

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Environment and Transportation Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1090
Department of Housing and Community Development –
Partnership Rental Housing Program - Alterations
DATE: February 17, 2021
(2/23)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 1090. This legislation establishes the purpose and conditions of the Partnership Rental Housing Program of the Department of Housing and Community Development as they apply to middle income households; details the conditions for initial occupancy for households of lower and middle income under the Program that use area median income as a basis; and establishes that the Department may make an award for mixed-income housing.

This legislation further requires the Clerk of the Circuit Court to collect a surcharge of \$50 for all instruments recorded; requires all money collected from this surcharge go to the Partnerships Rental Housing Fund; and requires the State Department of Assessments and Taxation to deduct and credit a portion of the State Transfer Tax to the Fund.

This legislation would impact the fiscal viability of the Land Record Improvement Fund (LRIF).

The LRIF's primary purpose is twofold:

- 1) To fund the operations of land records offices, both personnel and operating expenses, and
- 2) To fund major information technology projects in the Maryland Judiciary, such as the electronic recordation of land records instruments (e-Recording); Maryland Electronic Courts that will replace all legacy case management systems statewide; Court House e-Readiness, that will bring all courthouse telecommunications software up-to-date; Cyber Security, that will enhance the Judiciary's security posture; Case Search 2.0, that will update the Judiciary's current publicly-accessible case information website; and, updates to the infrastructure of the Judiciary information system.

In its report to the General Assembly regarding the LRIF, the Judiciary indicated that there continues to be a structural deficit and, as such, it is very likely that an increase in the surcharge that sustains the LRIF will be requested in the Fiscal Year 2023 budget request to ensure the continued viability of the LRIF and the essential major IT projects it funds.

The Judiciary asserts that the LRIF is not the appropriate vehicle through which to collect a surcharge that is intended to be deposited into a special fund contained within and administered by a department in the executive branch. The Judiciary is responsible for ensuring the efficacy of the LRIF and that its intended purposes, as outlined above, are fulfilled. Likewise, other avenues available to the executive branch to collect monies for special funds under its purview should be explored. Notwithstanding its awareness of the importance of the various, or related, initiatives for which such special funding is often sought, the Judiciary believes that funding of such initiatives can, and should, be effected through the normal budgeting process.

This bill will also have a significant impact to the circuit court land records operations as staff would be required to apply different percentages based on considerations. This would get further complicated when a property is located in multiple counties and percentages are involved. This would be a whole new way of calculating transfer taxes which would require additional training for clerks. If passed, this bill takes effect July 1, 2021 which would not provide significant time for training circuit court clerk staff as well as updating the cash register systems and Simplifile for eRecording if applicable to accepting these types of recordings.

cc. Hon. Vaughn Stewart
Judicial Council
Legislative Committee
Kelley O'Connor