

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 129

(Senator Astle)

Budget and Taxation

Ways and Means

Recordation Tax - Refinancing Instrument - Trusts

This bill extends a current exemption from recordation tax for the refinancing of a mortgage or deed of trust to the trustee of an inter vivos trust as long as the property is used as a principal residence of the settlor of the trust and either the trustee or the settlor originally assumed or incurred the debt being refinanced.

The bill is effective July 1, 2003.

Fiscal Summary

State Effect: Potential minimal decrease in general fund revenues from recordation fees collected by the clerks of the court.

Local Effect: Potential minimal decrease in recordation taxes.

Small Business Effect: None.

Analysis

Current Law: A mortgage or deed of trust is not subject to recordation tax to the extent that it refinances an amount not greater than the existing unpaid principal amount at the time of refinancing of a homeowner's principal residence. Only an original mortgagor may provide a written statement that would qualify a mortgage refinancing for an exemption from recordation tax.

Background: 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, and are credited to the State general fund. The remainder of the tax is remitted to the respective counties.

Local Revenues: County recordation tax collections could decrease to the extent that this bill would make it easier for property owners who are refinancing existing mortgages to qualify for the exemption from recordation tax. Any such decrease is assumed to be minimal.

State Fiscal Effect: To the extent that this bill reduces county recordation tax collections, the fees retained by the clerks of the court and transferred to the State general fund would also decrease. Any decrease would be minimal.

Additional Information

Prior Introductions: SB 781 of 2002, an identical bill, was passed by the Senate but was not reported from the House Judiciary Committee.

Cross File: None.

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

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Analysis by: Karen S. Benton

Direct Inquiries to:
(410) 946-5510
(301) 970-5510