

HOUSE BILL 163
EMERGENCY BILL

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Q6

2003 Regular Session
3r1309

By: **Delegates Healey and Moe**

Introduced and read first time: January 27, 2003

Assigned to: Ways and Means

Committee Report: Favorable

House action: Adopted

Read second time: March 4, 2003

CHAPTER 411

1 AN ACT concerning

2 **Recordation Tax - Refinancing Instrument - Exemption for Spouses**

3 FOR the purpose of altering a certain exemption from the recordation tax for a
4 mortgage or deed of trust that secures the refinancing of real property; making
5 this Act an emergency measure; and generally relating to an exemption from the
6 recordation tax for a mortgage or deed of trust that secures the refinancing of
7 real property.

8 BY repealing and reenacting, with amendments,
9 Article - Tax - Property
10 Section 12-108(g)
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2002 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Tax - Property**

16 12-108.

17 (g) (1) In this subsection, "original mortgagor" includes an individual who
18 assumed a debt secured by real property that the individual purchased as a principal
19 residence and who paid the recordation tax on the consideration paid for the property.

20 (2) A mortgage or deed of trust is not subject to recordation tax to the
21 extent that it secures the refinancing of an amount not greater than the unpaid
22 principal amount secured by an existing mortgage or deed of trust at the time of

1 refinancing [by the original mortgagor] IF THE MORTGAGE OR DEED OF TRUST
2 SECURES THE REFINANCING of real property that is:

3 (I) used as a principal residence by the original mortgagor; AND

4 (II) BEING REFINANCED BY THE ORIGINAL MORTGAGOR OR BY THE
5 ORIGINAL MORTGAGOR AND THE SPOUSE OF THE ORIGINAL MORTGAGOR.

6 (3) To qualify for an exemption under paragraph (2) of this subsection an
7 original mortgagor or agent of the original mortgagor shall include a statement in the
8 recitals or in the acknowledgment of the mortgage or deed of trust, or submit with the
9 mortgage or deed of trust, an affidavit under oath, signed by the original mortgagor or
10 agent of the original mortgagor, stating:

11 (i) that the individual is the original mortgagor or agent of the
12 original mortgagor;

13 (ii) that the mortgaged property is the principal residence of the
14 original mortgagor; and

15 (iii) the amount of unpaid principal of the original mortgage or deed
16 of trust that is being refinanced.

17 (4) A statement under paragraph (3) of this subsection by an agent of the
18 original mortgagor shall state that the statement:

19 (i) is based on a diligent inquiry made by the agent with respect to
20 the facts set forth in the statement; and

21 (ii) is true to the best of the knowledge, information, and belief of
22 the agent.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
24 measure, is necessary for the immediate preservation of the public health or safety,
25 has been passed by a ye and nay vote supported by three-fifths of all the members
26 elected to each of the two Houses of the General Assembly, and shall take effect from
27 the date it is enacted.