

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 843 (Delegate Minnick)

Ways and Means

Recordation Tax and State Transfer Tax - Memorandum of Lease

This bill exempts from recordation taxes and State and code home rule county transfer taxes a memorandum of lease recorded in lieu of recording a lease.

The bill is effective July 1, 2000.

Fiscal Summary

State Effect: Minimal decrease in State special fund revenues. No effect on expenditures.

Local Effect: Minimal decrease in county recordation tax revenues and minimal decrease in code county transfer tax revenues.

Small Business Effect: Potential minimal.

Analysis

Current Law: Generally, in order for a lease in excess of seven years to be effective it must be executed and recorded with either the clerk of the circuit court or the Department of Assessments and Taxation, whichever is appropriate. In lieu of recording a lease, a memorandum of the lease, executed by all the parties to the lease, may be recorded with the same effect. The memorandum must contain certain information, such as names and addresses and a description of the lease premises. A lease for fewer than seven years is not required to be recorded and, as such, is exempt from recordation taxes and State transfer taxes if recorded. Section 13-402.1 of the Property-Tax Article provides that any exemption from State transfer taxes under section 12-307 (leases of less than seven years is included in this section) also applies to a code home rule county's transfer taxes. The following are code

home rule counties: Allegany, Caroline, Kent, Queen Anne's, and Worcester.

Background: 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. The tax is collected by the clerks of the circuit court and transferred to the Comptroller of the Treasury.

State transfer tax revenues are special fund revenues dedicated for specific programs and are distributed as follows: 3% of total revenue is earmarked to defray administrative cost and \$1 million to cover debt service expenses. The remaining revenues are approximately dedicated to the following: Program Open Space (76%), Agricultural Land Preservation Fund (17%), Heritage Conservation Fund (2%), and Rural Legacy Program (5%). Approximately 37% of State transfer tax revenues are distributed to local Program Open Space programs. Any decrease in transfer tax revenues would result in a funding decrease for these programs. The property transfer tax allocation to these programs for fiscal 2001 totals \$96,220,000.

The counties and Baltimore City are authorized by law 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 clerks of the circuit court collect the county recordation taxes in all counties except Prince George's, where they are collected by the county director of finance. Fees ranging from 3% to 5% of the tax collected are retained by the clerks which are credited to the State general fund. The remainder of the tax is remitted to the respective counties. Total recordation taxes collected during fiscal 1999 totaled \$180,053,530 while fees retained by the clerks totaled \$6,077,680.

State Revenues: State special fund revenues could decrease minimally. State transfer tax revenues, as noted above, are dedicated to Program Open Space and other programs so any decrease in transfer tax will result in reductions to these programs. It is assumed that the number of memorandum of leases filed and the decrease in the transfer tax will be minimal.

Local Revenues: County and Baltimore City recordation tax revenues could decrease minimally. Based on a limited survey of the counties, it appears that the number of memorandums of lease filed in each county is from five to 20 annually. The actual decrease in recordation taxes depends on the county recordation tax rate, the consideration payable in the lease, and the number filed during the year. Prince George's County estimates that the decrease in recordation taxes could range from \$100,000 to \$300,000 a year.

The code home rule counties' transfer tax rate could decrease minimally. The actual decrease in transfer taxes depends on the county transfer tax rate, the consideration payable in the lease, and the number filed during the year. The following are the transfer tax rates of the code home rule counties:

<u>County</u>	<u>Transfer Tax Rate (Percentage of Transaction Value)</u>
Allegany	0.2%
Caroline	0.5%
Kent	0.5%
Queen Anne's	0.5%
Worcester	0.5%

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Assessments and Taxation, Allegany County, Baltimore City, Montgomery County, Prince George's County, Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2000

cm/jr

Analysis by: Karen S. Benton

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