

**MEMORANDUM**

May 2, 2017

TO: Government Operations and Fiscal Policy Committee

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Worksession:** Bill 10-17, Recordation Tax – Rates — Amendments

Bill 10-17, Recordation Tax – Rates — Amendments, by Lead Sponsor Councilmember Elrich and Co-sponsor Councilmember Leventhal, was introduced on April 4. A public hearing was held on April 25.

Bill 10-17 would modify the recordation tax rates levied under state law for certain transactions.

**Background**

The “Recordation Tax Premium” went into effect in 2008. Bill 15-16, enacted on May 18, 2016, increased the Premium rate from \$1.55 to \$2.30/\$500. Unlike the two elements of the base rate paid on all transactions, the Premium applies only to the cost of a property or a refinancing that is more than \$500,000. Half of the proceeds from the Premium are allocated to County Government capital projects (i.e., capital projects of departments in the Executive Branch); the other half is for rent assistance for low and moderate income households.

Bill 10-17 would reduce the Premium for transactions that are more than \$500,000 but less than \$1,000,000 from 2.30 to \$1.55/\$500. The Bill would increase the Premium for transactions that are more than \$1,000,000 but less than \$2,000,000 from \$2.30 to \$2.55/\$500. The Bill would also increase the Premium for transactions that are more than \$2,000,000 from \$2.30 to \$3.55/\$500.

**Public Hearing**

The lone speaker, Peg Mancuso, representing the Greater Capital Area Association of Realtors, supported the Bill to the extent it lowers the premium recordation tax rate on transactions greater than \$500,000 and less than \$1 million. See ©5-6. Ms. Mancuso also recommended that the Bill be amended to lower all recordation tax rates.

## **Issues**

### **1. What is the fiscal and economic impact of the Bill?**

The goal of the Lead Sponsor, Councilmember Elrich, is to change the premium rates for transactions valued at more than \$500,000 so that transactions valued at more than \$1 million would be charged a higher tax rate than transactions valued at less than \$1 million. The intent of the Bill is to make this change without changing the total amount of recordation tax revenue received by the County. However, the tax rates in the Bill have not been verified to be revenue neutral.

Finance has been analyzing these tax rates, but has not yet been able to complete its analysis. The Department of Finance analysts need to use State assessment records for multiple years to determine an estimate of the total revenue. They had not completed their analysis when this packet went to print. Representatives from the Department of Finance are expected to attend the worksession to explain their work to date.

### **2. Would the Bill increase the volatility of recordation tax revenue received each year?**

Recordation tax is charged on real property transactions. The total revenue depends upon the total number of transactions completed in each fiscal year. Historically, the number of smaller transactions below each year varies less than the number of larger transactions. To the extent that more revenue is derived from the largest commercial transactions, the total revenue received each fiscal year is likely to vary more.

### **3. Is action on this Bill necessary for the Council to complete its budget decisions for FY18?**

If the final tax rates adopted in the Bill are estimated to produce the same revenue as the current tax rates, then there should be no change in the revenue or expenses for FY18. Therefore, the Council can delay a decision on Bill 10-17 until Finance completes its analysis of the actual rates necessary to remain revenue neutral. If the Council decides to increase or decrease the total revenue received from the recordation tax, the Bill should be acted on prior to finalizing the FY18 budget.

### **4. Technical amendment.**

The Bill, as introduced, inadvertently left no premium tax for transactions valued at \$1,000,000 or at \$2,000,000. Council staff recommends the following technical amendment to implement the intent of the Bill:

*Amend lines 13-20 as follows:*

- (2) if the consideration payable or principal amount of debt secured exceeds \$500,000[,];

- (A) an additional [~~\$2.30~~] \$1.55 for each \$500 or fraction of \$500 of the amount over \$500,000 but less than \$1,000,000];
- (B) an additional \$2.55 for each \$500 or fraction of \$500 of the amount equal to or more than ~~[[over]]~~ \$1,000,000 but less than \$2,000,000;  
and
- (C) an additional \$3.55 for each \$500 or fraction of \$500 of the amount equal to or more than ~~[[over]]~~ \$2,000,000.

This packet contains:

Bill 10-17

Legislative Request Report

GCAAR Testimony

Circle #

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Bill No. 10-17  
Concerning: Recordation Tax – Rates –  
Amendments  
Revised: April 7, 2017 Draft No. 3  
Introduced: April 4, 2017  
Expires: October 4, 2018  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. [#], Laws of Mont. Co. [year]

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Elrich  
Co-sponsor: Councilmember Leventhal

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**AN ACT** to:

- (1) modify the recordation tax rates levied under state law for certain transactions; and
- (2) generally amend the law governing the recordation tax

By amending

Montgomery County Code  
Chapter 52, Taxation  
Section 52-16B

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Section 52-16B is amended as follows:**

2   **52-16B. Recordation Tax.**

3           (a) *Rates.* The rates and the allocations of the recordation tax, levied under  
4           Md. Tax-Property Code §§12-101 to 12-118, as amended, are:

5           (1) for each \$500 or fraction of \$500 of consideration payable or of  
6           the principal amount of the debt secured for an instrument of  
7           writing, including the amount of any mortgage or deed of trust  
8           assumed by a grantee;

9           (A) \$2.08, of which the net revenue must be reserved for and  
10           allocated to the County general fund; and

11           (B) \$2.37, of which the net revenue must be reserved for and  
12           allocated to the cost of capital improvements to schools; and

13           (2) if the consideration payable or principal amount of debt secured  
14           exceeds \$500,000[,];

15           (A) an additional [~~\$2.30~~] \$1.55 for each \$500 or fraction of \$500  
16           of the amount over \$500,000 but less than \$1,000,000[,];

17           (B) an additional \$2.55 for each \$500 or fraction of \$500 of the  
18           amount over \$1,000,000 but less than \$2,000,000; and

19           (C) an additional \$3.55 for each \$500 or fraction of \$500 of the  
20           amount over \$2,000,000.

21           (3) The net revenue from the premiums payable under paragraph (2)  
22           [of which the net revenue] must be reserved for and allocated  
23           equally to:

24           (A) the cost of County government capital improvements; and

25           (B) rent assistance for low and moderate income households,  
26           which must not be used to supplant any otherwise available  
27           funds.

28 (b) *Exemption.* The first \$100,000 of the consideration payable on the  
 29 conveyance of any owner-occupied residential property is exempt from  
 30 the recordation tax if the buyer of that property is an individual and  
 31 intends to use the property as the buyer's principal residence by actually  
 32 occupying the residence for at least 7 months of the 12-month period  
 33 immediately after the property is conveyed.

**Sec. 2. Effective Date.**

34 This Act must apply to any transaction which occurs on or after September 1,  
 35 2017.  
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37 *Approved:*

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Roger Berliner, President, County Council Date

39 *Approved:*

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Isiah Leggett, County Executive Date

41 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Bill 10-17

*Recordation Tax – Rates – Amendments*

**DESCRIPTION:** Bill 10-17 would modify the recordation tax rates levied under state law for transactions that are more than \$500,000.

**PROBLEM:** The premium rate for transactions that are more than \$500,000 but less than \$1,000,000 is high. The revenue loss from lowering this premium rate can be made up by increasing the premium rate for transactions that are more than \$1,000,000.

**GOALS AND OBJECTIVES:** The goal is to lower the premium rate for transactions that are less than \$1,000,000.

**COORDINATION:**

**FISCAL IMPACT:** Office of Management and Budget, Finance

**ECONOMIC IMPACT:** To be determined.

**EVALUATION:** N/A

**EXPERIENCE ELSEWHERE:** N/A

**SOURCE OF INFORMATION:** Robert H. Drummer, Senior Legislative Attorney

**APPLICATION WITHIN MUNICIPALITIES:** applicable

**PENALTIES:** N/A



**TESTIMONY OF THE GREATER CAPITAL AREA ASSOCIATION OF REALTORS®  
BEFORE THE MONTGOMERY COUNTY COUNCIL ON  
Bill 10-17, "Recordation Tax—Rates and Amendments"  
April 25, 2017**

This testimony is on behalf of the Greater Capital Area Association of REALTORS®. GCAAR represents nearly 10,000 REALTORS® and real estate professionals. We are also the voice for *thousands* of buyers, sellers and homeowners. GCAAR appreciates the Council revisiting the issue of possible ways to lower recordation taxes, and we support lowering recordation taxes from \$500k to under \$1m within Bill 10-17.<sup>1</sup>

Overall, GCAAR maintains a commitment to the inherent value of homeownership and the consistent positive force it has in our communities. We believe homeownership is the best opportunity for people to securely plant their roots into Montgomery County, maintain stability and gain financial freedom. In the long term, homeowners across the economic spectrum will contribute immensely to Montgomery County's revenue streams via the taxes they pay and local businesses they support. This leads to greater resources for social services, transportation and schools— to name a few.

Unfortunately, the rising cost of housing in the County have made it unaffordable for most residents to purchase a home, especially in comparison to other local jurisdictions. GCAAR has been seriously concerned that instead making homeownership viable, all we have seen over the past few years are initiatives that move us further from this goal.

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<sup>1</sup> GCAAR must emphasize, if the recordation tax rate structure has more than the current number of tiers, this may pose certain technical necessities that would need to be put in place by our industry to properly administer the rates. GCAAR would like to have a more detailed conversation about ensuring accurate implementation of a multi-tiered system with the Council and members of the real estate community on these technical issues such as a later implementation date to allow the industry to make any necessary changes.

Specifically, I came before you last when this Council pushed through a nearly \$200 million recordation tax increase on homeownership in less than a month's time. To make matters worse, the County's recordation taxes were already amongst the highest in the country. That surge in tax rates presented immediate challenges to residents across the County, particularly those first-time homebuyers who already found themselves having immense difficulty putting together their final closing costs.

Today, we find ourselves evaluating a Bill whose effect would be to nominally reduce and return the recordation tax rate to its' previous level prior to last year's increase for transactions more than \$500,000 but less than \$1,000,000. We approximate this group the measure would reduce their recordation tax costs by a couple hundred dollars.

As we often stress, while a few hundred dollars may not seem like much for lawmakers dealing with millions of tax dollars, this adds up very quickly for working families. In fact, the down payment is often the greatest impediment for homeownership. GCAAR is supportive of the part of Bill 10-17 that lowers recordation taxes from \$500k to under \$1m because we firmly believe this relatively small benefit could have a worthy impact. The folks who are now tapping into the last of their savings could find relief in saving even a small amount of additional dollars.

Further, we recommend lowering recordation taxes for future homeowners across the board. GCAAR is able and willing to sit down and work with you and any another other interested school stakeholders on finding funding mechanisms for our most critical priorities such as MCPS. If the County needs more revenue, we can all work together on broader solutions.

In conclusion, GCAAR respectfully asks you to lower the high cost of the Montgomery County's recordation taxes to make homeownership more attainable. Specifically, we believe returning the rate to what it was previously for recordation taxes at the \$500k to under \$1m price point is a positive start.