

# DEPARTMENT OF TAXATION

## 2018 Fiscal Impact Statement

1. **Patron** Jason S. Miyares

3. **Committee** House Finance

4. **Title** Recordation Tax Exemption; Certain LLC's  
and Partnerships

2. **Bill Number** HB 288

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill 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 ("LLC") or limited liability partnership ("LLP") from its parent LLC or LLP, or ii) a parent LLC or LLP from its subsidiary LLC or LLP, if the transaction qualifies for non-recognition of gain or loss under the Internal Revenue Code. The bill also would provide an exemption from the recordation tax for deeds conveying real estate or the lease of real estate to an LLC, limited partnership, or general partnership from a commonly owned LLC, limited partnership, or general partnership, if the transaction qualifies for non-recognition of gain or loss under the Internal Revenue Code.

Under current law, deeds conveying real estate or the lease of real estate to a subsidiary corporation from its parent corporation or to a parent corporation from its subsidiary corporation are exempt from the recordation tax if the transaction qualifies for non-recognition of gain or loss under the Internal Revenue Code. Additionally, deeds and leases to a partnership or LLC are exempt from the recordation tax when the grantors are entitled to receive not less than 50 percent of the profits or surplus of such partnership or LLC. The exemption does not apply if the transfer is to or from an LLC and a precursor to a transfer of control of the assets of the company is to avoid recordation taxes.

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 from the recordation tax deeds conveying real estate or the lease of real estate to and from related entities that are not exempt under current law, this bill would result in an unknown decrease in state recordation tax revenues.

As the exemption would also apply to the local recordation tax, the bill also would result in loss of local revenues, the magnitude of which is unknown. According to *Virginia Local Tax Rates, 2016*, published by the Weldon Cooper Center for Public Service, 36 cities and 91 counties currently report imposing a local recordation tax.

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

Department of Taxation  
Clerks of the Circuit Courts  
Supreme Court of Virginia

### **10. Technical amendment necessary: No.**

### **11. Other comments:**

#### Background

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 at the rate of \$0.25 per \$100 of value. An additional recordation tax may be imposed by cities and counties in an amount equal to one-third of the state tax.

In Fiscal Year 2017, the recording of deeds of conveyance, other deeds, and contracts resulted in approximately \$378.8 million in state recordation tax revenues. 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 is 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 provide an exemption from the recordation tax for deeds conveying real estate or the lease of real estate to i) a subsidiary LLC or LLP from its parent LLC or LLP, or ii) a parent LLC or LLP from its subsidiary LLC or LLP, if the transaction qualifies for non-recognition of gain or loss under the Internal Revenue Code. The bill also would

provide an exemption from the recordation tax for deeds conveying real estate or the lease of real estate to an LLC, limited partnership, or general partnership from a commonly owned LLC, limited partnership, or general partnership, if the transaction qualifies for non-recognition of gain or loss under the Internal Revenue Code.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/26/2018 VB  
HB288F161