

DEPARTMENT OF TAXATION

2017 Fiscal Impact Statement

1. **Patron** Kathleen J. Murphy

3. **Committee** House Finance

4. **Title** Recordation Tax; Refinanced Deeds of Trust and Mortgages

2. **Bill Number** HB 2038

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would exempt deeds of trust and mortgages securing the refinancing of an existing debt that was secured by a deed of trust or mortgage on which the state recordation tax was paid within the last two years.

Under current law, deeds of trusts and mortgages that secure the refinancing of an existing debt are taxed at the maximum rate of 18 cents per \$100 of the bond or other obligation secured by the deed of trust or mortgage.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

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

8. **Fiscal implications:**

Administrative Costs

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

Revenue Impact

To the extent that the bill would exempt deeds of trust and mortgages that refinance existing debt that was secured by a deed of trust or mortgage on which the recordation tax was paid within the last two years, this bill would result in an unknown, but potentially substantial, decrease in state recordation tax revenues. In Fiscal Year 2015, the recording of deeds of conveyance, deeds of trust, other deeds, and contracts resulted in approximately \$332.2 million in state recordation tax revenues. From 2006 through 2016, refinanced mortgages represented 56 percent of the total dollar amount of all mortgages.

The first \$40 million of the state recordation tax is dedicated to the U.S. Route 58 Corridor Development Fund and another \$40 million of the state recordation tax is apportioned and distributed back to each county and city, subject to certain transfers. Additionally, out of the total state recordation tax collected, \$0.02 per \$100 of value are deposited into the Commonwealth Mass Transit Fund and \$0.01 per \$100 of value is deposited into the Commonwealth Transit Capital Fund. The remaining revenues are dedicated to the General Fund.

9. Specific agency or political subdivisions affected:

Department of Taxation
Clerks of the Circuit Courts

10. Technical amendment necessary: No.

11. Other comments:

State Recordation Tax

Under current law, every deed of trust or mortgage admitted to record, except a deed exempt from taxation by law, is subject to a state recordation tax. Generally, the tax is imposed in the amount of \$0.25 per \$100 or fraction thereof of the amount of bonds or other obligations secured by the deed of trust. If the amount of the obligation cannot be ascertained, the tax is based on the fair market value of the property conveyed. An additional recordation tax may be imposed by cities and counties in an amount equal to one-third of the state tax.

Prior to July 1, 2012, a recordation tax exemption was allowed for any deed of trust or mortgage that was refinanced with the same lender for the principal amount of the original debt. No recordation tax was owed on a deed of trust or mortgage refinanced with the same lender unless additional funds are borrowed. If a deed of trust or mortgage was not deemed to be refinanced with the same lender, then it was subject to recordation tax, up to the maximum of 25 cents per \$100 of the consideration of the deed or the actual value of the property conveyed.

Effective for refinanced deeds of trust and mortgages recorded beginning July 1, 2012, legislation enacted in the 2012 General Assembly Session, Senate Bill 409 (2012 *Acts of Assembly*, Chapter 820), equalized the recordation tax rate for all refinanced deeds of trust by establishing a maximum recordation tax rate of 18 cents per \$100 on refinanced deeds of trust, regardless of whether the loan is refinanced with the same lender or a different lender, determined in accordance with the following schedule:

- 18 cents for every \$100 or portion thereof on the first \$10 million of value;
- 16 cents for every \$100 or portion thereof on the next \$10 million of value;
- 14 cents for every \$100 or portion thereof on the next \$10 million of value;
- 12 cents for every \$100 or portion thereof on the next \$10 million of value; and

- 10 cents for every \$100 or portion thereof on all over \$40 million of value.

The first \$40 million of the state recordation tax is dedicated to the U.S. Route 58 Corridor Development Fund and another \$40 million of the state recordation tax is apportioned and distributed back to each county and city, subject to certain transfers. Additionally, out of the total state recordation tax collected, \$0.02 per \$100 of value are deposited into the Commonwealth Mass Transit Fund and \$0.01 per \$100 of value is deposited into the Commonwealth Transit Capital Fund. The remaining revenues are dedicated to the General Fund.

Proposal

This bill would exempt deeds of trust and mortgages securing the refinancing of an existing debt that was secured by a deed of trust or mortgage on which the state recordation tax was paid within the last two years.

The effective date of this bill is not specified.

Similar Legislation

House Bill 1478 and **Senate Bill 875** would provide 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.

House Bill 1489 would provide an exemption from the recordation tax for deeds conveying real estate or the lease of real estate to i) a subsidiary limited liability company or limited liability partnership from its parent limited liability company or limited liability partnership, or ii) a parent limited liability company or limited liability partnership from its subsidiary limited liability company or limited liability partnership. The bill also would provide an exemption from the recordation tax for deeds conveying real estate or the lease of real estate to a limited liability company, limited partnership, or general partnership from a commonly owned limited liability company, limited partnership, or general partnership, if the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code.

House Bill 1867 would require 20 percent of the revenues generated by the state recordation tax deposited in the state treasury in excess of \$325 million each fiscal year to be transferred the Virginia Housing Trust Fund no later than September 1 of the immediately following fiscal year. The transfer would not apply to recordation tax revenues generated by the open-space preservation fee or the regional congestion relief fee.

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: 1/22/2017 AM
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