

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 725 (Senator Waldstreicher)
Judicial Proceedings and Budget and Taxation

**Transfer of Real Property - Recordation Certification and State Transfer Tax
(Land Transfer Accountability Act)**

This bill requires – for transfers of real property from the United States to a person other than a federal, State, or local government entity – that a Certificate of Compliance be issued by the Office of the Attorney General (OAG) and the State Department of Assessments and Taxation (SDAT) (certifying compliance of the transfer with applicable State and federal laws, rules, and regulations) before the instrument that effects the change in ownership can be recorded by the clerk of the circuit court. The bill also establishes a 2% State transfer tax rate applicable to the next subsequent transfer of real property after the United States has transferred property, with the revenues allocated directly to Program Open Space (POS) and other purposes under Title 5, Subtitle 9 of the Natural Resources Article. **The bill takes effect July 1, 2026, and applies to instruments of writing recorded on or after July 1, 2026.**

Fiscal Summary

State Effect: Special fund revenues may increase by an indeterminate amount, potentially as early as FY 2027, and general fund expenditures increase by at least \$12,000, in FY 2027 only, as discussed below.

Local Effect: Local governments may benefit from increased funding for land conservation and development projects.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Certificate of Compliance

The bill prohibits a clerk of the circuit court from recording an instrument that effects a change of ownership of real property from the United States to another person unless the instrument is accompanied by a Certificate of Compliance issued by OAG and SDAT certifying that the change of ownership, and any related instrument that effects the change, complies with all applicable State and federal laws, rules, and regulations. The prohibition, however, does not apply to the recordation of an instrument that effects a change of ownership from the United States to (1) the United States or a public instrumentality of the United States; (2) the State; (3) a county, municipality, or any other political subdivision of the State; (4) a public instrumentality of the State; or (5) any governmental unit of the State.

For such transfers, the bill requires OAG, in collaboration with SDAT, to (1) review the change of ownership of real property, and the related instrument that effects the change, for compliance with applicable State and federal laws, rules, and regulations, and (2) after completing the review, issue a Certificate of Compliance, deny the request for a Certificate of Compliance (providing the reasons and legal basis for the denial), or request additional information from one or more parties to the change of ownership. A party may resubmit a denied request after correcting all deficiencies identified in the review.

OAG and SDAT must establish fees for (1) the review of a change in ownership and (2) the issuance of a Certificate of Compliance. The fees must be (1) established in an amount sufficient to pay for the costs of the review and (2) deposited in the general fund.

The clerk of each circuit court, in conjunction with the Administrative Office of the Courts (AOC), must establish uniform statewide procedures to receive and record the certificates of compliance. OAG and SDAT must adopt regulations to implement the review process.

Applicable Transfer Tax and the Disposition of Revenues from the Tax

The bill establishes a 2% State transfer tax rate, in place of the 0.5% State transfer tax rate, for an instrument of writing that conveys title to real property if (1) the United States was the most recent title holder of the real property before the person conveying title to the real property and (2) the title from the United States was conveyed on or after July 1, 2026. The transfer tax must be paid entirely by the transferor.

The revenue generated from the 2% State transfer tax on those instruments of writing must be credited to the purposes under Title 5, Subtitle 9 of the Natural Resources Article.

Current Law:

Recordation of a Change of Ownership of Real Property

The clerk of the circuit court may record an instrument that effects a change of ownership if the instrument is (1) endorsed with the certificate of the tax collector that all taxes, assessments, and charges due and owed on the property have been paid; (2) accompanied by a specified intake sheet or endorsed by the assessment office for the county; and (3) accompanied by a copy of the instrument, and any survey, for submission to SDAT. The Supervisor of Assessments must transfer ownership of property in the assessment records, effective as of the date of recordation upon receipt of a copy of the instrument, a completed intake sheet, and any survey submitted, or documents received through an electronic recordation system.

State Transfer Tax

Any person or business conveying title to real property by means of an instrument of writing recorded with the clerk of a circuit court (for any county) or filed with SDAT is required to pay the transfer tax. The tax base is the amount of consideration payable for the instrument of writing. The consideration includes the amount of any mortgage or deed of trust assumed by the grantee. The State transfer tax rate is 0.5% of the consideration payable for an instrument of writing. However, in the case of a first-time Maryland homebuyer purchasing a principal residence, the transfer tax rate is 0.25% (which is paid by the seller).

The statutory allocation of State transfer tax revenue is shown below:

- 75.15% to POS (Title 5, Subtitle 9 of the Natural Resources Article) within the Department of Natural Resources (DNR) for the program, including land acquisition, and other purposes;
- 1.0% to POS only for land acquisition;
- 17.05% to the Maryland Agricultural Land Preservation Fund within the Maryland Department of Agriculture;
- 5.0% to the Rural Legacy Program within DNR; and
- 1.8% to the Heritage Conservation Fund within DNR.

The POS allocations are subject to further allocation among the State and local components of the program and other purposes. POS funds the following programs: the Maryland

Heritage Areas Authority, POS Local, Maryland Park Service, Rural Legacy Program, POS Stateside, DNR Capital Development, Greenspace Equity Program, and a \$10 million direct grant to Baltimore City. The funds allocated to local governments assist the local governments in acquisition and development of land for recreation and open space purposes.

State Revenues: The bill increases the State transfer tax rate to 2% for the transfer of properties formerly held and conveyed by the United States (with the tax applicable to the subsequent transfer of real property by the party to whom the property was transferred by the United States). As a result, State transfer tax revenues may increase beginning as early as fiscal 2027, depending on the number of these property transfer types that occur each fiscal year, and the value of the consideration of the transfers, neither of which can be reliably estimated.

The bill changes the allocation of transfer tax revenues from those affected properties somewhat, by allocating those revenues – that in the absence of the bill and under the existing 0.5% rate are allocated under the formula for allocation of transfer tax revenues (to POS, the Maryland Agricultural Land Preservation Fund, etc.) – directly to POS and other purposes funded under Title 5, Subtitle 9 of the Natural Resources Article. Those programs generally benefit from increased revenues due to the direct allocation and the increased transfer tax rate of 2%, but programs such as the Maryland Agricultural Land Preservation Fund do not receive any revenues from the affected property transfers under the bill.

State Expenditures:

Judiciary

General fund expenditures increase by \$12,000 in fiscal 2027 for the Judiciary to alter its SimpleFile transfer tax software to account for the bill's change that increases the State transfer tax rate to 2% for transfers of real property that occur subsequent to a transfer of property by the United States. AOC indicates that other costs may be incurred, such as those associated with establishing procedures and training for clerk of the court staff to determine when a property transfer is subject to the certificate of compliance requirement or the increased State transfer tax rate (*e.g.*, whether the transferor or the previous owner qualifies as a federal government entity that would cause the transfer, or the previous transfer, to be a change of ownership from the United States); however, any additional costs have not been quantified.

Office of the Attorney General

This analysis assumes that there is no net fiscal impact on OAG and SDAT to implement the bill's requirements that they review specified changes in ownership and issue or deny certificates of compliance. OAG and SDAT are required under the bill to establish fees for

the review of changes in ownership and issuance of certificates of compliance, in an amount sufficient to pay the costs of the review.

OAG advises that the office will need to hire one assistant attorney general; however, the Department of Legislative Services advises that the extent of property transfers that require a review and issuance of a Certificate of Compliance is unclear and may be able to be handled with existing budget resources. And, as mentioned above, the bill requires fees to be charged that are sufficient to pay for any costs.

Local Fiscal Effect: Local governments may benefit from additional funding available for land conservation and development projects under Program Open Space, Rural Legacy, and the Greenspace Equity Program.

Additional Information

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

Designated Cross File: HB 1009 (Delegate Korman) - Economic Matters.

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

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Analysis by: Michael Sanelli

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