

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 112

(Chairman, Budget and Taxation Committee)

(By Request – Departmental – Natural Resources)

Budget and Taxation

Ways and Means

Recordation and Transfer Tax - Land Trusts - Exemption

This departmental bill provides exemptions from recordation and transfer taxes on the transfer of a conservation easement co-held by a land trust and governmental entity and on the transfer of a fee simple title to a land trust if the trust files a declaration of intent to convey the title to a governmental entity within 18 months of the declaration.

The bill is effective July 1, 2003.

Fiscal Summary

State Effect: None. The bill codifies existing practice.

Local Effect: None.

Small Business Effect: The Department of Natural Resources has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: Current law provides an exemption from recordation and transfer taxes on transfers of property to the United States, the State, an agency of the State, or a political subdivision of the State. However, the law does not specifically provide an exemption from recordation and transfer taxes where property is transferred to a property held jointly by the State and another entity or when a land trust intends to transfer a property to a governmental entity.

Although there is no specific exemption from recordation and transfer taxes on the transfer of land easements co-held by the State or on fee simple transfers to land trusts that the State will ultimately hold, the Department of Legislative Services was informed that, as a matter of courtesy, the clerks of the circuit court currently do not assess these taxes.

Background: The Department of Natural Resources frequently obtains conservation easements and fee simple title to property in order to further its goals of protecting open space in the State. The Rural Legacy Program administers State grants to acquire conservation easements and fee interest in designated Rural Legacy Areas. Conservation easements limit land to specific uses and thus protect it from development. These voluntary legal agreements are created between private landowners and land trusts, conservation organizations or government agencies. A land trust is a private, tax-exempt, nonprofit corporation that seeks to preserve land through land acquisition or land donations.

Additional Information

Prior Introductions: SB 286 of 2002, a similar bill, was referred to the Senate Rules Committee and no further action was taken.

Cross File: None.

Information Source(s): Department of Assessments and Taxation, Montgomery County, Judiciary (Administrative Office of the Courts), Department of Natural Resources, Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2003
ncs/jr

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