

Department of Legislative Services  
 Maryland General Assembly  
 2009 Session

FISCAL AND POLICY NOTE

House Bill 642 (Washington County Delegation)  
 Ways and Means

Washington County - Clerk of the Circuit Court - Fees

This bill reduces, from 5% to 3%, the amount of recordation tax collections that may be retained by the clerk of the circuit court in Washington County.

Fiscal Summary

**State Effect:** General fund revenues decrease by \$112,500 in FY 2010 and by \$150,000 annually beginning in FY 2011. Expenditures are not affected.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	(\$112,500)	(\$150,000)	(\$150,000)	(\$150,000)	(\$150,000)
Expenditure	0	0	0	0	0
Net Effect	(\$112,500)	(\$150,000)	(\$150,000)	(\$150,000)	(\$150,000)

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

**Local Effect:** Washington County revenues increase by \$112,500 in FY 2010 and by \$150,00 annually beginning in FY 2011. Local expenditures are not affected.

**Small Business Effect:** None.

Analysis

**Current Law:** Generally, the clerk of a circuit court is entitled to 5% of all public money that the clerk receives, collects, and pays over, including recordation taxes. The clerk in Washington County is not entitled to a collection fee for collecting the county transfer tax when the clerk collects both the recordation tax and the county transfer tax for filing the same instrument.

**Background:** The majority of money collected by the clerks of the circuit courts relates to county recordation and transfer taxes. Chapter 639 of 2000 authorized the counties, rather than the clerks of the court, to collect recordation taxes.

While in most jurisdictions the clerk of the circuit courts is entitled to 5% of all public money collected, there are exceptions in the following eight jurisdictions:

- *Anne Arundel County:* 3% of the amount of recordation tax collected and 5% of all other public money received, collected, and paid over.
- *Baltimore City:* 2.5% of the amount of recordation tax collected and 5% of all other public money received, collected, and paid over.
- *Baltimore County:* 3% of the amount of recordation tax collected and 5% of all other public money received, collected, and paid over.
- *Charles County:* The clerk must deduct from recordation taxes collected the cost of two-thirds of the salaries and benefits of the court reporters for the circuit court and pay the amount deducted to the Charles County Treasurer. The payment must be made promptly after receipt of a voucher from the Charles County Treasurer stating the amount of the salaries and benefits paid to the court reporters.
- *Harford County:* 3% of the amount of recordation tax collected and 5% of all other public money received, collected, and paid over.
- *Montgomery County:* 3% of all public money received, collected, and paid over.
- *St. Mary's County:* The clerk is not entitled to a collection fee when collecting recordation taxes and county transfer taxes for the filing of a single instrument.
- *Washington County:* The clerk is not entitled to a collection fee for collecting the county transfer tax when the clerk collects both the recordation tax and county transfer tax for filing the same instrument.

#### *Local Recordation and Transfer Tax Revenues*

Recordation and transfer taxes provide a significant amount of revenue to local governments. In fiscal 2009, Washington County is projected to receive around \$8 million from the recordation tax and \$2.6 million from the transfer tax. Due to the downturn in the housing market and the national recession, county revenues from these two sources have declined sharply in recent years. Washington County collected \$9.6 million in local recordation and transfer taxes in fiscal 2008 and is expected to collect \$10.6 million in fiscal 2009. This amount is significantly lower than the amounts

collected in fiscal 2006 when the soaring real estate market yielded recordation and transfer taxes totaling \$16.9 million. **Exhibit 1** shows local recordation and transfer tax collections in Washington County since fiscal 2005.

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**Exhibit 1**  
**Local Recordation and Transfer Tax Revenues in Washington County**  
**(\$ in Millions)**

	<u>Recordation Tax</u>	<u>Transfer Tax</u>	<u>Total</u>
FY 2005	\$11.6	\$4.2	\$15.8
FY 2006	12.6	4.3	16.9
FY 2007	10.1	3.4	13.5
FY 2008	7.2	2.4	9.6
FY 2009	8.0	2.6	10.6

Source: Maryland Association of Counties

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**State and Local Fiscal Effect:** Because clerks' offices are funded through the State budget, the 5% collection fee currently allowed is general fund revenue. Under the bill's provisions, the collection fee authorized in Washington County is reduced from 5% to 3%. According to information provided by the Judiciary, in fiscal 2008, Washington County collected a total of \$7.5 million in recordation taxes. Of the total amount collected, \$376,190 (5%) was general fund revenue. If current tax collection remains consistent, general fund revenues will decrease by \$112,500 in fiscal 2010 and by \$150,000 annually beginning in fiscal 2011. Washington County revenues will increase by the same amount.

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**Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Washington County, Judiciary (Administrative Office of the Courts), Maryland Association of Counties, Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2009  
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