

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 1104  
Ways and Means

(Delegate Hixson, *et al.*)

Budget and Taxation

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**Inheritance Tax - Exemption - Evidence of Domestic Partnership**

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This bill alters the required documentation that a domestic partner of a decedent must produce in order to exempt from the State inheritance tax the value of a certain primary residence that passes to the domestic partner.

The bill takes effect July 1, 2017.

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**Fiscal Summary**

**State Effect:** Altering the required documentation that a domestic partner must produce is not expected to materially affect State inheritance tax revenues. No effect on expenditures.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary/Current Law:** Chapter 602 of 2009 exempted from the State inheritance tax the receipt of an interest in a joint primary residence that (1) at the time of the death was held in joint tenancy by the decedent and the domestic partner and (2) passes from the decedent to or for the use of the domestic partner.

A domestic partnership means a relationship between two individuals who (1) are at least 18 years old; (2) are not related to each other by blood or marriage within four degrees of consanguinity under civil law rule; (3) are not married or in a civil union or domestic

partnership with another individual; and (4) agree to be in a relationship of mutual interdependence in which each individual contributes to the maintenance and support of the other individual and the relationship, even if both individuals are not required to contribute equally to the relationship.

Under current law, the inheritance tax exemption applies if the individual who asserts a domestic partnership provides an affidavit signed under penalty of perjury by two individuals stating that they have established a domestic partnership and proof of any two of the following documents:

- joint liability of the individuals for a mortgage, lease, or loan;
- the designation of one of the individuals as the primary beneficiary under a life insurance policy on the life of the other individual or under a retirement plan of the other individual;
- the designation of one of the individuals as the primary beneficiary of the will of the other individual;
- a durable power of attorney for health care or financial management granted by one of the individuals to the other individual;
- joint ownership or lease by the individuals of a motor vehicle;
- a joint checking account, joint investments, or a joint credit account;
- a joint renter's or homeowner's insurance policy;
- coverage on a health insurance policy;
- joint responsibility for child care, such as guardianship or school documents; or
- a relationship or cohabitation contract.

Under the bill, an individual who asserts a domestic partnership must provide either, instead of both, the affidavit or any two of the documents described above.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 276 (Senator Madaleno) - Budget and Taxation.

**Information Source(s):** Comptroller's Office; Register of Wills; Department of Legislative Services

**Fiscal Note History:** First Reader - February 22, 2017  
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Analysis by: Robert J. Rehrmann

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510