

Department of Legislative Services  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**

Senate Bill 76  
Budget and Taxation

(Senator Astle)

Ways and Means

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**Recordation Tax - Refinancing Instrument - Trusts**

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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, 2004.

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**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.

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**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.

**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. Because the number of affected individuals is estimated to be small, any decrease would be minimal.

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

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### Additional Information

**Prior Introductions:** A similar bill was introduced as SB 129 in the 2003 session. The bill passed the Senate, but no action was taken by the House Ways and Means Committee. It was also introduced as SB 781 in the 2002 session and passed the Senate, but no action was taken by 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

**Fiscal Note History:** First Reader - January 26, 2004  
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