

DEPARTMENT OF TAXATION

2011 Fiscal Impact Statement

1. **Patron** David B. Albo

2. **Bill Number** HB 1431

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Recordation Tax: Reduce State Recordation
Tax Rate and Eliminate Refinancing
Exemption

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would reduce the recordation tax rate by 1.25 cents per \$100 for every deed of trust or mortgage, or supplemental indenture, admitted to record. The maximum recordation tax rate would be reduced from 25 cents per \$100 to 23.75 cents per \$100 of such amount.

This bill would also eliminate the reduced recordation tax based on deeds of trust or mortgages securing a refinanced mortgage with the same lender for the principal amount of the original debt.

This 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 TAX 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

The revenue impact of this bill is unknown. Reducing the recordation tax rate would cause a decline in the amount of recordation tax collected, while eliminating the reduction in tax based on refinancing would increase the amount of recordation tax collected.

The data available does not specify the amount of recordation tax that is collected on deeds of trust or mortgages. Further, of the amount collected on deeds of trust or mortgages, that data does not indicate the amount that is due to refinancing.

Generally, when interest rates are dropping refinancing activity tends to increase, and when interest rates are rising refinancing activity tends to decrease. After a period of record low interest rates, it is expected that interest rates would either remain the same or begin to rise, and that most people who are candidates for refinancing would already have done so. Therefore, it is unlikely that eliminating the refinancing exemption would be enough to offset fully the revenue loss from the rate reduction for deeds of trust or mortgages, and this bill would have an unknown, but potentially significant negative revenue impact on the General Fund, the Transportation Trust Fund and local recordation tax revenue.

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:

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. This tax is imposed in the amount of twenty-five cents for every \$100 or fraction thereof of the consideration of the deed or the actual value of the property conveyed, whichever is greater. The maximum tax on the recordation of any deed of trust or mortgage or on any supplemental indenture is determined in accordance with the following schedule:

- 25 cents for every \$100 or portion thereof on the first \$10 million of value;
- 22 cents for every \$100 or portion thereof on the next \$10 million of value;
- 19 cents for every \$100 or portion thereof on the next \$10 million of value;
- 16 cents for every \$100 or portion thereof on the next \$10 million of value; and
- 13 cents for every \$100 or portion thereof on all over \$40 million of value.

The clerk of the court in which the deed or mortgage is recorded collects the tax and distributes the amount to the state treasury. Out of the total recordation tax collected, three cents per \$100 of value are deposited into the Transportation Trust Fund.

Recordation Tax Refinance Exemption

Under current law, a recordation tax exemption is allowed for any deed of trust or mortgage that is refinanced with the same lender for the principal amount of the original debt.

A 1992 Virginia Attorney General opinion established that the phrase "existing debt with the same lender" means that the lender who is providing the new financing must be the same person that owns the existing debt being refinanced. See 1992 Op. Va. Att'y Gen, at 181.

Proposal

This bill would reduce the recordation tax rate by 1.25 cents per \$100 for every deed of trust or mortgage, or supplemental indenture, admitted to record. The maximum recordation tax rate would be reduced from 25 cents per \$100 to 23.75 cents per \$100 of such amount.

The maximum tax on the recordation of any deed of trust or mortgage or on any supplemental indenture would be determined in accordance with the following schedule:

- 23.75 cents for every \$100 or portion thereof on the first \$10 million of value;
- 20.75 cents for every \$100 or portion thereof on the next \$10 million of value;
- 17.75 cents for every \$100 or portion thereof on the next \$10 million of value;
- 14.75 cents for every \$100 or portion thereof on the next \$10 million of value; and
- 11.75 cents for every \$100 or portion thereof on all over \$40 million of value.

This bill would also eliminate the reduced recordation tax based on deeds of trust or mortgages, or supplemental recordings, securing a refinanced mortgage with the same lender for the principal amount of the original debt.

This effective date of this bill is not specified.

Similar Legislation

House Bill 1908 would change the basis on which recordation and grantor taxes are calculated to consideration, expand the refinancing exemption to any lender for three years, and increase the penalty for fraudulent understatement to 200%.

Senate Bill 780 would expand the current recordation tax exemption for refinancing an existing debt to include refinancing with a lender different than the original lender of the debt.

cc : Secretary of Finance

Date: 1/22/2011 TG
HB1431F161

