

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 693 (Delegate Clippinger)
 Judiciary

Courts - Surcharges and Payment to Special Funds

This bill increases a 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 \$85; in the District Court, the maximum authorized surcharge increases from \$8 to \$68 for summary ejectment cases, and from \$18 to \$28 for all other civil cases. The bill requires the surcharges to be deposited, as specified, into (1) the Maryland Legal Services Corporation (MLSC) Fund; (2) the Access to Counsel in Evictions Special Fund; and (3) the Rental Assistance Special Fund, which is newly established under the bill.

Fiscal Summary

State Effect: Special fund revenues increase by *as much as* \$27.9 million in FY 2023 and \$37.2 million annually thereafter. Special fund expenditures increase, as discussed below. General fund expenditures increase by \$16,900 in FY 2023 for one-time programming costs; additional general fund expenditures may be incurred (not reflected below).

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF Revenue	\$27.9	\$37.2	\$37.2	\$37.2	\$37.2
GF Expenditure	\$0.0	\$0	\$0	\$0	\$0
SF Expenditure	\$12.4	\$16.5	\$16.5	\$16.5	\$16.5
Net Effect	\$15.5	\$20.7	\$20.7	\$20.7	\$20.7

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

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Surcharges Relating to Circuit Court Filings

The maximum authorized surcharge for civil cases filed in the circuit courts increases from \$55 to \$85. The bill does not alter the requirement under current law that these surcharges are to be deposited into the MLSC Fund.

Surcharges Relating to District Court Filings

The maximum authorized surcharge for summary ejectment (failure to pay rent) cases increases from \$8 to \$68. The bill requires the surcharges to be deposited as follows: (1) \$30 into the Access to Counsel in Evictions Special Fund; (2) \$30 into the Rental Assistance Special Fund (a new special fund established by the bill, as discussed in more detail below); and (3) \$8 into the MLSC Fund.

The maximum authorized surcharge for all other civil cases filed in the District Court increases from \$18 to \$28. The bill does not alter the requirement under current law that these surcharges are to be deposited into the MLSC Fund.

Rental Assistance Special Fund

The bill establishes the Rental Assistance Special Fund as a special, nonlapsing fund. The stated purpose of the fund is (1) to provide funding for the Judiciary to expand the Maryland Electronic Court (MDEC) (electronic filing and case management) system, to allow for the electronic filing of all landlord-tenant actions and (2) beginning July 1, 2025 (or sooner, if the Judiciary no longer needs the funding to expand the MDEC system), to provide funding to organizations that work in the area of rental assistance to pay the back rent for individuals facing a potential residential rental property eviction. The Judiciary must initially administer the fund; beginning July 1, 2025 (or sooner, if the MDEC system is expanded earlier, as specified), the Department of Housing and Community Development (DHCD) must administer the fund.

The fund consists of (1) money appropriated in the State budget to the fund; (2) any other money from any other source accepted for the benefit of the fund; and (3) interest earnings of the fund.

Electronic (Maryland Electronic Court) Filing

By July 1, 2025, all landlord-tenant actions must be filed electronically in the MDEC system.

Current Law:

Surcharges Relating to Specified Court Filings and the Maryland Legal Services Corporation Fund

Money from the existing surcharges under the statutory provisions affected by the bill is deposited into the 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 \$8.0 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.

Eviction Proceedings – Generally

In general, a landlord seeking to evict a tenant must file the appropriate action (*e.g.*, failure to pay rent, breach of lease, *etc.*) in the District Court. If awarded a judgment by the court, the landlord files a warrant of restitution, which, once reviewed and signed by the court, authorizes an eviction. The warrants of restitution are forwarded to the local sheriff's office who is then authorized to carry out the evictions. Statute sets forth numerous specific

requirements for such actions, including those related to written notice prior to filing certain actions. This includes specific requirements for written notice prior to initiating a failure to pay rent action.

Chapter 746 of 2021 established the Access to Counsel in Evictions Special Fund, a special, nonlapsing fund that is administered by MLSC. The fund is authorized to be used for specified purposes related to the Access to Counsel in Evictions Program (also administered by MLSC), which was created to organize and direct services and resources in order to provide individuals meeting certain criteria with access to legal representation in specified judicial or administrative proceedings to evict or terminate a tenancy or housing subsidy. Chapter 746 further required that access to legal representation be phased in over time as MLSC determines appropriate, with the goal of full implementation before October 1, 2025. Chapter 746 did not include a funding mechanism for this legal representation.

State Fiscal Effect: According to the Administrative Office of the Courts (AOC), in fiscal 2019, circuit court civil cases generated approximately \$4.1 million in surcharges for the MLSC Fund; District Court civil cases (excluding summary ejectments) generated approximately \$3.4 million in surcharges for the MLSC Fund. Based on updated information for fiscal 2019, AOC advises that more than 551,400 summary ejectment cases were filed in the District Court (which would generate revenues of more than \$4.0 million for the MLSC Fund). Under the bill, circuit court civil surcharges increase from \$55 to \$85, District Court summary ejectment surcharges increase from \$8 to \$68, and other District Court civil surcharges increase from \$18 to \$28. If case filings remain constant, *total* special fund revenues (for all special funds affected by the bill) increase by as much as \$37.2 million annually. In fiscal 2023, total revenues increase by as much as \$27.9 million, which reflects the bill's October 1, 2022 effective date.

Of the \$37.2 million, special fund revenues for the MLSC Fund increase by as much as \$4.1 million annually (\$3.1 million in fiscal 2023); special fund revenues for the Rental Assistance Special Fund and the Access to Counsel in Evictions Special Fund are each anticipated at up to \$16.6 million annually (\$12.4 million in fiscal 2023).

However, this estimate is based on case volume and surcharge revenues collected in fiscal 2019 (the last full fiscal year unaffected by the impact of COVID-19 on court operations). 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. The Department of Legislative Services (DLS) notes, however, that the significant increase in the summary ejectment surcharge, coupled with the new provisions enacted during the 2021 legislative session requiring specific notice to be provided to tenants (Chapter 746 of 2021), may deter landlords from filing as many failure-to-pay rent cases or waiting longer periods before filing. Any such impact has not

been accounted for in this analysis but may materially affect the overall number of filings. Accordingly, the special fund revenues illustrated in this fiscal and policy note indicate the *maximum* revenues anticipated. To the extent that case filings for summary ejectment cases decrease as a result of the bill, DLS notes that general fund revenues also decrease (representing a decrease in revenue from the \$4 filing fee per case that is attributed to the general fund); special fund revenues for the Circuit Court Real Property Records Improvement Fund likewise decrease.

While the bill does not require additional spending for either of the existing special funds (the MLSC Fund and the Access to Counsel in Evictions Special Fund), the bill results in additional funding available for those purposes.

As noted above, special fund revenues for the newly established Rental Assistance Special Fund are anticipated at up to \$12.4 million in fiscal 2023 and \$16.6 million annually thereafter. Special fund expenditures are assumed to increase correspondingly as the funds are used for the purposes as authorized under the bill. Although it is assumed that DHCD can administer the fund with existing staff (once the responsibility to do so transfers), general fund expenditures may increase to the extent that additional staff is needed.

Additionally, the Judiciary advises that it incurs approximately \$16,913 in programming costs in fiscal 2023.

Small Business Effect: Landlords and management companies filing summary ejectment cases face significantly increased surcharges under the bill. Other small businesses filing civil cases in either the District Court or the circuit courts pay increased filing costs. Small businesses managing rental housing may benefit from increased funding for rental assistance programs.

Additional Information

Prior Introductions: HB 31 of 2021, a similar bill as amended, passed the House and passed the Senate with amendments. No final action was taken on the bill before the conclusion of the legislative session.

Designated Cross File: None.

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

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