

DEPARTMENT OF TAXATION

2009 Fiscal Impact Statement

1. **Patron** Richard L. Saslaw

2. **Bill Number** SB 1157

3. **Committee** Passed House and Senate

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Recordation Tax: Class 1 Misdemeanor for Misrepresentation

Second House:

☐ In Committee

☐ Substitute

☒ Enrolled

5. **Summary/Purpose:**

This bill would specify that any person who knowingly misrepresents the consideration for the interest in property conveyed by a deed or other instrument or any of the other information requested by the clerk of court would be guilty of a Class 1 misdemeanor. In addition, if an understatement of the consideration is false or fraudulent with intent to evade a tax, a penalty equal to 100 percent of the tax due on the understatement would be added to the amount of the tax due, and interest would be imposed on the tax.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7. **Budget amendment necessary:** Yes.

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8. **Fiscal implications:**

Administrative Costs

There would be no administrative cost to TAX to implement this bill. Local clerks of the Circuit Court may incur implementation costs.

Revenue Impact

Because TAX is unable determine the number of taxpayers who will be subject to the new penalty imposed by this bill, the revenue impact of this bill is unknown.

9. **Specific agency or political subdivisions affected:**

Department of Taxation
Clerks of the Circuit Courts
All Cities and Counties

10. Technical amendment necessary: No.

11. Other comments:

Background

Under current law, any person who knowingly misrepresents any of the information requested by the clerk of court regarding the recordation tax is guilty of a Class 2 misdemeanor. The punishment for a Class 2 misdemeanor is confinement in jail for not more than six months or a fine of not more than \$1,000, or both.

Proposal

This bill would specify that any person who knowingly misrepresents the consideration for the interest in property conveyed by a deed or other instrument or any of the other information requested by the clerk of court would be guilty of a Class 1 misdemeanor. In addition, if an understatement of the consideration is false or fraudulent with intent to evade a tax, a penalty equal to 100 percent of the tax due on the understatement would be added to the amount of the tax due, and interest would be imposed on the tax from the time the tax was required to be filed until it was paid.

The punishment for a Class 1 misdemeanor is confinement in jail for not more than twelve months or a fine of not more than \$2,500, or both.

The effective date of this bill is not specified.

Similar Legislation

House Bill 2135 is identical to this bill.

The conference report for **House Bill 1600** would require TAX to convene a working group, consisting of representatives of associations representing real estate businesses in Virginia, the Virginia Association of Realtors, the Virginia Court Clerks Association, the Virginia Association of Counties, and the Virginia Municipal League, to review and make recommendations about the basis on which recordation and grantor taxes are calculated.

The working group would be required to study enforcement and implementation issues. In addition, the group would be required to study the magnitude of the fiscal impacts of the current recordation tax law, and the proposed changes to the law. The study would be due by November 30, 2009.

Senate Bill 1309 would expand the existing recordation tax exemption applicable to conveyances of affordable housing by nonprofit organizations to all localities in the Commonwealth.

cc : Secretary of Finance

Date: 3/6/2009 TLG
SB1157FER161