



ADMINISTRATIVE OFFICE OF THE COURTS

MARYLAND JUDICIAL CENTER
580 TAYLOR AVENUE
ANNAPOLIS, MARYLAND 21401

Pamela Harris
State Court Administrator
410-260-1295

September 1, 2015

Honorable Edward J. Kasemeyer, Chair
Senate Budget & Taxation Committee
3 West, Miller Senate Building
Annapolis, Maryland 21401-1991

Honorable Robert A. Zirkin, Chair
Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401-1991

Honorable Maggie McIntosh, Chair
House Appropriations Committee
Lowe House Office Building, Room 121
Maryland 21401-1991

Honorable Joseph F. Vallario, Jr., Chair
House Judiciary Committee
Lowe House Office Bldg., Room 121 Annapolis,
Annapolis, Maryland 21401-1991

Re: Circuit Court Real Property Records Improvement Fund

Dear Chairpersons:

In accordance with Chapter 556, Acts of 1995, as amended by Chapter 10, Acts of 1996, and Section 2-1246 of the State Government Article, this annual report covering Fiscal Year 2015 is submitted respectfully to account for the condition of the Circuit Court Real Property Records Improvement Fund (the Fund).

Twenty-four years ago, the General Assembly enacted legislation creating the Fund in response to the deteriorating conditions and the state of operations in the land record departments of the Clerk of Court offices throughout the State. Through the assessment of a surcharge, the legislation established a non-lapsing fund. As a result of the Budget Reconciliation and Financing Act of 2003, the surcharge fee for recordable instruments was \$20.

The Fund, when created in 1991, had an original sunset provision that was lifted in 1995 and was thereafter extended on three occasions and was eventually removed in 2007. During the 1995 Session of the General Assembly, a Fund Oversight Committee was created to serve as an advisory body to the State Court Administrator for the management of Fund expenditures. The five member committee consists of representatives from the Maryland Land Title Association, the Maryland State Bar Association, the Maryland State Archives, the Conference of Circuit Court Clerks and the Administrative Office of the Courts. This past year the Fund Oversight Committee and the State Court Administrator agreed to move forward with the eRecording initiative for the recordation of the land records by linking agencies and providing a secure web

Hon. Edward J. Kasemeyer
Hon. Maggie McIntosh
Hon. Robert A. Zirkin
Hon. Joseph F. Vallario, Jr.
September 1, 2015
Page 2

portal to move documents through the State Department of Assessments and Taxation, local Finance Offices, Clerk's offices and the Maryland State Archives (the Archives). The overall purpose of this endeavor is to reduce processing times; increase productivity in Clerks' Offices, title companies and financial institutions; ensure security; and improve tracking and data accuracy in safekeeping official public information in accordance with local, state and federal laws. This system will provide the ability to eliminate some level of paper from the land record recording process and automate time-consuming processes. In compliance with MD Rule 16-307, Judiciary Information Systems (JIS) has conducted research on eRecording products and services, worked with land record department staff, the Clerk of the Baltimore County Circuit Court, title industry representatives and Baltimore County finance offices to determine initial requirements for a pilot eRecording initiative. The pilot began in May 2015 and is currently being evaluated.

Continuing with the history of the Fund, in 2005 the General Assembly mandated that all General Fund expenditures related to land records operations, support and salaries of over 256 employees would no longer be supported by the General Fund, but rather, would be appropriated from the Fund. Thereafter, in November 2007, during the Special Session, the General Assembly passed the Budget Reconciliation and Financing Act (HB 1/SB 1, Ch. 2). This Act repealed the sunset provision and expanded the scope of the Fund to include all the Judiciary's major information technology development projects for Fiscal Years 2009 and 2010. In 2010, the General Assembly, in the Budget Reconciliation and Financing Act, removed the sunset provision for the support of the Judiciary's major information technology projects and made permanent the expenditures for all major information technology projects would be paid through the Fund. In addition, all interest on the Fund's balance was diverted to the General Fund.

In 2011, the General Assembly through the Budget Reconciliation and Financing Act increased the Fund surcharge to \$40 effective July 1, 2011, in an attempt to address a structural deficit and to sustain the Fund through Fiscal Year 2015 in anticipation of a real estate market recovery. Unfortunately, the market recovery anticipated has yet to materialize. In addition, the General Assembly authorized the transfer of \$10 million from the Fund to the General Fund in Fiscal Year 2012 and restored the sunset provision that was due to expire on July 1, 2015. (HB 72, Chapter 397). In Fiscal Year 2015 the General Assembly extended the sunset provision until Fiscal Year 2020.

Recently, the 2015 Joint Chairmen's Report directed the Judiciary and the Archives to report on the Archives' expenditures of money granted to them from the Fund, as well as the agreement between the Archives and the Judiciary. The requested report will be provided under separate cover. Under the new administration of the Judiciary, a comprehensive review of grants and memorandums of understanding (MOU) has been underway. One such MOU review is the agreement with the Archives. The Judiciary has recommended that an independent audit be conducted to review procedures established by the Archives to collect expenditure data, as well as to conduct a comparative analysis of mdlandrec expenditure categories and industry-accepted

Hon. Edward J. Kasemeyer
Hon. Maggie McIntosh
Hon. Robert A. Zirkin
Hon. Joseph F. Vallario, Jr.
September 1, 2015
Page 3

standards for maintenance expenditure categories for major technology projects of a similar nature developed using the same technologies. With resulting clarity, it is the intention of the Judiciary to work with the Archives and Legislative leadership to identify a reasonable timeline over which funding can be adjusted. As a result the MOU between the Archives and the Judiciary for five million dollars has been limited to a one-year term for Fiscal Year 2016.

During the 2015 session, the General Assembly enacted legislation authorizing the State Court Administrator to assess a surcharge on cases filed in the appellate courts and civil cases filed in the circuit courts. The legislation also authorized the Chief Judge of the District Court to assess a surcharge on civil cases filed in that court. The surcharges must be deposited into the Fund and be used to cover costs related to e-filing hosting services for the statewide case management system, including system modifications to enhance electronic filing capabilities, and other expenses specific to the jurisdictional rollout of the electronic filing capabilities statewide. At this time, it is projected that the surcharges will generate approximately \$6.2 million per year to be directed to the aforementioned purpose.

Current Fund Conditions

As can be seen from the Circuit Court Real Property Records Improvement Fund Collections, Chart 1 below, collections are exhibited from Fiscal Year 2005 through Fiscal Year 2015 and vary from \$15,820,528 to \$38,370,016. In the Aggregate Fund Collection, Chart 2 below, Fund collections fluctuate from year to year due to the variability in the real estate market. Collections for Fiscal Year 2014 were \$30.5 million, which represented a significant decrease of approximately \$7.9 million from Fiscal Year 2013. Collections for Fiscal Year 2015 were \$28.9 million, a decline of \$1.6 million from Fiscal Year 2014.

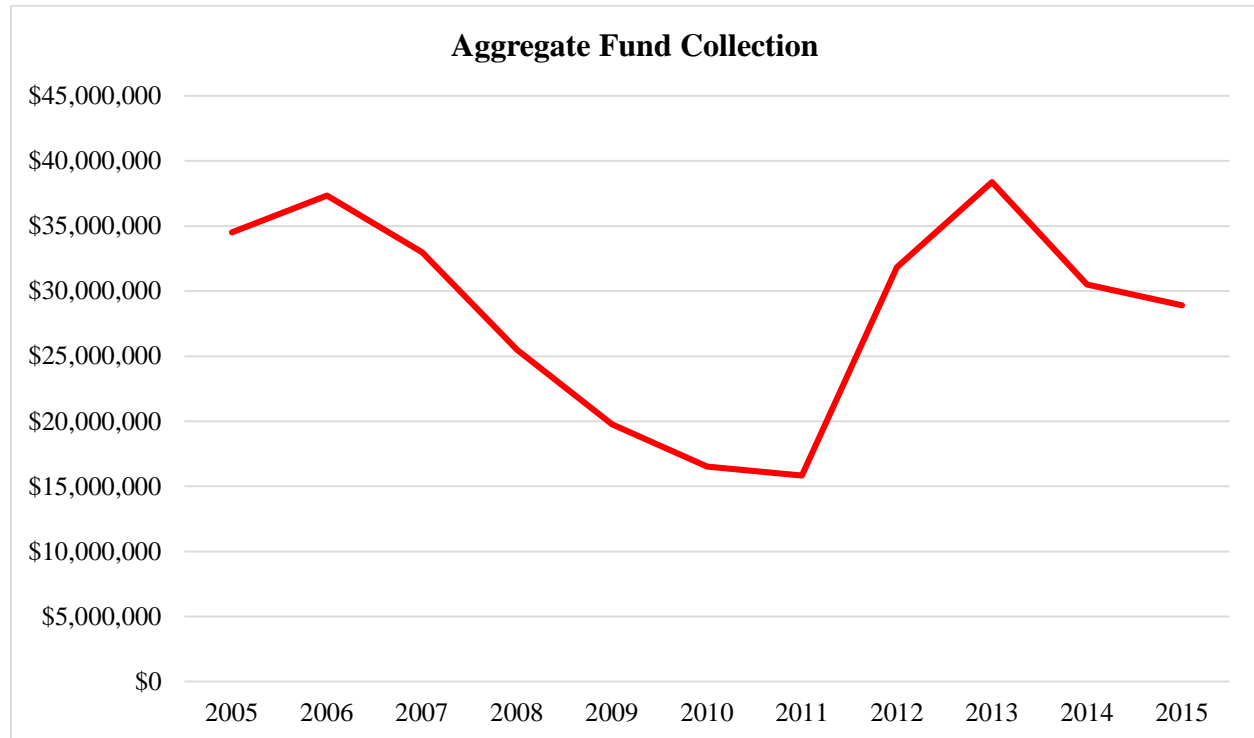
Chart 1

Circuit Court Real Property Records Improvement Fund Collections				
Fiscal Year	Surcharge	Copy Fees	Interest	Total
FY2005	31,007,605	2,469,471	1,046,727	\$34,523,803
FY2006	32,291,633	1,961,261	3,088,274	\$37,341,169
FY2007	28,049,949	1,132,130	3,804,311	\$32,986,390
FY2008	20,944,174	796,303	3,747,098	\$25,487,575
FY2009	16,430,433	703,286	2,624,747	\$19,758,467
FY2010*	16,033,336	488,862	-	\$16,522,199
FY2011	15,350,066	470,461	-	\$15,820,528
FY2012**	31,392,458	443,025	-	\$31,835,483
FY2013	37,979,669	390,347	-	\$38,370,016
FY2014	30,112,239	385,353	-	\$30,497,592
FY2015	28,467,020	438,502	-	\$28,905,521

* Per 2010 BRFA, interest was reverted to the General Fund

** Surcharge was increased from \$20 to \$40

Chart 2



Due to the lack of reliable trend data to establish a predictable direction, the judiciary has maintained a conservative position with respect to our projected revenue estimates by using a two year average of collections from Fiscal Years 2014 and 2015 to forecast future revenues through Fiscal Year 2019. As delineated in Circuit Court Real Property Records Improvement Fund Projection, Chart 3 below, revenues are anticipated to approximate \$29.7 million per year from Fiscal Year 2016 to Fiscal Year 2019. As noted below, in Fiscal Year 2017 the structural deficit of the Fund would appear to cease, however, the level of funding the Judiciary will provide the Archives remains to be determined.

CHART 3

CIRCUIT COURT REAL PROPERTY RECORDS IMPROVEMENT FUND PROJECTION					
	FY 2015 Actual	FY 2016 Estimated	FY 2017 Estimated	FY 2018 Estimated	FY 2019 Estimated
Revenues:					
Surcharge/Fees	\$28,905,521	\$29,702,000	\$29,702,000	\$29,702,000	\$29,702,000
e-Filing Service Fees	0	6,210,000	6,210,000	6,210,000	6,210,000
Total	\$28,905,521	\$35,912,000	\$35,912,000	\$35,912,000	\$35,912,000
Operations:	Actual	Appropriated	Estimated	Estimated	Estimated
ELROI Operations/Maintenance*	\$1,904,413	\$2,642,132	\$3,874,000	\$3,074,000	\$3,074,000
Archives - mdlandrec**	5,000,000	5,000,000	TBD	TBD	TBD
Circuit Court Offices*	13,441,507	13,754,007	14,084,007	14,314,007	14,544,007
Major IT Projects*	21,054,067	20,802,239	15,413,598	16,095,184	14,959,695
Total	\$41,399,987	\$42,198,378	\$33,371,605	\$33,483,191	\$32,577,702
Projected Structural Surplus/(Shortfall)	(\$12,494,466)	(\$6,286,378)	\$2,540,395	\$2,428,809	\$3,334,298
Less prior year encumbrances Expenses	2,513,077	633,056			
Total Fund Balance (Accrual Basis)*	\$31,958,908	\$25,039,474	\$27,579,869	\$30,008,678	\$33,342,975

* Amount reflects Fiscal Year 2015 encumbrances.

** Amount to be determined based upon other funding for the Archives.

Hon. Edward J. Kasemeyer
Hon. Maggie McIntosh
Hon. Robert A. Zirkin
Hon. Joseph F. Vallario, Jr.
September 1, 2015
Page 6

If the committees require further information, please direct all inquiries and questions to my attention at 410-260-1295. In anticipation of your cooperation, I thank you.

Sincerely yours,



Pamela Harris
State Court Administrator

cc: Honorable Mary Ellen Barbera, Chief Judge
Conference of Circuit Court Judges
Conference of Circuit Court Clerks
Honorable James E. DeGrange, Sr, Senator
Honorable Keith Haynes, Delegate
Faye D. Matthews, Deputy State Court Administrator
Timothy D. Baker, Maryland State Archivist
Land Records Oversight Committee
Ben Wilhelm, Budget Analyst
Matthew Bennett, Policy Analyst
Dana Tagalicod, Policy Analyst
Kelley O'Connor, Assistant Administrator, Government Relations
Allen Clark, Director, Budget and Finance
Mark Bittner, Assistant Administrator, Judicial Information Systems