Andrew Kleine

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FROM

NAME & TITLE	Andrew W. Kleine, Chief
AGENCY NAME & ADDRESS	Bureau of the Budget and Management Research Room 469, City Hall (396-4941)
SUBJECT	City Council CCB 12-0149 – Recordation Tax – Stepped Rates

CITY of BALTIMORE

MEMO

CITY OF BALTIMORE 1797

DATE: November 5, 2012

TO

Honorable President and
Members of the City Council
C/O Karen Randle
Room 409, City Hall

City Council Bill 12-0149 – Recordation Tax – Stepped Rates is for the purpose of establishing stepped rates for calculating the recordation tax on instruments conveying title to property; correcting, clarifying, and conforming related provisions; providing for a special effective date; and generally relating to recordation tax rates.

Analysis

This bill will amend Subtitle 16 – Recordation Tax, of Article 28 of the Baltimore City Code. While the recordation tax rates for instruments securing debt and for instruments conveying title generally will remain unchanged, this bill will create a new system of rates for instruments conveying title to property purchased at a deed of trust or foreclosure sale. Given the number of foreclosure sales in recent years, banks have been in no rush to record their titles to properties acquired in this fashion. As such, current and proper titles to a number of these properties in Baltimore, and throughout the State of Maryland, have not been recorded, and recordation tax has not been paid. This bill is designed to correct this situation and furthers the City's interest in having title to real property in the City properly recorded.

Specifically, this bill would leave the current tax rate of $5 for every $500 of the actual consideration paid (1%) in effect for titles to property conveyed through a purchase at a deed of trust or foreclosure sale that are recorded within 60 days after the entry of the court order ratifying the sale. After 60 days, the recordation tax rate for titles to property conveyed through deed of trust or foreclosure sales increases to $10 for every $500 of the actual consideration paid (2%). If title to these properties is still not recorded within 180 days after the entry of the court order ratifying the sale, the tax rate increases to $20 for each $500 of the actual consideration paid (4%).

Additional paragraphs in the bill provide a schedule of stepped rates to be used in the event of an appeal of the ratification order or a bankruptcy filing. In each of these cases, the rates increase in the same amounts listed above 31 days and 151 days after the entry of a final order on the appeal or an order lifting the bankruptcy stay respectively.

Does not oppose

Fiscal Impact

The fiscal impact of this bill is estimated using three important data points:

1) The annual number of properties transferred at deed of trust or foreclosure sales. According to RealtyTrac data, there were 15,741 properties transferred in this manner in 2011.
2) The average price of properties transferred at deed of trust or foreclosure sales. According to RealtyTrac data, the average price of a property sold at such a sale in 2011 was $83,000.
3) The percentage of titles that are recorded within 60 days of, between 61 and 180 days after, and more than 180 days after the entry of an order ratifying the sale. According to the Division of Revenue Collections, 97.5% of all titles are recorded within 60 days of the transfer. Of the remaining transfers, it is estimated that 50%, or 1.25% of the total, are recorded between 61 and 180 days after the transfer; while the remaining 50%, 1.25% of the total, are recorded more than 180 days after the transfer.

Utilizing these three data points, it is estimated that this bill will generate additional revenue on approximately 2.5% of the properties conveyed through deed of trust or foreclosure sales in each year. As reflected in the chart below, if all other factors remained constant, half of these properties would be taxed at the 2% rate. The other half, which would be recorded more than 180 days after the ratification of the sales, would be taxed at the 4% rate. Accordingly, an estimated additional $653,210 in revenue would be generated annually as a result of this bill.

Calculation:	Transactions	Average Value	Taxable Value	Est'd Taxes	Current Taxes	Difference
1 - 60 Days	15,347 (97.5%)	$83,000	$1,273,759,500	$12,737,595	$12,737,595	$0
60 - 180 days	197 (1.25%)	$83,000	$16,330,250	$326,605	$163,303	$163,303
180 or More	197 (1.25%)	$83,000	$16,330,250	$653,210	$163,303	$489,908
				$13,717,410	$13,064,200	**$653,210**

One final consideration in estimating the fiscal impact of this bill is to determine the current effect of the bill. If this legislation passed, it would take effect 120 days from its date of passage. Property owners that had acquired property through deed of trust or foreclosure sales and had not yet recorded their titles, and had no other pending impetus to do so, would find such impetus in the passage of this bill. In particular, those property owners whose sales had been ratified more than 60 days prior to this bill's passage date would have 120 days to record their titles or see their recordation tax double. As such, it is probable that the passage of this bill will cause a one-time spike in recordation taxes as these property owners record their titles prior to the bill's effective date. Based on available data, such a spike could be as high as $325,000 and would represent tax revenue that would otherwise be captured at a higher rate at some time in the future.

Recommendation

The Finance Department does not oppose CC Bill 12-0149.

CC: Harry Black
Angela Gibson