

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 423

(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 to provide upon request a certificate clearly enumerating taxes, assessments, and charges due to the county or municipality against a property, as specified, and (2) counties to adopt procedures to facilitate the issuance of the certificate (including procedures for obtaining a statement on a certificate of all taxes, assessments, and charges due to a municipality on the transfer of ownership of a property). 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 of 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 Assessments and Taxation (SDAT) to coordinate, as specified, 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, the agent must endorse the deed (as required under specified statutory provisions) upon payment of all charges set forth in the certificate and any applicable transfer or recordation taxes.

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 – Generally

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 collecting 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, although Montgomery County and Baltimore City did not respond to a request for information regarding the fiscal and operational impact of the bill, for similar legislation in a prior year, both advised 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.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 971 of 2023.

Designated Cross File: None.

Information Source(s): Baltimore City; Harford, Kent, Montgomery, and Worcester counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2024
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Analysis by: Donavan A. Ham

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