

SENATE BILL 994

Q6, Q7

3lr3238

By: **Senators Kittleman and Brinkley**

Introduced and read first time: February 18, 2013

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Inheritance, Recordation, and Transfer Taxes – Exemptions for Domestic**
3 **Partners – Repeal**

4 FOR the purpose of repealing an exemption from the inheritance tax for certain
5 property that passes from a decedent to or for the use of a domestic partner of a
6 decedent under certain circumstances; repealing an exemption from recordation
7 tax and State and county transfer taxes for certain instruments of writing
8 transferring property between domestic partners and former domestic partners
9 under certain circumstances; providing for the application of this Act; and
10 generally relating to certain exemptions from inheritance, recordation, and
11 transfer taxes for domestic partners.

12 BY repealing

13 Article – Tax – General

14 Section 7–203(l)

15 Annotated Code of Maryland

16 (2010 Replacement Volume and 2012 Supplement)

17 BY repealing

18 Article – Tax – Property

19 Section 12–101(e–1) through (e–5)

20 Annotated Code of Maryland

21 (2012 Replacement Volume)

22 BY repealing and reenacting, with amendments,

23 Article – Tax – Property

24 Section 12–108(c) and (d), 13–207(a)(2) and (3), and 13–403

25 Annotated Code of Maryland

26 (2012 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Tax – General**

4 7–203.

5 [(1) (1) (i) In this subsection the following words have the meanings
6 indicated.

7 (ii) “Domestic partner” means an individual with whom another
8 individual has established a domestic partnership.

9 (iii) “Domestic partnership” means a relationship between two
10 individuals that is a domestic partnership within the meaning of § 6–101 of the Health
11 – General Article.

12 (2) If the domestic partner of a decedent provides evidence of the
13 domestic partnership as described in § 6–101(b) of the Health – General Article, the
14 inheritance tax does not apply to the receipt of an interest in a joint primary residence
15 that:

16 (i) at the time of death was held in joint tenancy by the
17 decedent and the domestic partner; and

18 (ii) passes from the decedent to or for the use of the domestic
19 partner.]

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
21 read as follows:

22 **Article – Tax – Property**

23 12–101.

24 [(e–1) “Domestic partner” means an individual with whom another individual
25 has established a domestic partnership.

26 (e–2) “Domestic partnership” means a relationship between two individuals
27 who:

28 (1) are at least 18 years old;

29 (2) are not related to the other by blood or marriage within four
30 degrees of consanguinity under the civil law rule;

1 (3) are not married or a member of a civil union or domestic
2 partnership with another individual;

3 (4) agree to be in a relationship of mutual interdependence in which
4 each domestic partner contributes to the maintenance and support of the other
5 domestic partner and the relationship, even if both domestic partners are not required
6 to contribute equally to the relationship; and

7 (5) share a common residence where both domestic partners live, even
8 if:

9 (i) only one of the domestic partners has the right to legal
10 possession of the common residence; or

11 (ii) one of the domestic partners has an additional residence.

12 (e-3) “Evidence of a domestic partnership” means:

13 (1) an affidavit signed under penalty of perjury by two individuals
14 stating that they have established a domestic partnership; and

15 (2) evidence of any two of the following:

16 (i) joint liability of the individuals for a mortgage or other loan
17 or for a lease;

18 (ii) the designation of one of the individuals as the primary
19 beneficiary under a life insurance policy on the life of the other individual or under a
20 retirement plan of the other individual;

21 (iii) the designation of one of the individuals as the primary
22 beneficiary of the will of the other individual;

23 (iv) a durable power of attorney for health care or financial
24 management granted by one of the individuals to the other individual;

25 (v) joint ownership or lease by the individuals of a motor
26 vehicle;

27 (vi) a joint checking account, joint investments, or a joint credit
28 account;

29 (vii) a joint renter’s or homeowner’s insurance policy;

30 (viii) coverage of one of the individuals under a health insurance
31 policy of the other individual;

1 (ix) joint responsibility for childcare, such as school documents
2 or guardianship documents; or

3 (x) a relationship or cohabitation contract.

4 (e-4) "Evidence of dissolution of a domestic partnership" means:

5 (1) a death certificate; or

6 (2) an affidavit signed under penalty of perjury by two individuals who
7 formerly established a domestic partnership stating that the domestic partnership has
8 been dissolved.

9 (e-5) "Former domestic partner" means an individual with whom another
10 individual had established a domestic partnership that has subsequently been
11 dissolved.]

12 12-108.

13 (c) [(1)] When property is transferred subject to a mortgage or deed of
14 trust, the recordation tax does not apply to the principal amount of debt assumed by
15 the transferee, if the instrument of writing transfers the property from the transferor
16 to a:

17 [(i)] (1) spouse or former spouse;

18 [(ii)] (2) son, daughter, stepson, or stepdaughter;

19 [(iii)] (3) parent or stepparent;

20 [(iv)] (4) son-in-law, daughter-in-law, stepson-in-law, or
21 stepdaughter-in-law;

22 [(v)] (5) parent-in-law or stepparent-in-law;

23 [(vi)] (6) brother, sister, stepbrother, or stepsister;

24 [(vii)] (7) grandchild or stepgrandchild; **OR**

25 [(viii)] (8) grandparent or stepgrandparent[; or

26 (ix) domestic partner or former domestic partner].

27 [(2) (i) To qualify as a domestic partner under this subsection, an
28 individual shall submit evidence of a domestic partnership.

1 (ii) To qualify as a former domestic partner under this
2 subsection, an individual shall submit evidence of dissolution of a domestic
3 partnership.

4 (3) The exemption under paragraph (1) of this subsection for transfers
5 to a domestic partner or former domestic partner of the transferor applies only to an
6 instrument of writing for residential property.]

7 (d) [(1)] An instrument of writing that transfers property between [the
8 following individuals] **SPOUSES OR FORMER SPOUSES** is not subject to recordation
9 tax[:

10 (i) spouses or former spouses; or

11 (ii) domestic partners or former domestic partners].

12 [(2) (i) To qualify as a domestic partner under this subsection, an
13 individual shall submit evidence of a domestic partnership.

14 (ii) To qualify as a former domestic partner under this
15 subsection, an individual shall submit evidence of dissolution of a domestic
16 partnership.

17 (3) The exemption under paragraph (1) of this subsection for transfers
18 between domestic partners or former domestic partners applies only to an instrument
19 of writing for residential property.]

20 13–207.

21 (a) An instrument of writing is not subject to transfer tax to the same extent
22 that it is not subject to recordation tax under:

23 (2) § 12–108(c) of this article (Transfer between relatives [and
24 domestic partners]);

25 (3) § 12–108(d) of this article (Transfer between spouses [and domestic
26 partners]);

27 13–403.

28 [(a) In this section, “domestic partner”, “evidence of a domestic partnership”,
29 “evidence of dissolution of a domestic partnership”, and “former domestic partner”
30 have the meanings stated in § 12–101 of this article.

31 (b)] An instrument of writing that transfers property between spouses or
32 former spouses [or between domestic partners or former domestic partners] in

1 accordance with a property settlement[,] OR divorce decree[, or dissolution of a
2 domestic partnership] is not subject to a county transfer tax.

3 [(c) (1) To qualify as a domestic partner under this section, an individual
4 shall submit evidence of a domestic partnership.

5 (2) To qualify as a former domestic partner under this section, an
6 individual shall submit evidence of dissolution of a domestic partnership.

7 (d) The exemption under subsection (b) of this section for transfers between
8 domestic partners or former domestic partners applies only to an instrument of
9 writing for residential property.]

10 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
11 be applicable to all decedents dying on or after December 31, 2012.

12 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
13 this Act, this Act shall take effect July 1, 2013.