

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** S. Chris Jones

2. **Bill Number** HB 734

3. **Committee** Passed House and Senate

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Recordation and Grantor Taxes: Stated
Consideration

Second House:

☐ In Committee

☐ Substitute

☒ Enrolled

5. **Summary/Purpose:**

This bill would require that a deed or other document that conveys real property state on its first page the actual consideration in order to be admitted to record by the Clerk of the Circuit Court.

This bill would be effective for deeds or other documents submitted to record on or after July 1, 2012.

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 and grantor tax is collected by the clerks of the local Circuit Courts. The cost for the local courts to implement this bill is unknown, but the intent of this bill is to make administration of the recordation and grantor taxes easier.

Revenue Impact

This bill would have no revenue impact, as this bill is administrative in nature.

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:

Recordation and Grantor Taxes

The recordation taxes consist of several taxes imposed upon the recordation of deeds, deeds of trust, leases and contracts relating to real estate. The tax rate is 25 cents on every \$100 (or fraction of \$100) of the consideration or the actual value of the property conveyed, whichever is greater. An additional tax may be imposed by the localities equal to one-third of the state tax. In addition to the tax on deeds, a grantor tax is imposed at the rate of 50 cents on every \$500 (or fraction of \$500) of the consideration or value of the interest exclusive of the value of any lien or encumbrance.

Under current law, a deed or other document will not be submitted to record without certification from the Clerk of the Circuit Court of the amount of that was collected.

Misrepresentation Penalty

In 2009, the General Assembly (2009 Acts of Assembly, Chapter 95, House Bill 2135), made it a Class 1 misdemeanor to knowingly misrepresent 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. In addition, it established that 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 that interest would be imposed on the tax from the time the tax was required to be filed until it was paid.

Proposal

This bill would require that a deed or other document that conveys real property state on its first page the actual consideration in order to be admitted to record by the Clerk of the Circuit Court.

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Other Bills

Senate Bill 409 would restructure the recordation tax rate for refinanced deeds of trust by establishing a maximum recordation tax rate of 18 cents per \$100 on all refinanced deeds of trust, regardless of whether the loan is refinanced with the same lender or a different lender. **This is an Executive bill.**

House Bill 509 would clarify that, in any case in which the obligations described in a deed of trust are not fully secured because they exceed the fair market value of the property conveyed, the recordation tax is based on the fair market value of the property conveyed. **This is a Department of Taxation bill.**

cc : Secretary of Finance

