paid must be endorsed on the deed, and the endorsement is sufficient authority for transfer on the assessment books. Prior to recording a deed in most jurisdictions, a person must obtain a lien certificate that certifies that all liens, including tax liens, on the property in favor of the jurisdiction have been satisfied. The lien certificate must be recorded with the deed.

Small Business Effect: Under the bill, the person recording a deed, often a settlement company or attorney, would be liable for not recording a deed within 180 days. Small businesses that are settlement companies or attorney offices that perform settlements could thus face stiff fines under the bill. While some deeds are not recorded within 180 days due to negligence or fraud, a deed may not be recorded within the bill's 180-day limit for several legitimate reasons. *For illustrative purposes*, a deed may be held in escrow pending satisfaction of a condition subsequent to the contract, or the person recording the deed may not be able to obtain a lien certificate within the bill's time limit.

Additional Information

Prior Introductions: A similar bill, SB 660 of 2003, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: None.

Information Source(s): Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2008
mcp/jr

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