DEPARTMENT OF TAXATION
2016 Fiscal Impact Statement

1. Patron Brenda L. Pogge

2. Bill Number HB 339

House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
__X__ **Enrolled**

3. Committee Passed House and Senate

4. Title Recordation Tax; Exemption for Certain Deeds

5. Summary/Purpose:

This bill would provide an exemption from the recordation tax for deeds of trust or mortgages securing a loan made by a locality, or agency of a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development for the purpose of erecting or rehabilitating a home for the borrower and purchasing the land for such home. Additionally, the bill would provide an exemption from the grantor's tax for a grantor that is a locality at a judicial sale of tax-delinquent property.

Under current law, deeds of trust or mortgages securing a loan are generally subject to the state recordation tax at the rate of $0.25 per $100 or portion thereof of the amount of the bonds or other obligations secured by the deed of trust or mortgage. An additional recordation tax may be imposed by cities and counties in an amount equal to one-third of the state tax. Additionally, deeds, instruments, and writings by which realty is granted or conveyed to a purchaser are generally subject to a grantor's tax at the rate of $0.50 per $500.

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:

<u>Administrative Costs</u>

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 securing a loan made by a locality, or agency of a locality, to a low-income borrower for the purpose of erecting or rehabilitating a home for the borrower and purchasing the land for such home, this bill would result in an unknown, but likely minimal, decrease in state recordation tax revenues. The Virginia Department of Housing and Community Development estimates that its Community Development Block Grant program allows for loans by localities to rehabilitate approximately 58 houses annually and the average value of the liens recorded is $40,000. A recordation tax exemption for such loans would result in a revenue loss of approximately $5,000 each year.

As the exemption for deeds of trust and mortgages securing loans to low-income borrowers would also apply to the local recordation tax, the bill also would result in loss of local revenues, the magnitude of which is unknown, but minimal. According to *Virginia Local Tax Rates, 2014*, published by the Weldon Cooper Center for Public Service, 36 cities and 90 counties currently report imposing a local recordation tax.

The bill would also exempt deeds, instruments, or writings from the grantor's tax if the grantor is a locality at a judicial sale of tax-delinquent property. Under current law, 50 percent of the grantor's tax revenues are returned to the state treasury and 50 percent of the revenues are returned to the locality. As the exemption would apply to deeds, instruments, and writings upon which a locality pays the grantor's tax, the bill would result in an increase in local revenues from not having to pay the grantor's tax and an unknown, but likely minimal, decrease in state and local revenues from the grantor's tax.

9. Specific agency or political subdivisions affected:

Department of Taxation
Clerks of the Circuit Courts

10. Technical amendment necessary: No

11. Other comments:

Background

Several localities in Virginia currently provide low-interest rate financing for homebuyers who cannot qualify for other available financing using local, state, and federal resources. Eligibility for assistance is typically based on household size and income. The U.S. Department of Housing and Urban Development ("HUD") provides funds to states and localities to use, often in partnership with local nonprofit groups, for grants, direct loans, and loan guarantees or other forms of credit enhancements. The use of such funding is generally conditioned upon federal regulations and program policies. Under 24 C.F.R. § 5.603, "Low income family" is defined as "a family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes." The Virginia Department of Housing and Community Development ("DHCD") administers the Community Development Block Grant program that allows eligible localities to obtain grants for various purposes, including providing loans to low-income residents for rehabilitating their homes.

<u>Recordation Tax</u>

Under Virginia law, a deed is effective between the parties when the grantor delivers it to the grantee. Virginia offers a recordation system in each circuit court to record deeds and has enacted laws providing certain protections for buyers and lenders who rely on the information recorded in the circuit courts. Accordingly, Virginia imposes a tax for the privilege of using the recordation system to record deeds.

For deeds of trust, a tax is imposed on the amount of bonds or other obligations secured thereby. The amount of the tax on the first $10 million of value is 25 cents on every $100 or portion thereof of the amount of bonds or other obligations secured by the deed of trust, except in certain situations. The amount of tax is reduced on a sliding scale on the value above $10 million. An additional recordation tax may be imposed by cities and counties in an amount equal to one-third of the state tax.

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. 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 Highway Maintenance and Operating Fund. The remaining revenues are dedicated to the General Fund.

<u>Grantor's Tax</u>

Under current law, a tax is imposed on each deed, instrument, or writing by which lands or other realty that has been sold is granted or conveyed to the purchaser or any other person on the purchaser's direction. The tax is imposed at the rate of $0.50 per $500 or fraction thereof of the consideration or value of the interest purchased, exclusive of the amount of liens, when it exceeds $100. The tax is paid by the grantor, or any person who signs on behalf of the grantor, or the deed, instrument or writing.

The first $40 million of the state portion of the grantor's tax is dedicated to the U.S. Route 58 Corridor Development Fund and another $40 million of the state portion of the grantor's tax is apportioned and distributed back to each county and city. The remaining revenues are dedicated to the General Fund.

Additionally, a $0.15 per $100 grantor's tax is imposed in the counties and cities embraced by the Northern Virginia Transportation Authority to be used for transportation funding by the Authority. The Northern Virginia Transportation Authority embraces the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

Tax-delinquent Property

Localities have a broad array of tools to collect delinquent taxes including collection from the taxpayer's bank account, wages, income tax refunds, suits against the taxpayer personally, and sale of the real estate to which the tax lien has attached. When taxes are delinquent on the last day of the year following the two-year anniversary date on which such taxes were due, localities may sell the real estate for the purpose of collecting all delinquent taxes on such property. Localities may sell property that has been declared blighted on the first anniversary of the date on which delinquent taxes are due. Real estate with an assessed value of $100,000 or less is subject to sale at public auction: 1) when taxes are delinquent on the last day of the year following the first anniversary date on which such taxes were due or 2) when there is a lien on the real estate for certain reasons, which lien remains unpaid on the last day of the year following the first anniversary of the date on which such lien was recorded. Judicial proceedings must be filed in the circuit court of the county or city in which the tax-delinquent real estate is located in order to subject the real estate to a lien for delinquent taxes.

Prior to instituting any judicial sale, localities must provide at least 30 days' notice to the property owners and all other parties who have an interest in the real property, including any trustee under a deed of trust or mortgage. Localities must also publish a list of real estate which will be offered for sale in a generally circulated newspaper in the locality at least 30 days prior to the commencement of the judicial proceedings. Owners of the property may redeem it at any time prior to the date of the sale by paying all accumulated delinquent taxes, penalties, reasonable attorney's fees, interests, and costs, and in some instances, are permitted to set up installment payment agreements with the local treasurer for a maximum period of 36 months.

Proposal

This bill would provide an exemption from the recordation tax for deeds of trust or mortgages securing a loan made by a locality, or agency of a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development for the purpose of erecting or rehabilitating a home for the borrower and purchasing the land for such home. Additionally, the bill would provide an exemption from the grantor's tax for a grantor that is a locality at a judicial sale of tax-delinquent property.

The effective date of this bill is not specified.

Similar Legislation

House Bill 596 would provide an exemption from the recordation tax for deeds of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners and deeds transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.

cc : Secretary of Finance