

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 346 (Senator Boozer)
Budget and Taxation

Recordation Tax-Exemption for Purchase Money Mortgages

This bill provides that the date on which an instrument of writing is, for purposes of a certain exemption from the State recordation tax, fully executed is the later of either the date of the last acknowledgment or the date of the instrument of writing.

This bill is effective July 1, 1997.

Fiscal Summary

State Effect: None. This bill would not affect governmental finances.

Local Effect: Minimal reduction in recordation tax revenue. No impact on expenditures.

Small Business Effect: Potential meaningful effect on small businesses as discussed below.

Fiscal Analysis

Background: Property owners are subject to the property transfer tax when recording deeds to property. In addition, instruments of writing establishing a lienhold trust are subject to recordation taxes when filed with the county clerks. Current law exempts purchase money mortgages from recordation taxes if the mortgage is “fully executed within 30 days of the date that the instrument of writing transferring the property is executed.” The Attorney General’s Office has stated that the date the instrument is “fully executed” is the date that the deed is acknowledged (signed by the grantor(s) and notarized), as opposed to the date stated on the deed.

For example, an escrow agent or relocation company holds a deed executed by the original grantor(s) (and acknowledged at the time of execution by the grantor(s)), but the deed does

not name the grantees. Once the property has been purchased, the purchaser completes the escrow closing and the escrow agent inserts the date of delivery of the deed and the grantees' names into the deed. When the deed and mortgage are forwarded for recording, the clerk, using the date of the earlier notary acknowledgment on the deed, may calculate a period in excess of 30 days between the date of the deed and mortgage and would then require recordation taxes be paid on the mortgage. This bill clarifies that an instrument of writing is fully executed on the later of the date of the last acknowledgment or the date on the instrument of writing. This clarification could result in a reduction in recordation tax revenue. The Department of Fiscal Services (DFS) assumes any such reduction would be minimal.

Small Business Effect: This bill could have a positive impact on escrow agents and relocation companies by reducing or eliminating recordation tax requirements. The amount of any such reduction cannot be reliably estimated at this time; however, DFS assumes any such reduction would be minimal.

Information Sources: Department of Assessments and Taxation, Frederick County, Prince George's County, Baltimore City, Department of Legislative Reference

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