

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL NO. 1187

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with "Predecessor" in line 2 down through "Entireties" in line 3 and substitute "Real Estate Enterprises"; strike beginning with "including" in line 4 down through "company;" in line 7 and substitute "altering certain exemptions from the recordation tax and State transfer tax to provide for a separate exemption for certain instruments of writing that transfer title to real property from the individual or individuals conducting certain real estate enterprises, including sole proprietorships and tenancies by the entireties, to a limited liability company under certain circumstances;"; in line 9, strike "a predecessor entity" and substitute "certain real estate enterprises"; in line 13, after "12-108(y)" insert "and 13-207(a)(18)"; and strike in their entirety lines 16 through 20, inclusive, and substitute:

"BY adding to

Article - Tax - Property

Section 12-108(aa)

Annotated Code of Maryland

(1994 Replacement Volume and 1999 Supplement)".

AMENDMENT NO. 2

On page 2, in line 2, after "partnership;" insert "AND"; strike beginning with "proprietorship" in line 3 down through "(VII)" in line 6; in line 14, strike the brackets; strike beginning with "OR" in line 16 down through "ENTIRETIES;" in line 19; and after line 25, insert:

"(AA) (1) IN THIS SUBSECTION, "REAL ESTATE ENTERPRISE" MEANS A BUSINESS CONDUCTED BY ONE OR MORE INDIVIDUALS WHO OWN REAL PROPERTY, INCLUDING A SOLE PROPRIETORSHIP OR A TENANCY BY THE ENTIRETIES, AND ARE INVOLVED PRINCIPALLY IN BUYING, SELLING, LEASING, OR MANAGING REAL PROPERTY.

(Over)

(2) AN INSTRUMENT OF WRITING THAT TRANSFERS TITLE TO REAL PROPERTY FROM THE INDIVIDUAL OR INDIVIDUALS CONDUCTING A REAL ESTATE ENTERPRISE TO A LIMITED LIABILITY COMPANY IS NOT SUBJECT TO RECORDATION TAX IF:

(I) THE TRANSFER IS FOR NO CONSIDERATION OTHER THAN THE ISSUANCE OF MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY;

(II) THE MEMBERS OF THE LIMITED LIABILITY COMPANY ARE IDENTICAL TO THE PARTNERS OF THE CONVEYING REAL ESTATE ENTERPRISE;

(III) EACH MEMBER'S ALLOCATION OF THE PROFITS AND LOSSES OF THE LIMITED LIABILITY COMPANY IS IDENTICAL TO THAT MEMBER'S ALLOCATION OF THE PROFITS AND LOSSES OF THE CONVEYING REAL ESTATE ENTERPRISE;

(IV) THE TRANSFER IS PART OF A DISCONTINUATION OF THE REAL PROPERTY ENTERPRISE; AND

(V) ALL REAL PROPERTY OWNED BY THE INDIVIDUALS AND USED IN THE CONDUCT OF ANY REAL PROPERTY ENTERPRISE IS BEING CONVEYED TO A SINGLE LIMITED LIABILITY COMPANY."

AMENDMENT NO. 3

On page 2, in line 29, after "§ 12-108(y)" insert "OR (AA)"; and in the same line, after "entity" insert "OR REAL ESTATE ENTERPRISE".