

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 1452

(Delegate McConkey)

Judiciary

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Courts - Public Auction - Electronic Interception of Oral Communication

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This bill creates an exception to State wiretapping laws for specified activities at public foreclosure sales. The bill authorizes the record owner of residential property being sold at a public foreclosure sale to use an electronic device to intercept, record, or use the contents of a public oral communication of the trustee during the sale for the purposes of: (1) ensuring that the sale complies with the requirements for public foreclosure sales under specified provisions of the Maryland Code and the Maryland Rules; and (2) preserving a record of the public sale in order to file any exceptions to the sale authorized by the Maryland Rules.

The bill applies prospectively to public foreclosure sales of residential property conducted on or after the bill's October 1, 2010 effective date.

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Fiscal Summary

**State Effect:** None. The bill is technical in nature and does not materially affect State finances.

**Local Effect:** None. The bill is technical in nature and does not materially affect local finances.

**Small Business Effect:** None.

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Analysis

**Current Law:** Under Maryland's wiretapping and electronic surveillance laws, it is unlawful to willfully intercept any wire, oral, or electronic communication. A person

who violates these provisions is guilty of a felony and upon conviction is subject to imprisonment for up to five years and/or a fine of up to \$10,000. There are specified exceptions for lawful acts performed by such individuals as (1) a switchboard operator or wire or electronic communication service employee; (2) an investigative or law enforcement officer acting in a criminal investigation or other specified circumstances; (3) a person who is a party to the intercepted communication, where all of the parties have given prior consent; (4) an employee of a governmental emergency communications center; and (5) a person intercepting an electronic communication that is readily accessible to the general public.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 22, 2010  
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