

DEPARTMENT OF TAXATION

2018 Fiscal Impact Statement

1. **Patron** Alfonso H. Lopez

3. **Committee** House Finance

4. **Title** Recordation Tax; Exemption for Certain
Deeds

2. **Bill Number** HB 948

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would require 20 percent of the revenues generated by the state recordation tax deposited in the state treasury in excess of \$325 million each fiscal year to be transferred the Virginia Housing Trust Fund no later than September 1 of the immediately following fiscal year. The transfer would not apply to recordation tax revenues generated by the open-space preservation fee or the regional congestion relief fee.

Under current law, 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 are 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.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** Yes.

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7. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2017-18	\$0	GF
	\$0	VHTF
2018-19	(\$5.9 million)	GF
	\$5.9 million	VHTF
2019-20	(\$5.9 million)	GF
	\$5.9 million	VHTF
2020-21	(\$5.9 million)	GF
	\$5.9 million	VHTF
2021-22	(\$5.9 million)	GF
	\$5.9 million	VHTF
2022-23	(\$5.9 million)	GF
	\$5.9 million	VHTF
2023-24	(\$5.9 million)	GF
	\$5.9 million	VHTF

8. Fiscal implications:

Administrative Costs

There would be no administrative costs to the Department of Taxation to implement this bill.

Revenue Impact

Based on the official forecast, twenty percent of the revenues generated by the state recordation tax deposited in the state treasury in excess of \$325 million is estimated to be \$5.9 million for Fiscal Year 2018 and thereafter. The bill would require the revenues to be transferred no later than September 1 in the immediately following fiscal year that the revenues exceeded \$325 million. Assuming that this would require the first transfer to occur on September 1, 2018, based on Fiscal Year 2018 revenue, this bill is estimated to result in transfers from the General Fund to the Virginia Housing Trust Fund of \$5.9 million annually beginning in Fiscal Year 2019. This would decrease the amount of General Fund revenues available for appropriation by \$5.9 million annually beginning in Fiscal Year 2019.

These revenue estimates are based on the recordation tax revenue remaining after statutorily mandated transfers to the Transportation Trust Fund. A technical amendment is suggested to clarify that this is the intended result.

9. Specific agency or political subdivisions affected:

Virginia Housing Trust Fund

10. Technical amendment necessary: Yes.

Preliminary analysis indicates that this legislation may impact the transportation funding restrictions put in place by Enactment 22, Chapter 896, 2007 *Acts of Assembly*. If the bill does not violate these restrictions, it is in conflict with *Va. Code* § 58.1-815.4, which requires

that three cents of the total recordation tax revenues collected from deeds generally (*Va. Code* § 58.1-801) and deeds of trust or mortgages (*Va. Code* § 58.1-803) be deposited into the Commonwealth Mass Transit Fund and the Commonwealth Transit Capital Fund. This bill requires total revenues generated by recordation taxes, including those imposed by *Va. Code* §§ 58.1-801 and 58.1-803, to be used in the calculation for the transfer to the Virginia Housing Trust Fund. Since both the bill and the existing statute depend on an amount of “total revenues”, it is not clear which requirement would take precedent. It is suggested that this bill be amended to clarify that the excess upon which the calculations are based is after transfers to the Transportation Trust Fund.

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. 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, subject to certain transfers. 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 Commonwealth Transit Capital Fund. The remaining revenues are dedicated to the General Fund.

Virginia Housing Trust Fund

The Virginia Department of Housing and Community Development (DHCD) and the Virginia Housing Development Authority (VHDA) collaborate to administer the Virginia Housing Trust Fund. The VHDA is required to use at least 80 percent of the Fund to provide flexible financing for low-interest loans through eligible organizations. Such loans shall be structured to maximize leveraging opportunities. Loans may be provided for i) affordable rental housing to include new construction, rehabilitation, repair, or acquisition of housing to assist low or moderate income citizens, including land and land improvements; ii) down payment and closing cost assistance for homebuyers; and iii) short-term, medium-term, and long-term loans to reduce the cost of homeownership and rental housing. The DHCD may use up to 20 percent of the Fund to provide grants through eligible organizations for targeted efforts to reduce homelessness, including i) temporary rental assistance, not to exceed one year; ii) housing stabilization services in permanent supportive housing for homeless individuals and homeless families; iii) mortgage foreclosure counseling targeted at localities with the highest incidence of foreclosure activity; and iv) predevelopment assistance for permanent supportive housing and other long-term housing options for the homeless.

Proposal

This bill would require 20 percent of the revenues generated by the state recordation tax deposited in the state treasury in excess of \$325 million each fiscal year to be transferred the Virginia Housing Trust Fund no later than September 1 of the immediately following fiscal year. The transfer would not apply to recordation tax revenues generated by the open-space preservation fee or the regional congestion relief fee.

The effective date of this bill is not specified.

Similar Legislation

House Bill 288 would provide an exemption from the recordation tax for deeds between certain limited liability companies and partnerships.

House Bill 560 and **Senate Bill 894** would require that 40% of recordation tax revenue in excess of \$325 million for the preceding fiscal year be deposited to the Virginia Energy Efficiency Revolving Fund.

House Bill 1319 and **Senate Bill 856** would increase the regional congestion relief fee imposed in certain planning districts from 15¢ to 25¢ per \$100 and redirects the revenues from 1¢ per \$100 of the total recordation taxes to the Commonwealth Mass Transit Fund from the Commonwealth Capital Fund.

House Bill 1545 would dedicate 15% of the state recordation tax revenue to the Metrorail Capital Expenditures Fund.

Senate Bill 31 would dedicate the first \$40 million of state tax revenue to the Interstate Corridor Development Fund.

cc : Secretary of Finance

Date: 1/23/2018 JPJ
DLAS File Name: HB948F161