

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 143

(Chair, Judicial Proceedings Committee)

(By Request – Maryland Judicial Conference)

Judicial Proceedings

Appropriations

Real Property - Electronic Recording Pilot Program

This bill authorizes the Administrative Office of the Courts to establish a pilot program for electronic recording of instruments in the land records, to be governed by Maryland Rule 16-307. The program may waive or modify any method, procedure, or clerical or technical requirement for recording or indexing. The program will be paid for out of the Circuit Court Real Property Records Improvement Fund.

An instrument filed in accordance with the pilot program shall be valid and effective, and remain validly and effectively recorded and indexed, to the same extent as a substantively identical paper instrument filed at the same time.

The bill takes effect June 1, 2007 and remains effective for the period that the plan for the pilot program is authorized by the Court of Appeals.

Fiscal Summary

State Effect: Special fund expenditures from the Circuit Court Real Property Records Improvement Fund would increase by a potentially significant amount, depending on the number of courts participating in the pilot program. In the long term, expenditures by the Judiciary and the State Department of Assessments and Taxation may decrease as a result of operational efficiencies.

Local Effect: In the long term, the bill could result in decreased expenditures by county finance offices from streamlined processes.

Small Business Effect: No effect, although the goal of the bill is to streamline the process of land recording, eventually resulting decreased small business expenditures.

Analysis

Current Law: Generally, a deed or other instrument that grants an inheritance or freehold estate in land (ownership interest), declaration or limitation of use, or leasehold estate above seven years must be properly executed and recorded in the land records in order to take effect. Any other instrument that affects property, including any contract for the grant of property or any subordination agreement establishing priorities between interests in property, may be recorded. The recording of such an instrument constitutes constructive notice from the date of its recording. Chapter 40 of 2004 streamlined this process by repealing the requirement in many counties that all deeds be presented at the local assessment office prior to recordation.

The Circuit Court Real Property Records Improvement Fund is managed and supervised by the State Court Administrator, with advice from an oversight committee. The fund consists of \$20 surcharge on each instrument recorded among land records and financing statement records, and revenues from photocopying. The fund is used to pay the operating expenses of the land records office of the clerks of the circuit court and to repair, replace, improve, and modernize office equipment in the land records offices.

Maryland Rule 16-307 authorizes a county administrative judge to submit to the State Court Administrator a plan for a pilot project for the electronic filing of pleadings and papers. The State Court Administrator is required to review the plan and make a recommendation to the Court of Appeals. A plan may not be implemented unless approved by administrative order of the Court of Appeals. A plan must terminate two years after the date of the administrative order unless the court terminates it earlier or modifies or extends it by a subsequent order. The Chief Judge may appoint a committee to monitor and evaluate the plan. After considering the recommendations of the committee, the Court of Appeals must evaluate the operation of the plan before the expiration of the two-year period.

Background: According to the National Conference of State Legislators, seven states have passed some form of a “Uniform Real Property Recording Act,” promulgated by the Uniform Law Commissioners in 2004. This Act enables state and local governments to accept the recording of property records in electronic format.

State Fiscal Effect: The Circuit Court Real Property Records Improvement Fund had a \$54.7 million fund balance as of the June 30, 2006. The proposed fiscal 2008 budget

includes a special fund expenditure of \$30.9 million from the fund, of which \$16.3 million helps fund the operation of the clerks of the circuit court including records of land instruments and other documents. The allowance does not include funding for the pilot program. Expenditures to implement the pilot program in fiscal 2008 would thus come from the fund balance. These expenditures, however, cannot be reliably estimated at this time, but could be significant depending on the size and scope of the pilot program.

On the other hand, since the goal of this pilot program is to improve the efficiency of land record filings, administrative expenditures by the Judiciary and the State Department of Assessments and Taxation could decrease in the long term.

Additional Information

Prior Introductions: None.

Cross File: HB 331 (Chair, Appropriations Committee) (By Request – Maryland Judiciary) – Appropriations.

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

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