

DEPARTMENT OF TAXATION

2017 Fiscal Impact Statement

1. **Patron** Robert D. Orrock, Sr.

3. **Committee** Passed House and Senate

4. **Title** Recordation Tax; Exemption for Certain Deeds

2. **Bill Number** HB 1478

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. Summary/Purpose:

This bill would clarify the law relating to an exemption from the recordation tax for deeds of trust or mortgages given by utility consumer services cooperatives or utility aggregation cooperatives.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Not available. (See Line 8.)

8. Fiscal implications:

Administrative Costs

There would be no administrative costs to the Department of Taxation or to the local Circuit Courts as it does not appear that the tax has been imposed on these instruments.

Revenue Impact

There would be no state or local revenue impact as it does not appear that the tax has been imposed on these instruments.

According to the National Rural Electric Cooperative Association, Virginia has 13 electric cooperatives.

9. Specific agency or political subdivisions affected:

Department of Taxation
Clerks of the Circuit Courts

10. Technical amendment necessary: No.

11. Other comments:

Background

Pursuant to *Va. Code* § 56-231.16, any number of five or more natural persons may form a utility consumer services cooperative, not organized for pecuniary profit, for the principal purpose of making energy, energy services, and other utility services available at the lowest cost consistent with sound economy and prudent management of the business of such cooperative.

Under *Va. Code* § 56-231.39, any utility consumer service cooperative or utility aggregation cooperative may form a cooperative, not organized for pecuniary profit, with the exception of for-profit affiliates for the purpose of purchasing, generating or transmitting energy products and services for sale or resale, operating or participating in an independent system operator, regional transmission entity, regional power exchange, or both.

According to America's Electric Cooperatives, Virginia has 22 utility cooperatives. Because they have access to funds provided by the Rural Utilities Service and CoBank, ACB, both of which are federal instrumentalities, most, if not all, borrowing has been from these entities. For many years the cooperatives have claimed their deeds of trust have been exempt as deeds conveying property to the United States.

Recordation Tax

The recordation statutes imposing the tax and granting exemptions have been amended many times since the 1928 Tax Code, some of which restructured the relevant code sections. As a result of a restructuring of the exemption section in 1980, an exemption for deeds conveying property to the government applied to deeds of trust. A 1994 amendment appears to have removed this exemption from application to deeds of trust although that was not the intent of the bill. Even though there has been no clear exemption in the law since 1994, deeds of trust have continued to be recorded by electric cooperatives exempt from the tax.

Proposal

This bill would clarify that there is an exemption from the recordation tax for deeds of trust or mortgages given by utility consumer services cooperatives or utility aggregation cooperatives organized pursuant to Chapter 9.1 of Title 56.

The effective date of this bill is not specified.

Similar Legislation

Senate Bill 875 is identical to this bill.

Senate Bill 806 would create the Interstate 73 Corridor Development Fund and provide that the first \$40 million of state recordation taxes would be distributed to the Fund annually effective upon the completion of the construction of and payments for all parts of

the U.S. Route 58 Corridor Development Program. The bill also would repeal the U.S. Route 58 Corridor Development Fund and U.S. Route 58 Corridor Development Program effective upon the completion of the construction of and payments for all parts of the Program.

cc : Secretary of Finance

Date: 2/14/2017 AM
DLAS File Name: HB1478FER161