

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE

Senate Bill 220 (Chair, Budget and Taxation Committee)(By Request -
 Maryland Judicial Conference)
 Budget and Taxation

Circuit Court Real Property Records Improvement Fund - Funding

This bill increases the surcharge imposed by the State Court Administrator for recording certain documents among the local land records or financing statement records from \$20 per document to \$40 per document.

Fiscal Summary

State Effect: Special fund revenues increase by \$12.8 million in FY 2011 and by \$17.1 million annually thereafter from the \$40 surcharge imposed on each recordable instrument. Expenditures are not affected.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
SF Revenue	\$12,829,500	\$17,106,000	\$17,106,000	\$17,106,000	\$17,106,000
Expenditure	0	0	0	0	0
Net Effect	\$12,829,500	\$17,106,000	\$17,106,000	\$17,106,000	\$17,106,000

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: Potential minimal.

Analysis

Current Law: The clerk’s office of the circuit court in each county and Baltimore City imposes a \$20 surcharge per recordable instrument that is recorded among the jurisdiction’s land records or financing statement records. A “recordable instrument” includes any deed, grant, mortgage, deed of trust, lease, assignment, and release that

pertains to any interest in property or land, including an interest in rents and profits from rents. Other instruments that may be recorded in the land records include any:

- instrument affecting property, including a contract for the grant of property, or a subordination agreement that specifies priorities among multiple interested parties;
- notice of deferred property footage assessment for street construction;
- boundary survey plat signed and sealed by a State licensed professional land surveyor or State licensed professional property line surveyor;
- assumption agreement where a person assumes the liability of a debt or other obligation secured by a mortgage or deed of trust;
- release of personal liability of a borrower or grantor under a mortgage, note, or other obligation secured by a deed of trust; or
- ground rent redemption certificate, or ground rent or ground lease extinguishment certificate issued by the State Department of Assessments and Taxation.

The surcharges are deposited in the Circuit Court Real Property Records Improvement Fund which is managed by the State Court Administrator with advice from a five-member oversight committee. The \$20 surcharge may not be imposed on certain exempt government entities including the Comptroller and any county, municipality, the Maryland-National Capital Park and Planning Commission, or the Washington Suburban Sanitary Commission without their respective consent.

Background: Created by Chapter 327 of 1991, the Circuit Court Real Property Records Improvement Fund consists of surcharges assessed on instruments recorded in the land records and the financing statement records, document copying revenues, and accumulated interest revenue. The nonlapsing fund supports all personnel and operating costs within the land records offices of the clerks of the circuit court. It further supports the maintenance costs of the Electronic Land Records Online Imagery system and its web site for making images accessible to the public. A five-member oversight committee includes one representative from each of the following groups: the Administrative Office of the Courts, the Maryland State Archives, the Circuit Court Clerks' Association, the Maryland Land Title Association, and the Maryland State Bar Association.

During the 2007 special session, legislation was adopted to fund the Judiciary's major information technology development projects with special funds from the Circuit Court Real Property Records Improvement Fund for two fiscal years. That provision terminates at the end of fiscal 2010, and funding for major information technology projects shifts back to general funds in fiscal 2011.

State Fiscal Effect: Circuit Court Real Property Records Improvement Fund revenues increase by \$20 per recorded instrument that is subject to the proposed \$40 surcharge. This fiscal estimate assumes the clerks' offices will process 863,940 recordings in fiscal 2011 and each fiscal year thereafter, a 2.0% increase over fiscal 2009 levels. Assuming 1% of the 863,940 recordable instruments are filed by government entities not subject to the \$40 surcharge, special fund revenues increase by \$12.8 million in fiscal 2011 given the bill's October 1, 2010 effective date, and by \$17.1 million each year thereafter.

Projected recordable instrument filings in FY 2011:	863,940
1% of filings exempt from surcharge:	- 8,639
Recordable instruments subject to surcharge:	= 855,300
\$20 increase per filing (\$40 total surcharge)	x \$20
Additional Annualized Special Fund Revenue	\$17,106,000

The fund's fiscal 2009 ending balance was \$58 million. Although projections for the fund depend on home sales, the Judiciary estimates that the fund balance will decrease to approximately \$12.8 million at the close of fiscal 2010, assuming the adoption of the provision in the Budget Reconciliation and Financing Act of 2010 (BRFA) which transfers \$25.0 million of the fund balance to the general fund in 2010. As of January 2010, the Judiciary estimates that fund revenues are less than half of 2004 levels, which requires the depletion of the fund's reserve balance to meet mandatory minimum expenditures.

A \$20 increase to the land records surcharge could provide sufficient funding for ongoing expenses as well as a cushion. **Exhibit 1** shows the current fiscal status of the Land Records Improvement Fund under the Governor's proposed budget as well as the fund's projected balance under the bill.

Exhibit 1
Land Records Improvement Fund
Fiscal 2009-2012
(\$ in Thousands)

	Current Law Under the Governor's Proposed Budget				Proposed Balance Under the Bill	
	Actual FY 2009	Estimated FY 2010	Proposed Budget FY 2011	FY 2012	FY 2011	FY 2012
Starting Balance	\$66,695	\$58,023	\$12,757	\$3,378	\$12,757	\$16,208
Total Revenue	\$19,758	\$17,200	\$17,200	\$17,200	\$30,030	\$34,300
Expenses						
Land Records Offices	\$13,428	\$16,834	\$16,876	\$16,876	\$16,876	\$16,876
mdlandrec.net	5,000	5,000	5,000	5,000	5,000	5,000
ELROI	2,926	4,139	4,703	4,754	4,703	4,754
Major IT	7,077	11,493				
BRFA of 2010		25,000				
Total Expenses	\$28,431	\$62,466	\$26,579	\$26,630	\$26,579	\$26,630
Ending Balance	\$58,023	\$12,757	\$3,378	-\$6,052	\$16,208	\$23,878

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of the Attorney General, Department of Legislative Services

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 ncs/kdm

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