

Department of Legislative Services
 Maryland General Assembly
 2000 Session

FISCAL NOTE
Revised

House Bill 792 (Delegates Marriott and Bozman)

Ways and Means

Recordation Tax - Payment and Collection

This bill allows the county tax collectors, rather than the clerks of the courts, to collect recordation taxes beginning in fiscal 2001. In fiscal 2001 only, any county, with the exception of Prince George's, that does not have the clerk of the court collect recordation taxes must remit to the Comptroller a fee equal to the fee that the clerk would otherwise have deducted.

The bill is effective July 1, 2000.

Fiscal Summary

State Effect: Assuming all counties decide to collect the taxes themselves, general fund revenues could decrease by \$6.4 million in FY 2002. Future year decreases reflect growth in tax collections. Expenditures would not be affected.

| (in thousands) | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 |
|-----------------|---------|-----------|-----------|-----------|-----------|
| GF Revenues | \$0 | (\$6,400) | (\$6,500) | (\$6,650) | (\$6,800) |
| GF Expenditures | 0 | 0 | 0 | 0 | 0 |
| Net Effect | \$0 | (\$6,400) | (\$6,500) | (\$6,650) | (\$6,800) |

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Revenues could increase by \$6.4 million in FY 2002. Revenues for Charles County could be affected in FY 2001. Administrative expenditures for some counties could increase as set forth below.

Small Business Effect: None.

Analysis

Current Law: The clerks of the circuit courts collect the State recordation tax, except in Prince George's County where the tax is collected by the County Director of Finance. Revenues from the tax are given to the counties in which the property is collected. The clerks of the courts charge a fee ranging from 3% to 5% of the amount collected for collection of the tax. Prince George's County does not remit a fee to the State because recording tax is collected by the County Director of Finance. The exception for Prince George's County was passed in 1968.

Background: The current recording process has three steps to record a deed. This would add a fourth step -- and increased cost. The current steps to recording a deed are:

- (1) The change of ownership must be recorded with the county assessment office.

This step is avoided in the 11 counties (Baltimore, Carroll, Cecil, Charles, Dorchester, Harford, Howard, Montgomery, St. Mary's, Washington, and Worcester counties) that have opted for a streamlined process.

- (2) The property tax must be paid to the county treasurer.
- (3) The deed is recorded and recordation tax is paid to the clerk of the court.

In all other recorded instruments, such as mortgages, liens, etc., only one stop at the clerk's office for recordation and payment of the recordation tax is required. HB 792 would add a second step to that process: going to the county tax collector to pay the recordation tax.

State Revenues: Because this is enabling legislation only, revenues will only be affected to the extent that local governments exercise the authority to collect recordation taxes.

The clerks of the circuit courts now collect the county recordation taxes in all counties, except Prince George's, where they are collected by the County Director of Finance. The clerks of the courts receive fees ranging from 3% to 5% for collecting the tax. **Exhibit 1** shows the amount of taxes collected, the percentages of the fees, and the amount of the fees remitted to the State's general fund for each county in fiscal 1999. Under the provisions of this bill, these fees would not be applicable after fiscal 2001, and general funds thus would decrease by \$6.4 million in fiscal 2002. This assumes that all counties decide to collect the recordation taxes and reflects 2% annual growth in recordation tax collections.

State Expenditures: While the clerks of the courts would not be collecting the recordation taxes, they still would be responsible for recording the instruments of writing and security agreements. Therefore, it is doubtful that the clerks' workload would decrease by an amount sufficient enough to affect expenditures.

Local Revenues: Legislative Services assumes that all counties would avoid the clerks' fees by having the county tax collector collect the recordation taxes. Therefore, county revenues would increase cumulatively by \$6.4 million beginning in fiscal 2002.

For fiscal 2001 only, this bill requires any county not using the clerk of the court for collection of recordation taxes to remit to the Comptroller the percentage of fees that the clerk of the court is authorized to deduct from the payment of these taxes. Maryland Code Article 17 § 74© provides that fees collected by the clerk of the court in Charles County be used to pay the cost of two-thirds of the salaries and benefits of court reporters for the county's circuit court. If Charles County chooses to allow a collector other than the clerk of the court to receive these fees, then funding for these court reporters could be affected in fiscal 2001.

Local Expenditures: Because this is enabling legislation only, expenditures will only be affected to the extent that local governments exercise the authority to collect recordation taxes. In general, the smaller counties advise they do not have the capacity to collect these fees and, if their governing bodies choose to do so, they will need to hire additional staff. The estimated increase in expenditures for these counties in fiscal 2001 is set forth below. The larger counties generally advise they are equipped to handle the extra workload and their expenditures will not be affected. Legislative Services assumes the increase in expenditures would be offset by the increase in the revenues beginning in fiscal 2002.

| <u>County</u> | <u>Estimated Expenditures</u> |
|---------------|-------------------------------|
| Carroll | \$63,700 |
| Harford | \$37,000 |
| Montgomery | \$100,000 |
| Queen Anne's | \$5,000 |
| St. Mary's | \$47,000 |

Additional Information

Prior Introductions: This bill was introduced and passed during the 1997, 1998, and 1999 sessions as SB 454, SB 291, and HB 709, respectively. The bills were vetoed by the

Governor for policy reasons.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Assessments and Taxation; Carroll, Cecil, Harford, Montgomery, Prince George's, Queen Anne's, and St. Mary's counties; Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2000
nncsjr Revised - Clarification - March 3, 2000

Analysis by: Karen S. Benton

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510

**Exhibit 1
Distribution of Recordation Tax
FY 1999**

| | Total Tax Collected | Percentage Retained by Clerk of the Court | Fees Retained by Clerk of the Court* |
|-------------------|----------------------------|--|---|
| Allegany | \$898,492 | 5.0% | \$44,925 |
| Anne Arundel | 25,320,512 | 3.0% | 759,615 |
| Baltimore City | 10,154,944 | 3.0% | 233,187 |
| Baltimore County | 18,881,706 | 3.0% | 566,451 |
| Calvert | 3,599,579 | 5.0% | 179,979 |
| Caroline | 748,745 | 5.0% | 37,437 |
| Carroll | 6,170,378 | 5.0% | 308,519 |
| Cecil | 2,175,165 | 5.0% | 108,758 |
| Charles | 7,845,412 | 5.0% | 392,271 |
| Dorchester | 929,735 | 5.0% | 46,487 |
| Frederick | 10,958,594 | 5.0% | 547,930 |
| Garrett | 1,431,230 | 5.0% | 71,562 |
| Harford | 8,056,883 | 3.0% | 241,706 |
| Howard | 11,519,878 | 5.0% | 575,994 |
| Kent | 841,068 | 5.0% | 42,053 |
| Montgomery | 34,011,374 | 3.0% | 1,020,341 |
| Prince George's** | 17,524,686 | n/a | n/a |
| Queen Anne's | 2,376,505 | 5.0% | 118,825 |
| St. Mary's | 3,539,278 | 5.0% | 176,964 |
| Somerset | 209,611 | 6.0% | 10,481 |
| Talbot | 2,749,130 | 5.0% | 137,457 |
| Washington | 3,786,856 | 5.0% | 189,343 |
| Wicomico | 1,810,552 | 5.0% | 90,528 |
| Worcester | 4,582,144 | 5.0% | 229,107 |
| TOTAL | \$180,122,457 | | \$6,129,920 |

*Net distribution before any refunds.

**The Finance Director currently collects the tax in Prince George's County and no fees are remitted to the State.

