

**Department of Legislative Services**  
 Maryland General Assembly  
 2020 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

House Bill 529

(Delegates McIntosh and Clippinger)(By Request -  
 Maryland Judicial Conference)

Judiciary

Judicial Proceedings

**Circuit Court Real Property Records Improvement Fund - Surcharge on  
 Recordable Instruments**

This bill alters, from \$20 to \$40, the amount of the surcharge on recordable instruments. Money from the surcharge is deposited into the Circuit Court Real Property Records Improvement Fund. **The bill takes effect July 1, 2020.**

**Fiscal Summary**

**State Effect:** Special fund revenues increase by \$14.6 million annually beginning in FY 2021, assuming the number of records to which the surcharge applies remains constant. Expenditures are not directly affected.

(\$ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
SF Revenue	\$14.6	\$14.6	\$14.6	\$14.6	\$14.6
Expenditure	0	0	0	0	0
Net Effect	\$14.6	\$14.6	\$14.6	\$14.6	\$14.6

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

**Local Effect:** Circuit courts continue to have funding specifically allocated for land records operations after FY 2022.

**Small Business Effect:** Potential meaningful.

**Analysis**

**Current Law/Background:** The clerk’s office of the circuit court in each county and Baltimore City imposes a surcharge on each recordable instrument that is recorded among

the jurisdiction's land records or financing statement records. A "recordable instrument" includes any deed, grant, mortgage, deed of trust, lease, assignment, and release that pertains to any interest in property or land, including an interest in rents and profits from rents. The surcharges are deposited in the Circuit Court Real Property Records Improvement Fund, which is managed by the State Court Administrator with advice from a five-member oversight committee.

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 (IT) development projects. 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. Chapter 487 of 2015 continued the \$40 surcharge through July 1, 2020; the surcharge reverts to \$20 on July 1, 2020.

The fiscal 2021 State budget includes \$47,413,435 in the fund to support land record operations, as well as systems maintenance and major IT projects. The Judiciary advises that the expiration of the surcharge increase, which will decrease fund revenues by 50%, will result in the fund being exhausted in fiscal 2022. In addition to eliminating the source of funding for all land record operations, which includes 235 employees, the expiration of the increase in the surcharge will also impact the Judiciary's ongoing IT projects.

**State/Local Fiscal Effect:** According to the Judiciary, revenues from the surcharge are projected to total \$14,641,321 in fiscal 2021 if the provisions authorizing the increase in the surcharge terminate pursuant to current law. Special fund revenues from the filing fee surcharge in fiscal 2020, the last year for which the \$40 surcharge is authorized, are estimated at \$29,282,641. Therefore, if the number of cases for which the surcharge is imposed remains constant, special fund revenues increase by \$14,641,321 annually beginning in fiscal 2021, which reflects continuation of the \$40 surcharge.

Special fund expenditures are not directly affected. However, as previously indicated, if the increase in the surcharge is not extended beyond fiscal 2020 and the fund continues to support operations of the land records offices and IT projects, the fund is projected to be depleted by fiscal 2022. The continuation of the \$40 surcharge allows the fund to continue to support operations of the land records offices within the circuit courts without the need for a reallocation of general funds. The continuation of the increased surcharge also helps

maintain funding of the Maryland Electronic Courts initiative and other ongoing IT projects, which are designed to improve operational efficiency within the courts.

**Small Business Effect:** Continuing the surcharge at the increased \$40 level protects funding for land records offices within circuit courts, which is a critical function in real estate transactions for small businesses such as law firms and title companies.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 256 (Chair, Judicial Proceedings Committee)(By Request - Maryland Judicial Conference) - Judicial Proceedings., SB 256 (Chair, Judicial Proceedings Committee)(By Request - Maryland Judicial Conference) - Judicial Proceedings.

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

**Fiscal Note History:** First Reader - January 31, 2020  
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