



BILL NO: House Bill 914

TITLE: Recordation Tax – Public Utilities – Indemnity Mortgages

POSITION: **SUPPORT**

DATE: March 7, 2012

COMMITTEE: Ways and Means

CONTACT: Andrea Mansfield

The Maryland Association of Counties (MACo) **SUPPORTS** House Bill 914. This bill would apply the recordation tax to an indemnity mortgage on an electric plant of an electric company or a gas plant of a gas company. It would apply in the same manner as if the guarantor were primarily liable for the guaranteed loan, unless the recordation tax is paid on another instrument of writing that secures the payment of the guaranteed loan.

Counties believe that equity in local tax systems is a policy priority, and that similar transactions should be treated similarly under tax laws. For years, MACo has testified in favor of legislation seeking to counteract various tax avoidance techniques that deny the intent of our tax laws, and deprive communities of important public services. HB 914 furthers this goal.

An indemnity mortgage is recorded to establish a lien on the property. It typically occurs when a business entity creates an LLC to purchase property and the original business entity serves as a third party guarantor. Under current law, the recordation tax does not apply because the total amount of secured debt has not been incurred. MACo would argue that these business relationships are created for the sole purpose of avoiding taxation.

HB 914 is aimed at the upcoming transfers of large electricity generation property, the sort of major commercial transactions that frequently avoid taxation using the IDOT scheme. This bill would ensure that the recordation tax is paid at the time this transfer takes place, and supports the priorities of the governments that instituted the relevant taxes.

MACo urges the Committee to give HB 914 a **FAVORABLE** report.