

Department of Legislative Services
Maryland General Assembly
1999 Session

FISCAL NOTE

House Bill 1184 (Delegate Finifter)

Ways and Means

Certificates of Sale - Recordation Tax and Transfer Tax Exemption - Security Interests

This bill exempts the transfer of real property by means of a certificate of sale, an assignment of a certificate of sale, or the copy of a certificate of sale from the recordation tax and State and local transfer taxes.

The bill is effective July 1, 1999, and shall be applied retroactively to any certificate of sale, an assignment of a certificate of sale, or the copy of a certificate of sale recorded on or after January 1, 1999.

Fiscal Summary

State Effect: Indeterminate decrease in general and special fund revenues.

Local Effect: Indeterminate decrease in revenues. Expenditures would not be affected.

Small Business Effect: None.

Fiscal Analysis

Background: Under current law a purchaser of real property may record the certificate of sale and any assignment of the certificate of sale in the county in which the property is located, but failure to record does not affect the right to institute foreclosure proceedings.

State Effect: The extent to which transfers of real property by means of a certificate of sale are recorded and subsequently taxed is unknown at this time. The decrease in State transfer

tax revenues depends in part on the number of transfers that took place by means of a certificate of sale since January 1, 1999, and on the number that were recorded by the counties.

The State transfer tax rate is 0.5% of the value of consideration payable for the instrument of writing. The revenues from the State transfer tax are dedicated to Program Open Space, the Rural Legacy Program, the Agricultural Land Preservation Fund, and the Heritage Preservation Fund. These tax revenues totaled \$71.2 million in fiscal 1998. Because it is unknown how many taxable transfers by means of certificates of sale, assignments of certificates of sale, or copies of certificates of sale are recorded, the extent of the decrease in special fund revenues cannot be reliably estimated at this time.

Under current law the counties are authorized by the State to impose a recordation tax on articles of transfer that convey title to real property or security interest in real or personal property. The clerk of the court collects the recordation tax revenues, except in Prince George's County where they are collected by the county director of finance. In most counties, 5% of these tax revenues are distributed to the general fund. The remaining funds are distributed to the corresponding county government. In fiscal 1998 approximately \$158.1 million in recordation taxes were collected; \$5.4 million was remitted to the State's general fund.

Because a portion of local recordation tax revenues is distributed to the general fund, State revenues will decline. However, for the reason discussed above, the extent to which general fund revenues will decline cannot be reliably estimated at this time.

Local Effect: As stated above, counties are authorized to impose a recordation tax on articles of transfer that convey title to real property or a security interest in real or personal property. A large portion of the recordation tax revenues is distributed to the counties. Because it is unknown how many taxable transfers by means of certificates of sale, assignments of certificates of sale, or copies of certificates of sale are recorded, the extent of the decrease in county recordation tax revenues cannot be reliably estimated at this time.

In addition, sixteen counties and Baltimore City currently impose a property transfer tax on instruments transferring title to real property. The clerk of the court collects the local property transfer tax revenues, except in Prince George's County where they are collected by the county director of finance. If a county imposes a property transfer tax and records transfers of real property by means of certificates of sale, assignments of certificates of sale, or copies of certificates of sale, then that county's revenues will decrease. Because it is unknown how many taxable transfers by means of certificates of sale, assignments of certificates of sale, or copies of certificates of sale are recorded, the extent of the decrease in

county transfer tax revenues cannot be reliably estimated at this time.

Some counties, such as Prince George's County and Allegany County, advise that they do not record real property transfers by means of certificates of sale because current law provides that failure to record a transfer of property by means of a certificate of sale does not affect the right to institute foreclosure proceedings. Therefore, this bill would have no effect on these counties' finances. However, the counties that do record transfers of property by means of certificates of sale will experience a decrease in revenues.

Information Source(s): Allegany County, Judiciary (Administrative Office of the Courts), Department of Assessments and Taxation, Prince George's County

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dmm/hlb

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