

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 66 (Chair, Judicial Proceedings Committee)(By Request - Maryland Judicial Conference)

Budget and Taxation

Appropriations

Circuit Court Real Property Records Improvement Fund - Funding

This bill extends for five years (through 2020), the termination date of the provisions of law enacted in 2011 that increased, from \$20 to \$40, the amount of the surcharge on recordable instruments. Money from the surcharge is deposited into the Circuit Court Real Property Records Improvement Fund.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: Special fund revenues increase by \$15.9 million annually through FY 2020, assuming the number of records to which the surcharge applies remains constant. This maintains current funding levels, and the FY 2016 State budget assumes that the \$40 surcharge continues. Expenditures are not directly affected.

(\$ in millions)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
SF Revenue	\$15.9	\$15.9	\$15.9	\$15.9	\$15.9
Expenditure	0	0	0	0	0
Net Effect	\$15.9	\$15.9	\$15.9	\$15.9	\$15.9

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

Local Effect: Circuit courts continue to have funding specially allocated for land records operations after FY 2016.

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background: The clerk's office of the circuit court in each county and Baltimore City imposes a surcharge on each 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. 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.

Created by Chapter 327 of 1991, the Circuit Court Real Property Records Improvement 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 website. Since fiscal 2008, the fund has also been supporting the Judiciary's major information technology (IT) development projects. Revenues for the fund are generated through a recordation surcharge on all real estate transactions. Prior to fiscal 2012, the surcharge was \$20.

In response to concerns regarding the sustainability of the fund, Chapter 397 of 2011 (the Budget and Reconciliation Financing Act) increased the surcharge on all recordable instruments from \$20 to \$40 for fiscal 2012 through 2015. Pursuant to Chapter 397, the increase in the surcharge terminates June 30, 2015, and the fee reverts to \$20.

The fiscal 2016 State budget includes \$48,052,295 in the fund to support land record operations, as well as systems maintenance and major IT projects. The Judiciary advises that the expiration of the surcharge increase, which will decrease fund revenues by 50%, will result in the fund being exhausted in fiscal 2017. In addition to eliminating the source of funding for all land record operations, which includes 256 employees, the expiration of the increase in the surcharge will also impact the Judiciary's ongoing IT projects. For example, the Judiciary advises that through fiscal 2016, the State will have invested more than \$40 million in the Maryland Electronic Courts (MDEC) initiative. By the end of fiscal 2016, MDEC is scheduled to be implemented in the trial courts in Anne Arundel County and all of the counties on the Eastern Shore. If the \$40 surcharge is not maintained, statewide implementation of MDEC may be halted unless general funds are reallocated to that purpose.

State/Local Fiscal Effect: According to the Judiciary, revenues from the surcharge are projected to total \$15,877,500 in fiscal 2016 if the provisions authorizing the increase in the surcharge terminate. This is based on collecting the surcharge on approximately 794,000 cases annually. Special fund revenues from the filing fee surcharge in fiscal 2015,

the last year for which the \$40 surcharge is authorized, are estimated at \$31,755,000. Therefore, if the number of cases for which the surcharge is imposed remains constant, special fund revenues increase by \$15,877,500 annually through fiscal 2020, which reflects continuation of the \$40 surcharge.

Special fund expenditures are not directly affected. However, as previously indicated, if the increase in the surcharge is not extended beyond fiscal 2015 and the fund continues to support operations of the land records offices and IT projects, the fund is projected to be depleted by fiscal 2017. The extension of the \$40 surcharge allows the fund to continue to support operations of the land records offices within the circuit courts. In addition, extending the termination date of the increase in the surcharge helps maintain continued funding of the MDEC initiative and other ongoing IT projects which are designed to improve operational efficiency within the courts. While extending the surcharge may reduce or postpone any potential need for a reallocation of general funds to support the land records offices, the Department of Legislative Services advises that even if the current surcharge is maintained, the fund balance may still be exhausted as early as fiscal 2018 if costs continue to increase in the land records offices and for major Judiciary IT projects.

Small Business Effect: Extending the surcharge at the increased \$40 level protects funding for land records offices within circuit courts, which is a critical function in real estate transactions for small businesses such as law firms and title companies.

Additional Information

Prior Introductions: None.

Cross File: HB 51 (Chair, Judiciary Committee)(By Request - Maryland Judicial Conference) - Appropriations.

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

Fiscal Note History: First Reader - February 9, 2015
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Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510