

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 First Reader - Revised

Senate Bill 232

(Senator Waldstreicher)

Judicial Proceedings

Civil Cases - Surcharges

This bill increases the surcharge that is applied to specified civil filings in the circuit courts and the District Court. Specifically, the maximum authorized surcharge for civil cases filed in the circuit courts increases from \$55 to \$75; in the District Court, the maximum authorized surcharge increases from \$8 to \$13 for summary ejectment cases and from \$18 to \$24 for all other civil cases. The bill also prohibits a court or landlord from passing on the surcharge for a summary ejectment case to a tenant. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: Special fund revenues increase by \$6.1 million annually beginning in FY 2022, assuming the maximum surcharges are imposed and the number of filings remains constant. Expenditures are not directly affected, as discussed below.

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
SF Revenue	\$6.1	\$6.1	\$6.1	\$6.1	\$6.1
Expenditure	0	0	0	0	0
Net Effect	\$6.1	\$6.1	\$6.1	\$6.1	\$6.1

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

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

Small Business Effect: Minimal, as discussed below.

Analysis

Current Law: Money from the surcharge affected by the bill is deposited into the Maryland Legal Services Corporation (MLSC) Fund, which is used to finance civil legal services to indigent clients.

Court costs and charges for the circuit courts are set by the State Court Administrator with the approval of the Board of Public Works. The initial filing fee for a civil case in the circuit courts is generally \$165, including any applicable surcharges. In addition to the \$55 surcharge for MLSC, a surcharge of up to \$30 is assessed on initial civil filings (\$6 on reopened cases) for the Circuit Court Real Property Records Improvement Fund.

In addition to applicable filing fees, the Chief Judge of the District Court must assess a surcharge of up to \$8 for summary ejectment (failure to pay rent) cases and \$18 for all other civil cases. In the District Court, additional surcharges of up to \$3 for summary ejectment cases and \$8 for all other civil cases are also assessed for the benefit of the Circuit Court Real Property Records Improvement Fund. In Baltimore City, further surcharges are applied to certain landlord/tenant cases; these funds are remitted to the city to enhance the service of domestic violence orders.

A judge may waive the prepayment of filing fees and other costs due to indigence.

In addition to funding from the surcharges on civil cases, the MLSC Fund receives a required distribution of \$2.0 million annually from the State's Unclaimed Property Fund. Attorneys are also required to place small or short-term client trust funds into an Interest on Lawyer Trust Accounts account, the interest on which is paid into the MLSC Fund.

State Fiscal Effect: According to the Administrative Office of the Courts, in fiscal 2019, circuit court civil cases generated approximately \$4.1 million in surcharges for MLSC; summary ejectment cases in the District Court generated approximately \$5.5 million in surcharges; and other civil cases in the District Court to which the surcharge applied generated approximately \$3.4 million. While the number of case filings varies each year, this estimate assumes that the number of cases to which the surcharges are imposed remains constant and that the maximum surcharge is imposed. Although the Judiciary provided information on surcharges for MLSC in fiscal 2020, this analysis further assumes that filings, beginning in fiscal 2022, will more closely resemble the Judiciary's caseload from fiscal 2019 (the last full fiscal year unaffected by restrictions on court operations due to COVID-19). Accordingly, special fund revenues increase by as much as \$6.1 million annually from fiscal 2022 through 2026, as shown in **Exhibit 1**.

Exhibit 1
Estimated Annual Increase in MLSC Fund Revenues
Fiscal 2022-2026

Cases

Summary Ejectment Cases (Increase in Surcharges at \$13 Rate)	\$3,429,795
Other Civil Cases Filed in District Court (Increase in Surcharges at \$24 Rate)	1,124,232
Civil Cases Filed in Circuit Courts (Increase in Surcharges at \$75 Rate)	1,496,800
Total	\$6,050,827

Source: Department of Legislative Services

While the bill does not require additional spending, the MLSC Fund is used to finance civil legal services to indigent clients. Accordingly, the bill results in additional funding available for that purpose.

Small Business Effect: Landlords and management companies filing summary ejectment cases can no longer pass on imposed surcharges to tenants. Other small businesses filing civil cases in either the District Court or the circuit courts pay increased filing costs.

Additional Information

Prior Introductions: None.

Cross File: HB 478 (Delegate Lopez) - Judiciary..

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

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