

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE

House Bill 970 (Delegate Feldman)
 Economic Matters

Department of Assessments and Taxation - Processing Fees and Electronic Document Filing and Processing System

This bill establishes additional fees that the State Department of Assessments and Taxation (SDAT) must collect for processing certain business entity documents within 24 hours (\$150) or 48 hours (\$100) after receipt of a request. Contingent on the availability of funds, the bill requires SDAT to develop and implement an electronic document filing and processing system that can be accessed from the department’s web site.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: Special fund revenues increase by \$1.16 million in FY 2011 due to projected increased document processing fee revenue. Future year fee revenues reflect a 3% increase in filings. SDAT special fund expenditures increase by \$1.25 million in FY 2012 for initial development costs for the electronic charter filing system. Future year special fund expenditures reflect phased-in staffing costs, ongoing operating costs, and are adjusted for inflation.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
SF Revenue	\$1,164,200	\$1,199,100	\$1,235,100	\$1,272,100	\$1,310,300
SF Expenditure	\$0	\$1,250,000	\$1,927,900	\$517,200	\$746,800
Net Effect	\$1,164,200	(\$50,900)	(\$692,800)	\$755,000	\$563,500

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

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

Small Business Effect: None.

Analysis

Bill Summary: The bill imposes an additional \$150 fee for processing a document, as specified, within 24 hours after receipt of a processing request, and an additional \$100 fee for processing within 48 hours after receipt of a request.

Current Law: Business entity documents subject to the bill and the corresponding SDAT processing fees are set forth below:

For processing each of the following documents on an expedited basis, the current expedited fee is indicated:

<u>Document</u>	<u>Fee</u>
Recording any document, including financing statements	\$50
Certificate of status of a corporation, partnership, limited partnership (LP), limited liability partnership (LLP), limited liability company (LLC), or a name reservation	\$20
Copy of any document recorded or filed with SDAT, or a corporate abstract	\$20
Application for a ground rent redemption or a ground rent extinguishment, or payment of a redemption or extinguishment amount to the former owner of the ground rent	\$50

For each of the following documents which are filed but not recorded, the nonrefundable processing fee is indicated below:

<u>Document</u>	<u>Fee</u>
Original registration of name of a foreign name corporation to end of calendar year	\$100
Renewal of registration of name of a foreign corporation for one calendar year	\$100
Documents in connection with the qualification of a foreign corporation to do intrastate business in the State	\$100
Application for registration of a foreign LP, a foreign LLP, or a foreign LLC	\$100

For each of the following documents recorded or filed, the nonrefundable processing fee is **\$100**:

certificate of LP; certificate of LLP; articles of organization of a LLC; certificate of trust of a business trust, including certificates of amendment and certificates of cancellation, certificates of reinstatement, articles of reinstatement; and any statement filed by a partnership under the Maryland Revised Uniform Partnership Act.

For each of the following documents, the nonrefundable processing fee is **\$100**:

articles of incorporation; articles of amendment; articles of extension; articles of restatement of charter; articles of amendment and restatement; articles supplementary; articles of share exchange; articles of consolidation, merger, or transfer; articles of dissolution; articles of revival for stock corporation; articles of revival for nonstock corporation.

Background: Based on SDAT's fee schedule for documents relating to corporate charters, it may take up to eight weeks for an individual to receive confirmation of a document filed through regular service. Expedited document processing service guarantees requests sent by facsimile or mail will be responded to within seven business days. If a document is hand delivered, it may receive same day processing for an expedited fee.

In fiscal 2009, SDAT special fund revenue from document filings subject to the existing \$50 expedited fee totaled \$1,862,700. Expedited filing fees were collected for 27,389 business entity formation documents, 7,498 trade name filings, and 2,367 Uniform Commercial Code documents. As shown in **Exhibit 1**, the proposed Budget Reconciliation and Financing Act of 2010 (BRFA) transfers \$3.0 million from the special fund to the State general fund in fiscal 2010.

SDAT's continuing, nonlapsing special fund is used to pay the costs of reviewing, processing, and auditing documents filed or requested and to pay redemption or extinguishment amounts to former owners of ground rents.

Exhibit 1
State Department of Assessments and Taxation
Fiscal 2009 Actual Budget and Fiscal 2010 Working Appropriation

	FY 2009 <u>Actual</u>	FY 2010 <u>Working Appropriation</u>
Beginning Special Fund Balance	\$3,591,391	\$2,937,090
Service Fees	4,135,530	4,650,000
Ground Rent Registration	18,107	19,818
Transfer to General Fund (BRFA)	(435,721)	(3,000,000)
Operating Budget Expenditure	(4,372,217)	(4,601,545)
Ending Fund Balance	\$2,937,090	\$5,363

Note: Service fees include expedited service fees and revenues from the production of certificates of status.

Source: State Department of Assessments and Taxation

State Revenues: Special fund revenues increase by \$1.16 million in fiscal 2011. This estimate assumes that 25% of the 37,254 filings received in fiscal 2009 subject to the proposed fee increase will, on average, pay an additional \$125 for either 24-hour or 48-hour processing. Out-year special fund revenue estimates assume a 3% increase in filings. In fiscal 2009, SDAT received 27,389 business entity formation documents, 7,498 trade name filings, and 2,367 Uniform Commercial Code filings which accounted for \$1,862,700 in special fund revenue.

State Expenditures: To the extent the \$3.0 million BRFA fund transfer occurs in fiscal 2010, the remaining balance in the special fund will be nearly depleted. Fund revenues, which include expedited service fees and revenue from producing certificates of status, equal or exceed the fund's annual operating expenditures. As a result, the special fund will need to accumulate a cash cushion prior to funding the electronic charter filing system. Initial development expenditures for the electronic filing and processing system will need to be delayed until fiscal 2012 at the earliest, with a gradual phasing in of additional staff beginning in fiscal 2013.

Special fund expenditures increase by \$1.25 million in fiscal 2012. As shown below, this estimate reflects half of the initial development costs associated with the electronic

charter filing system being incurred in fiscal 2012, with additional system start-up costs incurred in fiscal 2013. Future year expenditures reflect a phased-in hiring of full-time employees with 4.4% annual increases and 3% employee turnover and 1% annual increases in ongoing operating expenses, including annual costs to host the filing site on the Internet.

	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
Total Positions	0	2	6	10
System Development Costs	\$1,250,000	\$1,625,600	\$0	\$0
Salaries and Fringe Benefits	0	145,618	352,520	580,543
Operating Expenses	0	156,678	164,651	166,297
Total SF Expenditures	\$1,250,000	\$1,927,896	\$517,171	\$746,840

Additional Information

Prior Introductions: None.

Cross File: SB 792 (Senator Garagiola) - Judicial Proceedings.

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

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ncs/kdm

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