

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 746
Ways and Means

(Delegate Kaiser, *et al.*)

Budget and Taxation

Recordation and Transfer Taxes - Exemptions - Domestic Partners

This bill exempts the transfer of residential property between domestic partners and former domestic partners from the recordation tax and State and county transfer taxes under specified circumstances. Specified evidence of domestic partnership or former domestic partnership must be submitted in order to qualify for the exemptions provided for by the bill.

The bill may not be construed to have any effect on Section 2-201 of the Family Law Article, which provides that only a marriage between a man and a woman is valid in the State.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: Potential decrease in State transfer tax revenues. Expenditures would not be affected.

Local Effect: Potential decrease in local transfer and recordation tax revenue. Local expenditures would not be affected.

Small Business Effect: None.

Analysis

Current Law: Property subject to a mortgage or deed of trust that is transferred between a spouse, former spouse, son, daughter, stepson, stepdaughter, parent, stepparent, son-in-law, daughter-in-law, stepson-in-law, stepdaughter-in-law, parent-in-law, stepparent-in-law, grandchild, or step grandchild is exempt from transfer and recordation taxes.

Background: The counties and Baltimore City are authorized 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 State and most counties impose a transfer tax. 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 (0.25% for first-time Maryland home buyers). In some jurisdictions a local property transfer tax may be imposed on instruments transferring title to real property. A distinction is made in the local codes between instruments transferring title such as a deed and certain leaseholds and instruments securing real property such as a mortgage. Except in Prince George's County, mortgages are not subject to the tax.

State Fiscal Effect: State special fund revenues would decrease to the extent that properties are transferred between domestic partners. However, the amount of any decrease depends on the number of domestic partnerships or former domestic partnerships that exist in Maryland, the number of partners that own property, the number that subsequently transfer property, and the amount of consideration for each property. However, at this time the number of property transfers between domestic partners cannot be reliably estimated.

As a point of reference, the State transfer tax on a property valued at \$250,000 is \$1,250. An exemption pursuant to the bill would result in a special fund revenue decrease of \$1,250 for each property transfer affected. According to the U.S. Census Bureau, approximately 5.5% of households in Maryland are comprised of unmarried partners; same sex couples account for 0.7% of households and opposite sex couples account for 4.8% of households. This information is based on the 2006 American Community Survey.

Local Fiscal Effect: Local recordation and transfer tax revenues would decrease to the extent that properties are transferred between domestic partners. However, the amount of any decrease depends on the number of domestic partnerships or former domestic partnerships that exist in Maryland, the number of partners that own property, the number

that subsequently transfer property, and the amount of consideration for each property. However, at this time the number of property transfers between domestic partners cannot be reliably estimated.

As a point of reference, **Exhibit 1** shows the estimated effect of one exemption pursuant to the bill in each county.

Exhibit 1
Transfer and Recordation Tax Exemption, by County

County	Average Assessment	Transfer Tax Rates FY 2008	Recordation Tax Rates FY 2008	Estimated Revenue Decrease
Allegany	\$81,378	0.50%	\$3.25	(\$936)
Anne Arundel	331,888	1.00%	3.50	(5,642)
Baltimore City	113,460	1.50%	5.00	(2,837)
Baltimore	224,534	1.50%	2.50	(4,491)
Calvert	301,857	0.00%	5.00	(3,019)
Caroline	169,211	0.50%	5.00	(2,538)
Carroll	279,977	0.00%	5.00	(2,800)
Cecil	212,553	\$10/deed	4.10	(1,733)
Charles	269,286	0.00%	5.00	(2,693)
Dorchester	154,902	0.75%	5.00	(2,711)
Frederick	289,571	0.00%	6.00	(3,475)
Garrett	117,771	1.00%	3.50	(2,002)
Harford	235,475	1.00%	3.30	(3,909)
Howard	391,204	1.00%	2.50	(5,868)
Kent	215,923	0.50%	3.30	(2,505)
Montgomery	473,556	1.00%	3.45	(8,003)
Prince George's	246,690	1.40%	2.20	(4,539)
Queen Anne's	336,744	0.50%	3.30	(3,906)
St. Mary's	247,522	1.00%	4.00	(4,455)
Somerset	109,026	0.00%	3.30	(720)
Talbot	390,257	1.00%	3.30	(6,478)
Washington	186,897	0.50%	3.80	(2,355)
Wicomico	151,540	0.00%	3.50	(1,061)
Worcester	247,140	0.50%	3.30	(2,867)
Total				(\$81,541)

Source: Maryland Association of Counties; Department of Legislative Services

Exhibits 2 and 3 show the current county transfer and recordation tax rates and estimated revenues for fiscal 2005 through 2008.

Exhibit 2
Local Transfer Taxes – Rates and Revenue Collections

County	Local	Revenue Collections			
	Tax Rates	FY 2005	FY 2006	FY 2007	FY 2008
	FY 2008				
Allegany	0.50%	\$308,564	\$791,200	\$686,105	\$675,000
Anne Arundel	1.00%	56,885,486	61,819,230	52,030,890	48,000,000
Baltimore City	1.50%	46,423,968	61,124,000	51,756,000	46,035,000
Baltimore	1.50%	74,861,632	89,267,236	72,752,797	66,568,810
Calvert	0.00%	0	0	0	0
Caroline	0.50%	783,358	1,174,690	874,820	1,114,728
Carroll	0.00%	0	0	0	0
Cecil	\$10/deed	42,301	38,622	31,949	35,000
Charles	0.00%	0	0	0	0
Dorchester	0.75%	1,934,134	2,082,438	1,722,212	1,034,778
Frederick	0.00%	0	0	0	0
Garrett	1.00%	3,043,322	3,155,286	2,547,873	2,165,000
Harford	1.00%	19,602,014	22,610,227	17,452,339	14,565,994
Howard	1.00%	33,953,204	37,424,266	29,965,138	28,000,000
Kent	0.50%	944,558	958,977	1,034,300	730,000
Montgomery	1.00%	133,654,796	145,478,479	106,902,482	98,500,000
Prince George's	1.40%	124,313,988	167,882,826	158,093,206	124,196,100
Queen Anne's	0.50%	362,460	673,396	590,813	155,000
St. Mary's	1.00%	8,292,531	9,464,219	7,706,885	15,800,000
Somerset	0.00%	0	0	0	0
Talbot	1.00%	6,375,196	6,212,762	5,298,977	4,900,000
Washington	0.50%	4,182,273	4,326,445	3,444,730	3,000,000
Wicomico	0.00%	0	0	0	0
Worcester	0.50%	8,737,908	8,282,788	5,395,746	4,250,000
Total		\$524,701,693	\$622,767,087	\$518,287,262	\$459,725,410

Source: Maryland Association of Counties; Department of Legislative Services

Exhibit 3
Local Recordation Taxes – Rates and Revenue Collections

County	Local	Revenue Collections			
	Tax Rates	FY 2005	FY 2006	FY 2007	FY 2008
	FY 2008				
Allegany	\$3.25	\$1,577,460	\$1,808,108	\$1,867,666	\$1,837,500
Anne Arundel	3.50	59,827,840	68,113,312	57,226,551	52,800,000
Baltimore City	5.00	36,599,163	55,628,000	46,550,000	48,700,000
Baltimore	2.50	41,628,848	49,960,828	40,718,075	37,257,038
Calvert	5.00	13,630,156	14,481,819	11,664,698	9,500,000
Caroline	5.00	2,952,177	3,941,174	3,114,738	3,000,000
Carroll	5.00	22,188,200	22,766,629	18,902,094	16,000,000
Cecil	4.10	7,539,241	9,603,661	8,441,301	8,200,000
Charles	5.00	24,998,742	29,759,035	26,559,471	20,306,400
Dorchester	5.00	4,060,939	4,792,334	3,790,983	3,927,359
Frederick	6.00	25,892,014	28,356,811	23,041,214	20,000,000
Garrett	3.50	3,706,081	3,877,203	3,436,399	3,200,000
Harford	3.30	20,424,258	23,662,735	19,283,896	19,422,470
Howard	2.50	24,876,072	27,870,355	22,531,964	21,857,855
Kent	3.30	1,848,101	2,023,589	2,148,600	1,530,000
Montgomery	3.45	127,300,257	141,100,857	105,988,139	92,020,000
Prince George's	2.20	49,995,036	70,203,010	63,668,099	51,556,700
Queen Anne's	3.30	5,841,060	6,845,259	6,039,956	5,500,000
St. Mary's	4.00	10,455,397	12,393,522	10,078,293	9,747,000
Somerset	3.30	1,301,235	1,509,071	1,139,878	880,000
Talbot	3.30	6,439,627	6,344,752	5,472,722	5,000,000
Washington	3.80	11,590,125	12,572,141	10,071,718	9,000,000
Wicomico	3.50	5,721,406	6,585,432	5,874,835	4,794,940
Worcester	3.30	14,982,660	14,788,218	10,905,366	8,500,000
Total		\$525,376,095	\$618,987,855	\$508,516,656	\$454,537,262

Source: Maryland Association of Counties; Department of Legislative Services

Additional Information

Prior Introductions: HB 1298 of 2005, a similar bill, received a favorable with amendments report by the House Ways and Means Committee and passed both the House and the Senate. The Governor vetoed the bill for policy reasons.

Cross File: SB 597 (Senator Kramer, *et al.*) – Budget and Taxation.

Information Source(s): State Department of Assessments and Taxation, Allegany County, Judiciary (Administrative Office of the Courts), Baltimore City, U.S. Census Bureau, Department of Legislative Services

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