

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 870

(Senator Gladden)

Judicial Proceedings

Judiciary

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**Marriage Ceremonies - Performance by Tax Court Judges**

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This bill expands the definition of “judge” to mean a judge of the U.S. Tax Court and specifies that a judge of the U.S. Tax Court may perform marriage ceremonies in Maryland.

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**Fiscal Summary**

**State Effect:** The bill does not directly affect governmental operations or finances.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** A “judge” means:

- a judge of the District Court, a circuit court, the Court of Special Appeals, or the Court of Appeals;
- a judge approved for recall and assignment to a State court;
- a judge of the U.S. District Court or the U.S. Court of Appeals; or
- a judge of a State court if the judge is active or retired, but eligible for recall.

A marriage ceremony may be performed in Maryland by any religious official of a body or order authorized by rules or custom to perform a marriage ceremony, a clerk of court,

a deputy clerk of court designated by the county administrative judge for the county circuit court, or a judge.

**Background:** The U.S. Tax Court is a federal court of record established by Congress under Article I of the U.S. Constitution. It is the judicial forum for the resolution of disputes of tax deficiencies or overpayments involving the Internal Revenue Service. The court is composed of 19 judges, all appointed by the President. These judges, as well as senior judges serving on recall and special trial judges, conduct trials and perform the work of the court. The U.S. Tax Court is located in Washington, DC and has a regional office in Los Angeles, California.

State laws determine who may officiate at a marriage ceremony or “solemnize” a marriage. While state laws generally allow judges from the state bench to perform marriage ceremonies, they vary widely as far as federal judges are concerned. Some states may allow any judge of record to perform a marriage ceremony, and this includes judges from the U.S. Tax Court. A review of the laws from surrounding jurisdictions indicated that while some authorize a judge from the U.S. Tax Court to perform marriages, because their definition of “judge” was broad enough to include those judges, few specifically mention a U.S. Tax Court judge in the statutes which designated those who may perform marriage ceremonies. This information is shown below.

<b><u>Jurisdiction</u></b>	<b><u>Federal Judges Who May Solemnize Marriages</u></b>
District of Columbia	Any judge or justice of any court of record.
Delaware	All federal judges and magistrates.
New Jersey	U.S. Court of Appeals – 3 <sup>rd</sup> Circuit, federal District Court, U.S magistrate, judge of a tax court.
Pennsylvania	U.S. District Court for Pennsylvania, U.S. Court of Appeals – 3 <sup>rd</sup> Circuit, U.S. Bankruptcy Court.
Virginia	Any judge or justice of a court of record, any active, senior, or retired federal judge or justice who is a Virginia resident.
West Virginia	No federal judges specified.

From the above table, it appears that U.S. Tax Court judges may perform marriage ceremonies in the District of Columbia and the states of Delaware, New Jersey, and Virginia. In addition to Maryland, those neighboring states which do not appear to authorize judges of the U.S. Tax Court to perform marriage ceremonies are Pennsylvania and West Virginia.

## **Additional Information**

**Prior Introductions:** HB 130 of 2008 passed the House but received an unfavorable report from the Senate Judicial Proceedings Committee.

**Cross File:** HB 1000 (Delegate Conaway, *et al.*) - Judiciary.

**Information Source(s):** Judiciary (Administrative Office of the Courts), U.S. Tax Court, District of Columbia Official Code, Delaware Code, New Jersey Code, Unofficial Purdon's Pennsylvania Statutes, Code of Virginia, West Virginia Code, Maryland Tax Court, Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2009  
ncs/kdm Revised - Senate Third Reader - April 2, 2009  
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