

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 202

(Senator King, *et al.*)

Budget and Taxation

Ways and Means

**Recordation and Transfer Taxes - Transfer of Property Between Related Entities  
- Exemption**

This bill exempts from the recordation tax and the State transfer tax the transfer of real property between a parent business entity and its wholly owned subsidiary or between subsidiaries wholly owned by the same parent business entity if the instrument of writing is for no consideration; nominal consideration; or consideration that comprises only the issuance, cancellation, or surrender of partnership interests, membership interests, or the ownership interest stock of a subsidiary business entity. The bill also exempts from the recordation tax and the State transfer tax the transfer of real property between a subsidiary business entity and its parent business entity under specified circumstances.

A business entity is defined as a limited liability company or corporation. Ownership interest is defined as a membership interest or stock.

The bill takes effect July 1, 2013, and is applicable to all instruments of writing recorded on or after July 1, 2013.

**Fiscal Summary**

**State Effect:** State transfer tax revenues may decrease beginning in FY 2014 to the extent transfers pursuant to the bill occur. General fund revenues decrease as a result of commissions not being collected by the clerks of the circuit court. State expenditures are not affected.

**Local Effect:** Local recordation tax revenues may decrease beginning in FY 2014 to the extent transfers pursuant to the bill occur. Local expenditures are not affected.

**Small Business Effect:** Minimal.

## Analysis

**Current Law:** Generally, an instrument of writing is not subject to recordation tax if the instrument of writing transfers title between related entities, such as parent corporations and subsidiaries, and the transfer is for no consideration; nominal consideration; or consideration that comprises only the issuance, cancellation, or surrender of stock of a subsidiary corporation. An instrument of writing is also exempt when it transfers a title under these circumstances and the parent corporation previously owned the real property; owns the stock of the subsidiary and has owned that stock for a period greater than 18 months; or acquires the stock of a subsidiary corporation which has been in existence and has owned the real property for a period of two years.

An instrument of writing is not subject to the State transfer tax to the same extent that it is not subject to recordation tax as discussed above.

**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 homebuyers). 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.

For purposes of local recordation taxes, which are applied to each \$500 or fraction of \$500 of consideration payable or of the principal amount of the debt secured for an instrument of writing, the consideration includes the amount of any mortgage or deed of trust assumed by the grantee. For purposes of the State transfer tax, the consideration includes the amount of any mortgage or deed of trust assumed by the grantee.

County governments collected \$511.7 million in local recordation and transfer taxes in fiscal 2011, and are expected to collect \$511.5 million in fiscal 2012 and \$532.0 million in fiscal 2013. These amounts are significantly lower than the amounts collected in fiscal 2006 when the soaring real estate market yielded recordation and transfer taxes totaling \$1.2 billion. **Exhibits 1 and 2** show current recordation and transfer tax rates and estimated local recordation and transfer tax collections for fiscal 2012 and 2013.

**State Fiscal Effect:** State special fund revenues may decrease beginning in fiscal 2014 to the extent that properties are transferred pursuant to the bill (transfers between specified related entities). However, the amount of any decrease depends on the number of transfers that occur pursuant to the bill and the amount of consideration associated with each transfer. However, at this time, the number of property transfers that occur by this manner cannot be reliably estimated.

As a point of reference, the State transfer tax on a transaction 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.

The clerks of the circuit court in several jurisdictions collect a number of different taxes and fees, including local recordation taxes. The Administrative Office of the Courts reports that, as of fiscal 2012, the clerk of the circuit court collects local recordation taxes in the following 13 jurisdictions: Allegany, Calvert, Dorchester, Garrett, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester. In the remaining jurisdictions, local finance offices are responsible for the collection of these taxes. The clerks of the circuit court who collect the tax are entitled to a commission of between 3% and 5% of all public monies collected, which, unless otherwise specified, are remitted to the State's general fund. As a result, any decrease in local recordation and transfer tax revenue will also decrease the amount of the commissions collected by the clerks and remitted to the general fund.

**Local Fiscal Effect:** Local recordation tax revenues may decrease beginning in fiscal 2014 to the extent that properties are transferred pursuant to the bill (transfers between specified related entities). However, the amount of any decrease depends on the number of transfers that occur pursuant to the bill and the amount of consideration associated with each transfer. However, at this time, the number of property transfers that occur by this manner cannot be reliably estimated.

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**Exhibit 1**  
**County Recordation Tax Collections**  
**Fiscal 2012 and 2013**

<b>County</b>	<b>Tax Rate</b>	<b>FY 2012</b>	<b>FY 2013</b>
Allegany	\$3.50	\$1,070,079	\$975,000
Anne Arundel	3.50	28,000,000	30,000,000
Baltimore City	5.00	20,481,000	20,197,000
Baltimore	2.50	21,168,152	21,519,336
Calvert	5.00	5,500,000	5,500,000
Caroline	5.00	1,200,000	1,100,000
Carroll	5.00	8,000,000	8,000,000
Cecil	4.10	4,000,000	4,500,000
Charles	5.00	10,000,000	10,500,000
Dorchester	5.00	1,849,386	1,534,386
Frederick	6.00	10,442,200	15,097,069
Garrett	3.50	2,200,000	1,900,000
Harford	3.30	10,200,000	7,754,000
Howard	2.50	16,000,000	17,000,000
Kent	3.30	700,000	847,368
Montgomery	3.45	49,688,677	49,288,845
Prince George's	2.75	22,251,000	28,063,600
Queen Anne's	4.95	2,650,000	2,331,752
St. Mary's	4.00	4,600,000	4,500,000
Somerset	3.30	373,132	440,000
Talbot	6.00	4,250,000	4,365,000
Washington	3.80	4,550,000	4,550,000
Wicomico	3.50	2,134,000	2,249,756
Worcester	3.30	5,750,000	5,750,000
<b>Total</b>		<b>\$237,057,626</b>	<b>\$247,963,112</b>

Source: Department of Legislative Services

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**Exhibit 2**  
**County Transfer Tax Collections**  
**Fiscal 2012 and 2013**

<b>County</b>	<b>Tax Rate</b>	<b>FY 2012</b>	<b>FY 2013</b>
Allegany	0.50%	\$395,000	\$350,000
Anne Arundel	1.00%	29,000,000	30,000,000
Baltimore City	1.50%	21,541,000	21,973,000
Baltimore	1.50%	43,531,045	44,000,000
Calvert	0.00%	0	0
Caroline	0.50%	304,602	365,397
Carroll	0.00%	0	0
Cecil	\$10/deed	23,000	23,500
Charles	0.00%	0	0
Dorchester	0.75%	760,084	719,115
Frederick	0.00%	0	0
Garrett	1.00%	1,200,000	1,200,000
Harford	1.00%	11,200,000	9,600,000
Howard	1.00%	22,327,512	22,000,000
Kent	0.50%	335,000	355,000
Montgomery	1.00%	74,200,000	80,650,000
Prince George's	1.40%	59,339,200	62,306,200
Queen Anne's	0.50%	0	400,000
St. Mary's	1.00%	3,900,000	3,900,000
Somerset	0.00%	0	0
Talbot	1.00%	2,250,000	2,250,000
Washington	0.50%	1,331,163	1,200,000
Wicomico	0.00%	0	0
Worcester	0.50%	2,750,000	2,750,000
<b>Total</b>		<b>\$274,387,606</b>	<b>\$284,042,212</b>

Source: Department of Legislative Services

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## Additional Information

**Prior Introductions:** Similar bills were introduced as SB 845 and HB 959 in 2012. HB 959 passed the House; however, the Senate Budget and Taxation Committee took no action on either bill.

**Cross File:** HB 372 (Delegate Barve, *et.al.*) – Ways and Means.

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

**Fiscal Note History:** First Reader - February 11, 2013  
ns/hlb Revised - Senate Third Reader - March 26, 2013  
Revised - Enrolled Bill - May 7, 2013  
Revised - Correction - June 5, 2013

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