



House Bill 1371

Recordation Tax - Collection by State Department of Assessments and Taxation - Distribution

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Budget & Taxation Committee

Date: March 28, 2018

From: Barbara Zektick

The Maryland Association of Counties (MACo) **SUPPORTS** HB 1371 **WITH AMENDMENTS**. This bill, as originally introduced, required the Office of the Comptroller, in consultation with the State Department of Assessments and Taxation (SDAT), to commission an independent audit of county recordation tax collections and remittance for fiscal years 2010 through 2016; repay any counties underpaid during that time from the Local Income Tax Reserve Account; and change collections and remittance of the recordation tax by the State to mirror county transfer tax collections and remittance moving forward.

As amended by the House, the bill simply makes the change to the recordation tax collections and remittance. **MACo requests that the Committee undo the deletions to the bill made by the House, and pass the bill to actively remedy these oversights.**

During the interim, while working with county finance officers, SDAT, and the Office of the Comptroller, MACo learned that five counties - Baltimore City and Anne Arundel, Caroline, Cecil, and Howard Counties – had not received their distribution of State-collected recordation taxes from fiscal 2010 to fiscal 2015. The varying offices remedied the situation moving forward, but legislation is needed to determine exactly how much money each county is owed and then make them whole through the Local Income Tax Reserve Account.

County recordation taxes, just like state and county transfer taxes, are collected when real property is sold or transferred. Most county recordation taxes are collected by either the clerk of the court or the county finance office when deeds are recorded. However, when real property transfers hands because of a business entity merger or consolidation, SDAT collects these three types of taxes.

SDAT submits county transfer taxes from these transactions to the county housing the transferred property. However, it remits the recordation taxes to the Office of the Comptroller, which then distributes the revenues to the counties based upon a formula. That formula is based upon the amount of recordation taxes collected by each county in the prior year.

Approximately a decade ago, counties received legislative authority to collect recordation taxes through their own finance offices, rather than through the clerk of the court. Since that time, several counties – including the five counties listed above – transferred responsibility for collecting recordation taxes to their county finance offices.

It appears that during that time, the five affected counties failed to receive their fair shares of State-collected recordation taxes after transferring all local recordation tax collections to their finance offices. Those counties do not have evidence of receiving any notification of reporting requirements or other need for action to receive their shares of state-collected recordation tax revenues. Nor do they have evidence of notification that their revenues were available.

The funds owed these counties have been distributed to the other 19 counties, as the Comptroller fully distributed all of the State-collected recordation taxes each year. This bill, as originally introduced, compensates the five above-listed counties through the Local Income Tax Reserve Account, rather than clawing back funds from the overly-enriched counties. MACo estimates that approximately \$10 to \$15 million is owed these five counties.

This bill, as introduced and in its current form, also changes the process moving forward so that the recordation tax is distributed according to where property is located, just like the county transfer tax. This simplification of the process eliminates unnecessary bureaucracy and streamlines these distributions to protect against the recurrence of this type of error.

MACo appreciates the consideration of this Committee to rectify this issue, both by amending the bill to provide these counties restitution, and by approving the portion of the bill which streamlines this process moving forward to avoid similar errors in the future. For the reasons stated above, MACo **SUPPORTS** HB 1371 with the **REQUESTED AMENDMENT**.