

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 954 (Senator Sydnor)
 Judicial Proceedings

Corporations and Associations - Transparency - Beneficial Ownership

This bill requires specified business entities to file with the State Department of Assessments and Taxation (SDAT) a report including specified information regarding each applicant and owner. SDAT must adopt regulations to implement the bill. A reporting entity formed before the bill’s effective date of October 1, 2024, must file the required report by October 1, 2025. In addition, the bill (1) establishes related prohibitions and authorizes the imposition of a civil penalty and (2) subject to limited exception, prohibits the inspection of reports filed under the bill’s provisions.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$2.5 million in FY 2025 only for one-time SDAT programming costs, as discussed below. Otherwise, SDAT can handle the bill’s requirements with existing resources. Potential minimal increase in general fund revenues under the bill’s penalty provisions.

(\$ in millions)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	2.5	0	0	0	0
Net Effect	(\$2.5)	\$0.0	\$0.0	\$0.0	\$0.0

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

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

Small Business Effect: Minimal.

Analysis

Bill Summary:

Selected Definitions

“Acceptable identification document” means (1) a valid U.S. passport; (2) a valid identification document issued by a state, local government, or Indian tribe; (3) a valid driver’s license issued by a state; or (4) a valid passport issued by a foreign government if an individual does not have any of the aforementioned documents.

“Beneficial owner” means an individual who, through any contract, arrangement, understanding, relationship, or other means (1) exercises substantial control over a reporting entity or (2) owns or controls at least 25% of the ownership interest of a reporting entity. “Beneficial owner” does not include (1) an individual acting as a nominee, an intermediary, a custodian, or an agent on behalf of a beneficial owner; (2) an individual acting solely as an employee of a reporting entity, and whose control over or economic benefits from the reporting entity are derived solely from the employment status of the individual; (3) an individual whose only interest in a reporting entity is through a right of inheritance; or (4) a creditor of a reporting entity.

“Reporting entity” means an entity created by the filing of any document with SDAT, and does not include a banking institution, as defined in the Financial Institutions Article.

Reporting Entity – Report

The bill requires each reporting entity to file with SDAT a report containing the following information for each applicant and owner of the reporting entity: (1) the full legal name; (2) a current residential or business address; and (3) an acceptable identification document. If a beneficial owner of a reporting entity is a minor, the reporting entity may not include information in the report regarding the minor but must instead include the information for a parent or guardian of the minor.

The report must be filed within 30 days after the filing of formation documents for the reporting entity. The reporting entity must file an amended report within 30 days of any changes to the required information.

Civil Penalty

A person is prohibited from knowingly failing to submit a required report under the bill and may not cause a report to be filed that the person knows contains false information. SDAT may impose a civil penalty of \$500 for each day the violation continues.

Maryland Public Information Act – Inspection of a Report

The bill requires a custodian of a public record to deny inspection of a report filed with SDAT under the bill’s provisions; however, a custodian must allow inspection of a report by a unit of State government in the performance of the unit’s official duties.

Current Law:

Entity Formation – Required Documents

Under the Corporations and Associations Article, an “entity” includes a corporation, a limited liability company, a limited liability partnership, a limited partnership, a limited liability limited partnership, a professional corporation, a trade name filer, and a business trust.

Generally, to form an entity, the applicable formation documents (*e.g.*, articles of incorporation, articles of organization, etc.) must include, among other things specified in statute: (1) the name of the entity; (2) the address of the principal office; (3) the name and address of the resident agent; (4) the name and address of the authorized person(s) forming the entity; and (5) other information related to the type of entity formed. The entity is formed when SDAT accepts the articles for record, or at a later date as specified in the applicable statute.

Maryland Public Information Act – In General and Duties of Custodians

In General: The Maryland Public Information Act (PIA) establishes that all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees. Each governmental unit that maintains public records must identify a representative whom a member of the public may contact to request a public record. The Office of the Attorney General (OAG) must post all such contact information on its website and in any *Public Information Act Manual* published by OAG.

Duties of Custodians: Generally, a custodian of a public record must permit inspection of any public record at any reasonable time. A custodian must designate types of public records that are to be made available to any applicant immediately on request and maintain a current list of the types of public records that have been so designated. Each custodian must adopt reasonable rules or regulations that, consistent with PIA, govern timely production and inspection of a public record. Chapter 658 of 2021, effective July 1, 2022, requires each official custodian to adopt a policy of proactive disclosure of public records that are available for inspection under PIA, as specified.

Maryland Public Information Act – Denials

Required Denials: A custodian must deny inspection of a public record or any part of a public record if (1) the public record is privileged or confidential by law or (2) the inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. PIA also requires denial of inspection for specified personal and confidential records and information, including, for example, personnel and student records, hospital records, specified medical and financial information, and shielded criminal and police records. Chapter 62 of 2021 specifies that a record relating to an administrative or criminal investigation of misconduct by a police officer is not a protected personnel record under PIA and requires a custodian to allow access to such records by federal and State prosecutors.

Discretionary Denials: Unless otherwise specified, if a custodian believes that inspection of a part of a public record by an applicant would be contrary to the public interest, the custodian may deny inspection to the applicant of that part of the record. PIA specifies the types of records and information that are eligible for discretionary denials, including documents that would not be available through discovery in a lawsuit.

Procedure for Denial: A custodian who denies inspection of a public record must, within 10 working days, provide a written statement to the applicant that gives (1) the reason for denial; (2) if denying a part of a record on a discretionary basis, a brief explanation of why the denial is necessary and why redacting information would not address the reasons for the denial; (3) the legal authority for the denial; (4) a brief description of the undisclosed record (without disclosing the protected information); and (5) notice of the available statutory remedies.

State Expenditures: SDAT advises that the information required under the bill is not collected or recorded under its current systems. Furthermore, due to planned programming changes, SDAT advises that the Maryland Business Express Service (MBES) is unable to be further altered in the manner needed to implement the bill from approximately July 2024 through December 2025. Thus, to make the required changes, a new system (separate from MBES) must be developed by an outside vendor, incurring a cost of at least \$2.5 million in fiscal 2025. Under standard operating circumstances, SDAT programming costs are approximately \$278,400.

Additional Information

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

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Legislative Services

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