

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 622

(Senator Raskin)

Judicial Proceedings

Economic Matters

Corporations and Associations - Document Filing and Processing

This bill requires the State Department of Assessments and Taxation (SDAT), upon payment of a \$425 fee, to process any document filed with SDAT at least two hours before the close of business within two hours after the document is received. The bill also authorizes SDAT to accept documents that are filed for record by electronic transmission, defined by the bill as electronic mail, facsimile transmission, and Internet transmission.

The bill applies prospectively and may not invalidate or otherwise affect any filings made with SDAT before the bill's October 1, 2013 effective date.

Fiscal Summary

State Effect: Minimal increase in special fund revenues for SDAT in FY 2014 and subsequent years due to the receipt of nonrefundable processing fees of \$275 for the preclearance of a document and two-hour expedited service fees of \$425. The bill's requirements may be implemented within existing resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill authorizes SDAT to accept for preclearance, as defined by the bill, specified documents upon the payment of a nonrefundable \$275 fee. If the person submitting a document for preclearance wishes to have the preclearance processed within

two hours, the person must pay an additional \$425 fee. If the person wishes to have the preclearance processed within the same business day, the person must pay an additional \$50 fee.

The bill authorizes SDAT to waive the requirement that an entity must file a resident agent's written consent prior to the entity designating the person as the entity's resident agent. In the event SDAT waives the requirement, the entity must certify that the written consent has been obtained, maintain a copy of the written consent, and provide the copy to SDAT upon request. The consent is effective upon receipt by SDAT of the certification.

SDAT may adopt regulations to administer the manner of filing documents on an expedited basis as well as the preclearance process.

Current Law/Background:

Expedited Processing Fees: If a person requests that SDAT process a document on an expedited basis, and pays the applicable fee, SDAT must process the document on the same day that the document is received. For processing each of the following documents on an expedited basis, the expedited fee is indicated below:

<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

Means of Filing: SDAT may accept documents that are filed for record by fax machine, mail, or in person. Approximately 47,000 new businesses are registered in Maryland through these methods each year. On January 14, 2013, the Governor announced an online business registration system to streamline the process. The system, part of the ongoing effort *Maryland Made Easy*, will allow business owners to fill out and file the necessary forms to register a new business and establish a legal entity, register a new business trade name, register tax accounts with the Comptroller's Office, and review information regarding licensing requirements. The entities that may be registered include

sole proprietorships, general partnerships, LLCs, and several types of corporations. The system should reduce the amount of time to register a new business from 10 weeks to five to seven days.

Resident Agent's Consent: A business entity is prohibited from designating a person as a resident agent without first obtaining the person's written consent. The entity must file the written consent with SDAT. The consent is effective upon acceptance by SDAT.

State Revenues: Special fund revenues increase minimally for SDAT in fiscal 2014 and subsequent years due to the receipt of nonrefundable processing fees of \$275 for the preclearance of documents and two-hour expedited processing fees of \$425. The number of individuals that will choose to submit documents for preclearance or pay the two-hour expedited processing fees is unknown. However, in consultation with the Maryland Bar Association, SDAT estimates that there will be approximately 100 documents submitted for preclearance and 10 requests for the two-hour expedited processing service. If these estimates are accurate, special fund revenues increase by \$23,813 in fiscal 2014, due to the bill's October 1, 2013 effective date, and \$31,750 in subsequent fiscal years.

Additional Information

Prior Introductions: None.

Cross File: HB 702 (Delegate Feldman) - Economic Matters.

Information Source(s): State Department of Assessments and Taxation, www.mdbiznews.com, Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2013
ncs/kdm

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