

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 971

(Senator James)

Judicial Proceedings

Environment and Transportation

Real Property - Recordation - Procedures

This bill requires (1) the treasurer, tax collector, or director of finance for a county or municipality to provide upon request a certificate enumerating taxes, assessments, and charges due to the county or municipality against a property, as specified, and (2) counties and municipalities to establish specific procedures to facilitate the issuance of the certificate. The certificate bars any charge or assessment against the property levied on a *bona fide* purchaser for value with no notice of the charge or assessment prior to the purchase of the property. Furthermore, the bill authorizes a county or municipality to collect a fee up to \$55 for the issuance of a certificate. The bill *requires* (rather than authorizes) local clerks of circuit courts and the State Department of Assessment and Taxation (SDAT) to coordinate on procedures to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording documents or the electronic payment of fees or taxes.

Fiscal Summary

State Effect: This bill is not anticipated to materially affect State operations or finances.

Local Effect: Local government revenues may increase from fees charged for certificates. It is assumed that these fees are sufficient to cover any minimal administrative costs that may be incurred.

Small Business Effect: Minimal.

Analysis

Bill Summary: If a collecting agent is presented with a certificate within 45 days after issuance indicating that all taxes, assessments, and charges due to the county/municipality have been paid in full, the agent must endorse the satisfaction of payment; the endorsement must be sufficient authority for transfer on the assessment books.

The payment of a fee and the issuance of a certificate may not preclude a claim by a county or municipality to payment of a charge or assessment against (1) the owner of the property at the time of the issuance of the certificate or (2) a person who acquires the property with knowledge of the charge or assessment.

Current Law:

Recording Requirements – General

Clerks of the circuit courts are responsible for the recording of land records. Generally, property may not be transferred on the assessment books or records until (1) all public taxes, assessments, and charges currently due and owed on the property have been paid to the treasurer, tax collector, or director of finance of the county in which the property is assessed and (2) all taxes on personal property in the county due by the transferor have been paid when all land owned by the transferor in the county is being transferred. The collection agent must endorse on the deed a certificate showing that all taxes, assessments, and charges have been paid. The endorsement is sufficient authority for transfer on the assessment books.

In Allegany, Cecil, Charles, Dorchester, Harford, Howard, Kent, Queen Anne's, Somerset, and St. Mary's counties, no property may be transferred on the assessment books or records until (1) all public taxes, assessments, any charges due to a municipal corporation, and charges due on the property have been paid and (2) all taxes on personal property in the county due by the transferor have been paid when all land owned by the transferor in the county and municipal corporation is being transferred. The certificate of the collecting agent and municipal corporation designated by law showing that all taxes, assessments, and charges have been paid must be endorsed on the deed. The endorsement is sufficient authority for transfer on the assessment books.

Statutory provisions include exceptions to the requirements for prepayment of personal property taxes in specified situations, including those relating to grants of land made in bankruptcy proceedings.

Maryland Uniform Real Property Electronic Recording Act

Generally, the Maryland Uniform Real Property Electronic Recording Act – Title 3, Subtitle 7 of the Real Property Article – establishes that requirements for documents to be signed as a condition for recording are met by an electronic document or electronic signature under specific circumstances. The Act also *authorizes* the clerks of the circuit courts and SDAT to coordinate with appropriate entities on procedures and processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording documents or the electronic payment of fees or taxes.

Local Fiscal Effect: Local revenues increase to the extent local jurisdictions collect additional fees from certificates issued by local government authorities under the bill. In some jurisdictions, issuing such certificates and collecting associated fees is current practice and there is likely no additional impact. For example, Baltimore and Montgomery counties advise that they already issue tax clearance certificates and charge a fee for doing so. Although local jurisdictions that do not already issue such certificates *may* incur minimal administrative costs to do so, it is assumed that the fees authorized to be charged under the bill allow any potential costs associated with the preparation and issuance of such certificates to be recovered.

The Maryland Municipal League advises that local municipalities are likely able to provide the data specified under the bill regarding the taxes, assessments, and charges due on a property with existing budgeted resources. Revenues may increase minimally should municipalities elect to charge a fee for the issuance of certificates.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore and Montgomery counties; Maryland Association of Counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Legislative Services

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