

# DEPARTMENT OF TAXATION

## 2015 Fiscal Impact Statement

1. **Patron** Richard H. Stuart

3. **Committee** Senate Commerce and Labor

4. **Title** Deeds of Trust or Mortgages; Maximum Tax.

2. **Bill Number** SB 999

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill would clarify the calculation of the tax on supplemental or modified deeds of trust or mortgages securing credit lines or open or revolving obligations would be based on the difference between the maximum obligation secured, regardless of whether such amount is actually owed or outstanding, and the maximum amount of debt secured at the time the original instrument was recorded.

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:**

The provision that would base the calculation of the tax on the difference between the maximum modified amount and the maximum original amount would reduce revenue. Current law bases the tax on the difference between the modified amount and the existing debt, i.e., the original debt reduced by any principal payments. In the case of a fixed loan, basing the tax on the amount of existing debt ties the tax to the cash advanced with the modification. While the proposed change does not affect the calculation of the tax due upon the modification of an open credit line, it would reduce the tax on modifications of fixed loans to the extent that any principal payments had been made on the original loan. The Department does not have sufficient data to estimate the fiscal impact of this change.

**9. Specific agency or political subdivisions affected:**

Clerks of the Circuit Courts

Department of Taxation

**10. Technical amendment necessary:** Yes.

Page 1 of the Introduced Bill, Line 49, after *open credit line or*  
*Strike and*

## 11. Other comments:

### Current Law

A deed of trust or mortgage securing a debt or other obligation is charged recordation tax based on the amount of the obligation secured. When a previously recorded deed of trust is subsequently modified to reflect an increase in the amount of the obligation secured the tax is based on the difference between the modified amount secured and the existing debt. However, when the deed of trust secures an open or revolving obligation the amount secured is deemed to be the maximum amount that may be outstanding.

### Proposed Legislation

This bill would clarify the language specifying that the recordation tax is computed on the maximum amount of a credit line or revolving account whether or not any amount is actually owed or outstanding at the time. It would also add language relating to computing the tax when the deed of trust securing such an obligation is subsequently modified. When a subsequent deed of trust supplements, wraps around or modifies an existing deed of trust securing such an obligation the recordation tax will be computed on the maximum amount secured that is in addition to the maximum amount that had been secured by the prior deed of trust. With respect to modifications of fixed loans, the bill would change the computation of the tax to the difference between the modified amount and the original amount instead of the existing debt.

### Similar Bills

**House Bill 1968** is substantially identical to this bill.

**House Bill 2161** makes technical changes to several recordation tax sections, including provisions related to deeds of trust that supplement or modify previously recorded deeds of trust.

cc : Secretary of Finance

Date: 1/24/2015 JPJ  
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