

DEPARTMENT OF TAXATION

2009 Fiscal Impact Statement

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| 1. Patron Robert Hurt | 2. Bill Number <u>SB 1309</u> |
| 3. Committee Passed House and Senate | House of Origin:
<u> </u> Introduced
<u> </u> Substitute
<u> </u> Engrossed |
| 4. Title Recordation Tax: Exemption for Affordable Housing Expanded | Second House:
<u> </u> In Committee
<u> </u> Substitute
<u> X </u> Enrolled |

5. Summary/Purpose:

This bill would expand the existing recordation tax exemption applicable to conveyances of affordable housing by nonprofit organizations to all localities in the state. Currently the exemption applies only in Amherst County and the City of Lynchburg.

The effective date of this bill is not specified.

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

7. Budget amendment necessary: Yes.

Page 1, Revenue Estimates

8. Fiscal implications:

Administrative Costs

There would be no administrative costs to TAX to implement this bill, as the recordation tax is collected by the clerks of the local Circuit Courts. The cost for local courts to implement this bill is unknown.

Revenue Impact

This recordation tax exemption is available to nonprofit organizations that are organized and operated to acquire real property and purchase materials to erect or rehabilitate housing that is subsequently sold to individuals who otherwise could not afford to buy a house. When the original exemptions were enacted in 1999 (Amherst) and 2000 (City of Lynchburg), TAX was aware of only one organization that would possibly qualify for the exemption, which was Habitat for Humanity.

Habitat for Humanity organization builds or renovates homes, sells them at cost, and holds a forgivable loan for the difference between the appraised value and the cost. This loan is then due upon the sale of the property to prevent new owners from selling it for a profit. The average value of a Habitat for Humanity home in Virginia is \$120,000 and, on

average, it sells for \$85,000. Virginia Habitat for Humanity affiliates have built approximately one hundred homes per year over the last four years.

The recordation tax for a Habitat for Humanity Home is applied to the value of the home, since it is greater than the consideration. Thus, the recordation tax paid on a Habitat home averages \$300 per home. If ninety-two homes that are currently not exempt are built in a year, the total impact would be a revenue loss of \$27,600 per year.

Currently, \$0.02 per \$100 of value of recordation taxes collected are deposited into the Transportation Trust Fund and \$0.01 per \$100 goes to the highway operating fund. Therefore, the revenue impact would be spread between these funds and the General Fund. The distribution of the impact would be a loss of \$24,288 to the General Fund, a loss of \$2,208 per year to the Transportation Trust Fund, and a loss of \$1,104 per year to the nongeneral fund.

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

This recordation tax exemption is available to nonprofit organizations that are organized and operated to acquire real property and purchase materials to erect or rehabilitate housing that is subsequently sold to individuals who otherwise could not afford to buy a house. When this exemption was enacted in 1999, it was only applicable to such an organization that was located in a city with a population between 28,500 and 28,650. In 2000, the exemption was expanded to include organizations located in a city with a population between 66,000 and 70,000. At the time the exemption was created, the primary organization that was expected to benefit was Habitat for Humanity, Inc.

In 2007, the population brackets were replaced and Amherst County and the City of Lynchburg were named.

Proposal

This bill would exempt from the recordation tax deeds and deeds of trust recorded in connection with the efforts of Habitat for Humanity and similar charitable organizations in Virginia that build low-cost housing for people who could not otherwise afford a house.

The effective date of this bill is not specified.

Similar Legislation

House Bill 2135, as passed by the General Assembly, 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.

Senate Bill 1157, as amended, would require the recordation tax on deeds to be based solely upon stated consideration, or when it is less than the actual value of the real estate conveyed by the deed.

cc : Secretary of Finance

Date: 2/20/2009 TLG
SB1309FER161