

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1310 (Delegate Wilson)
Ways and Means

Recordation Tax - Home Equity Loan Modifications - Exemption

This bill exempts a supplemental home equity loan from the State transfer tax and local recordation tax except to the extent that actual consideration is payable on the supplemental home equity loan or the amount of debt secured is increased by the supplemental home equity loan.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: State transfer tax revenues may decrease beginning in FY 2015, depending on the number of supplemental home equity loans that are eligible for the exemption and the amount of consideration. General fund revenues decrease as a result of commissions not being collected by the clerks of the circuit court. Expenditures are not affected.

Local Effect: Local recordation and transfer tax revenues decrease beginning in FY 2015. The amount of the decrease depends on the number of supplemental home equity loans that are eligible for the exemption and the amount of consideration. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law: A supplemental instrument of writing is not subject to the recordation tax except to the extent that (1) actual consideration is payable on the supplemental

instrument of writing or (2) the amount of unpaid outstanding principal debt is increased by the supplemental instrument of writing.

An instrument of writing is not subject to the State transfer tax to the same extent that it is not subject to the recordation tax.

In addition, exemptions to the local transfer tax in code home rule counties mirror the exemptions at the State level. Of the charter and commission counties that impose a transfer tax, several incorporate the State exemptions, while local exemptions in other counties are independently defined.

Background: The counties and Baltimore City are authorized to impose locally established recordation tax rates on any business or person (1) conveying title to real property or (2) creating or giving notice of a security interest (*i.e.*, a lien or encumbrance) in real or personal property, by means of an instrument of writing.

The State and most counties impose a transfer tax. The State transfer tax rate is 0.5% of the consideration payable for an instrument of writing conveying title to, or a leasehold interest in, real property (0.25% for first-time Maryland homebuyers). In some jurisdictions, a local property transfer tax may be imposed on instruments transferring title to real property. A distinction is made in the local codes between instruments transferring title such as a deed and certain leaseholds and instruments securing real property such as a mortgage.

For purposes of local recordation taxes, which are applied to each \$500 or fraction of \$500 of consideration payable or of the principal amount of the debt secured for an instrument of writing, the consideration includes the amount of any mortgage or deed of trust assumed by the grantee. For purposes of the State transfer tax, the consideration includes the amount of any mortgage or deed of trust assumed by the grantee.

County governments collected \$553.0 million in local recordation and transfer taxes in fiscal 2012, and are expected to collect \$671.3 million in fiscal 2013 and \$656.8 million in fiscal 2014. These amounts are significantly lower than the amounts collected in fiscal 2006 when the soaring real estate market yielded recordation and transfer taxes totaling \$1.2 billion. **Exhibits 1 and 2** show current recordation and transfer tax rates and estimated local recordation and transfer tax collections for fiscal 2013 and 2014.

State Fiscal Effect: State transfer tax revenues may decrease beginning in fiscal 2015 as a result of the exemption for certain supplemental home equity loans that are recorded. The amount of the decrease depends on the number of supplemental home equity loans that are recorded which meet the requirements of the exemption and the consideration of each, neither of which can be reliably estimated at this time. The State transfer tax still

applies to supplemental home equity loans where the actual consideration is payable on the supplemental home equity loan or if the amount of debt secured is increased by the supplemental home equity loan.

The clerks of the circuit court in several jurisdictions collect a number of different taxes and fees, including local recordation taxes. The Administrative Office of the Courts reports that the clerk of the circuit court collects local recordation taxes in the following 13 jurisdictions: Allegany, Calvert, Dorchester, Garrett, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester. In the remaining jurisdictions, local finance offices are responsible for the collection of these taxes. The clerks of the court who collect the tax are entitled to a commission of between 3% and 5% of all public monies collected, which, unless otherwise specified, are remitted to the State's general fund. As a result, any decrease in local recordation tax revenue will also decrease the amount of the commissions collected by the clerks and remitted to the general fund.

Local Fiscal Effect: Local recordation and transfer tax revenues may decrease beginning in fiscal 2015 as a result of the exemption for certain supplemental home equity loans that are recorded. The amount of the decrease depends on the number of supplemental home equity loans that are recorded which meet the requirements of the exemption and the consideration of each, neither of which can be reliably estimated at this time. The recordation and transfer tax still applies to supplemental home equity loans where the actual consideration is payable on the supplemental home equity loan or if the amount of debt secured is increased by the supplemental home equity loan.

Frederick County reports that it currently handles supplemental home equity loans in the manner proposed by the bill.

Exhibit 1
County Recordation Tax Collections
Fiscal 2013 and 2014

County	Tax Rate	FY 2013	FY 2014
Allegany	\$3.50	\$1,692,145	\$1,050,000
Anne Arundel	3.50	39,000,000	36,500,000
Baltimore City	5.00	28,645,000	23,367,000
Baltimore	2.50	30,000,000	25,500,000
Calvert	5.00	5,909,376	6,000,000
Caroline	5.00	1,301,909	1,100,000
Carroll	5.00	10,021,395	9,750,000
Cecil	4.10	5,535,807	4,800,000
Charles	5.00	11,104,089	10,500,000
Dorchester	5.00	1,434,291	1,534,386
Frederick	6.00	24,339,679	22,453,062
Garrett	3.50	2,300,000	2,000,000
Harford	3.30	10,699,395	10,200,510
Howard	2.50	21,837,593	20,098,864
Kent	3.30	962,237	1,010,000
Montgomery	3.45	103,878,439	103,658,874
Prince George's	2.75	27,563,300	28,391,400
Queen Anne's	4.95	4,614,108	3,820,000
St. Mary's	4.00	5,688,996	5,100,000
Somerset	3.30	437,714	350,000
Talbot	6.00	4,900,000	5,050,000
Washington	3.80	5,213,999	5,000,000
Wicomico	3.50	2,249,756	2,516,123
Worcester	3.30	6,648,659	6,000,000
Total			\$335,750,219

Source: Department of Legislative Services

Exhibit 2
County Transfer Tax Collections
Fiscal 2013 and 2014

County	Tax Rate	FY 2013	FY 2014
Allegany	0.50%	\$300,696	\$350,000
Anne Arundel	1.00%	38,000,000	36,500,000
Baltimore City	1.50%	23,371,000	24,948,000
Baltimore	1.50%	50,000,000	52,000,000
Calvert	0.00%	0	0
Caroline	0.50%	377,400	210,842
Carroll	0.00%	0	0
Cecil	\$10/deed	23,946	20,000
Charles	0.00%	0	0
Dorchester	0.75%	619,002	650,000
Frederick	0.00%	0	0
Garrett	1.00%	1,375,000	1,150,000
Harford	1.00%	10,854,826	9,600,000
Howard	1.00%	25,253,440	27,000,000
Kent	0.50%	451,355	580,000
Montgomery	1.00%	85,409,701	86,684,000
Prince George's	1.40%	66,661,700	68,664,800
Queen Anne's	0.50%	1,351,064	1,650,000
St. Mary's	1.00%	4,268,826	4,350,000
Somerset	0.00%	0	0
Talbot	1.00%	2,600,000	2,500,000
Washington	0.50%	1,484,247	1,400,000
Wicomico	0.00%	0	0
Worcester	0.50%	2,912,622	2,750,000
Total		\$315,314,825	\$321,007,642

Source: Department of Legislative Services

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Frederick and Charles counties; State Department of Assessments and Taxation; Department of Housing and Community Development; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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