

Response to Questions on the FY 2010 County's Line of Business & Schools Program Review Processes Fall 2008

Request By: Supervisor McKay

Question: Please provide information comparing Circuit Court fee levels compared to neighboring jurisdictions and state maximum levels.

Response: Circuit Court fees are mandated by the Code of Virginia and specific fee amounts are imposed for the following areas:

- Public Services
- Fiduciary/Probate
- Land Records
- Civil
- Criminal

The code does not mandate but grants leeway in the following areas:

1. City/County Probate Tax - 58.1-1718

In addition to the state tax imposed by § [58.1-1712](#), the governing body of any county and the council of any city **may** impose a county or city tax on the probate of every will or grant of administration as provided in § [58.1-3805](#). Such tax shall be in an amount equal to one-third of the amount of the state tax on such probate of a will or grant of administration.

Analysis: Arlington and Loudoun are the only other local jurisdictions that charge a County Probate Tax. Based on a decision by the Fairfax County Board of Supervisors, Circuit Court currently does not charge a County Probate Tax. Potential revenue to Fairfax County from a County Probate Tax is estimated to be \$243,000 per year. This estimate is based on FY 2008 State Probate Taxes collected.

2. Electronic filing of land records - § [17.1-258.3:1](#)

A clerk of a circuit court may provide a network or system for electronic filing of land records in accordance with the Uniform Real Property Electronic Recording Act (§ [55-142.10](#) et seq.) and the provisions of Article 2.1 (§ [55-66.8](#) et seq.) of Chapter 4 of Title 55 regarding the satisfaction of mortgages. The clerk may charge a fee to be assessed for each instrument recorded electronically in an amount not to exceed **\$5 per document**. The fee shall be paid to the clerk's office and deposited by the clerk into a special non-reverting local fund to be used to cover operational expenses of such network or system. Operational expenses of such network or system shall include, but not be limited to, computer support, maintenance, enhancements, upgrades, and replacements, and consulting services. The clerk shall

enter into an electronic filing agreement with each filer in accordance with Virginia Real Property Electronic Recording Standards established by the Virginia Information Technologies Agency. Nothing herein shall be construed to prevent the clerk from entering into agreements with designated application service providers to provide all or part of the network or system for electronic filing of land records as provided herein.

Analysis: No other local jurisdiction currently imposes this \$5 per document fee. Prince William County uses a third party vendor to provide this service and the vendor charges a fee of \$3.50 per document. Prince William County has elected **not** to pass on this fee to their customers as an incentive to use this time saving system. Potential revenue to Fairfax County for charging this fee is estimated to be \$75,470 and is based on the total number of Certificates of Satisfaction documents filed electronically in FY 2008.