

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

Senate Bill 64 (Chair, Judicial Proceedings Committee)(By Request - Maryland Judicial Conference)

Judicial Proceedings

Circuit Court Real Property Records Improvement Fund - Funding

This bill requires the State Court Administrator to assess a surcharge of \$11 on cases filed in the Court of Appeals and the Court of Special Appeals. The bill also requires the assessment of a \$30 surcharge for civil cases filed in the circuit courts and a surcharge of \$6 for civil cases reopened in the circuit courts. A surcharge may not be assessed to reopen a case brought by a petitioner under the protective order statutes. The Chief Judge of the District Court must assess a maximum surcharge of \$3 per summary ejectment case and \$8 for all other civil cases. The surcharges must be deposited into the Circuit Court Real Property Records Improvement Fund.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: Special fund revenues increase by an estimated \$5.2 million annually beginning in FY 2016 due to the surcharges. General fund expenditures for the Judiciary increase by \$25,600 in FY 2016 only for programming changes.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
SF Revenue	\$5,182,800	\$5,182,800	\$5,182,800	\$5,182,800	\$5,182,800
GF Expenditure	\$25,600	\$0	\$0	\$0	\$0
Net Effect	\$5,157,200	\$5,182,800	\$5,182,800	\$5,182,800	\$5,182,800

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

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

Small Business Effect: None.

Analysis

Current Law/Background: Court costs and charges for the circuit courts are set by the State Court Administrator with the approval of the Board of Public Works. The initial filing fee for a case in the Court of Appeals or the Court of Special Appeals is \$50. The initial filing fee for a civil case in the circuit courts is \$80 plus the \$55 surcharge for the Maryland Legal Services Corporation (MLSC) as authorized by statute.

In the District Court, the filing fee for summary ejectments is \$22 in Baltimore City and \$12 in all other counties. These fees include the \$8 surcharge for MLSC authorized by statute and a \$10 surcharge in Baltimore City for the Sheriff's Office. Filing fees for other civil cases also include an \$18 MLSC surcharge authorized by statute and range from \$28 to \$38. In Baltimore City, specified landlord tenant filings in addition to summary ejectments are also subject to a \$10 surcharge for the Baltimore City Sheriff's Office in addition to the MLSC surcharge.

A judge may waive the prepayment of filing fees and costs in a civil case because of indigency.

Circuit Court Real Property Improvement Fund

Created by Chapter 327 of 1991, the Circuit Court Real Property Records Improvement Fund supports all personnel and operating costs within the land records offices of the clerks of the circuit court. It further supports the maintenance costs of the Electronic Land Records Online Imagery System and its website. Since fiscal 2008, the fund has also been supporting the Judiciary's major information technology development projects, which include the State's Maryland Electronic Courts (MDEC) initiative.

Revenues for the fund are generated through a recordation surcharge on all real estate transactions. Prior to fiscal 2012, the surcharge was \$20. In response to concerns regarding the sustainability of the fund, Chapter 397 of 2011 (the Budget and Reconciliation Financing Act) increased the surcharge on all recordable instruments from \$20 to \$40 for fiscal 2012 through 2015. Pursuant to Chapter 397, the increase in the surcharge terminates June 30, 2015, and the fee reverts to \$20. The Judiciary advises that the expiration of the surcharge increase, which will decrease fund revenues by 50%, is projected to result in the fund being exhausted in fiscal 2017. Legislation introduced this year (Senate Bill 66/House Bill 51) would repeal the termination date of the increase in the surcharge.

MDEC

The Judiciary advises that through fiscal 2016, the State will have invested more than \$40 million in MDEC, which is an ongoing initiative to create an integrated case management system to be used by all of the courts in the State. Using the system, documents will be filed and served electronically through “e-filing” and “e-service.” Courts will collect, store, and process records electronically and will be able to instantly access complete records between courts. The official court record will be the electronic file maintained on the court’s servers. As MDEC is launched in each county, attorneys will be required to e-file. Attorneys are already required to use MDEC for all noncriminal pleadings filed in Anne Arundel County. By the end of fiscal 2016, MDEC is also scheduled to be implemented for noncriminal proceedings in all of the counties on the Eastern Shore.

The Judiciary indicates that this bill is intended to establish a single fee at the initiation of a case, and that without this legislation, the MDEC vendor will charge attorneys directly for the use of the e-filing system at an estimated cost of up to \$6 for every filing or motion within a case.

State Fiscal Effect: Special fund revenues increase by approximately \$5,182,774 annually. The information and assumptions used in calculating the estimate, based on filings in fiscal 2014, are stated below:

- the fees are waived in approximately 35% of the cases, with the exception of landlord and tenant cases filed in the District Court, in which fees are waived in approximately 5% of cases;
- the surcharge is collected in 1,684 Court of Appeals and Court of Special Appeals cases annually, generating revenues of approximately \$18,500;
- the surcharge is collected in 173,443 circuit court cases annually, generating revenues of at least \$2.6 million;
- the surcharge is collected in more than 800,000 cases in the District Court annually, generating revenues of approximately \$2.5 million; and
- the number of filings remains constant.

Although the bill does not *require* additional special fund expenditures, the Judiciary indicates that the surcharge revenue generated under this bill will be remitted to the

Judiciary's vendor to cover the costs associated with the electronic filing of case records in the MDEC case management system.

General fund expenditures increase by \$25,600 in fiscal 2016 only for the Judiciary to make programming changes.

Additional Information

Prior Introductions: SB 32 of 2014 received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 108, received an unfavorable report from the House Judiciary Committee.

Cross File: HB 54 (Chair, Judiciary Committee)(By Request - Maryland Judicial Conference) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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