



The Delivery of Legal Services Section Council

BILL NO: House Bill 31
TITLE: Civil Cases - Surcharges
COMMITTEE: Judiciary
HEARING DATE: February 17, 2021
POSITION: **Favorable with Amendments**

The Delivery of Legal Services Section (DLS) is a section of the Maryland State Bar Association formed to promote the fair administration of justice in the State of Maryland. The Section supports and encourages free or low cost legal services for people of limited means through legal services programs for the indigent, public interest legal organizations, *pro bono publico*, reduced fee, and other alternatives to traditional fee-for-service representation to provide access to the courts, and court alternatives for the resolution of disputes. The areas include legal practice and legal reform for the indigent and persons of modest means, for example, civil rights, consumer advocacy, civil and criminal legal services, and lawyer referral services. The Section Council is comprised of a mix of practicing attorneys, including those working for civil legal aid organizations, private practitioners, and government attorneys, who all share a common goal: increasing access to justice.

The DLS urges a favorable report on House Bill 31 with a small amendment. HB 31 allows for a modest increase in court filing fees that would be distributed equally to the Maryland Legal Services Corporation (MLSC) and rental assistance programs in the State. The DLS fully supports the surcharge, but also supports the technical amendment proposed by MLSC, which would separate the MLSC surcharge increase from the proposed surcharge for rental assistance programs.

The surcharge increase is necessary to avert further reductions in funding to MLSC, which provides essential funding for the provision of civil legal services to low-income Marylanders after the Maryland General Assembly created it in 1982 to be the state's primary funder of civil legal aid. This increase would allow MLSC to continue its important work, while still keeping the average costs for filing fees in Maryland below the national average. MLSC's two major funding sources – the Interest on Lawyer Trust Accounts (IOLTA) program and these surcharges – were significantly reduced by the COVID-19 pandemic due to near zero interest rates and a dramatic decrease in court filings. MLSC currently projects fiscal year 2022 revenue to come in at least \$6 million lower than pre-pandemic levels. The Federal Reserve has indicated they will keep interest rates near zero for several more years, meaning that MLSC cannot rely on IOLTA as a significant source of funding for civil legal aid into the foreseeable future.

As funding for legal services has decreased, the demand for civil legal aid has grown as Marylanders deal with the effects of the pandemic. MLSC grantees help low-income Maryland residents with evictions, foreclosures, family law issues, consumer debt, access to benefits and more. Low-income clients served by MLSC grantees and other approved legal services providers receive an automatic filing fee waiver. Furthermore, because the General Assembly and the Courts have recognized the need for fee waivers for low-income individuals, it is important to also clarify that surcharges in summary ejectment cases should not be passed on to tenants.



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It is vitally important to secure additional funding for MLSC. A decrease in funding for MLSC in turn creates uncertainty and instability for organizations providing these critical services; without the funding survivors of domestic violence would be forced to face their abusers alone, tenants who have lost their jobs due to the pandemic would be forced into eviction proceedings without understanding their legal rights, Marylanders entitled to government aid and benefits would have to navigate the complicated systems on their own, and many others would be left in a similar position – without access to legal counsel whilst facing the loss of fundamental rights to safety, housing, employment, and more.

The DLS would also note that HB31 contains a provision that surcharges may not be passed on to a tenant by the Court or by a landlord. The DLS does not take a position on this provision, and only notes that the Maryland State Bar Association, while supporting the bill in general, objects to that prohibition, viewing it as a matter that should be reserved for judicial discretion.

For these reasons, the DLS supports HB31 and urges a favorable report with the amendments described herein.