

By: Senator Boozer

Introduced and read first time: February 7, 1997

Assigned to: Rules

Re-referred to: Budget and Taxation, February 14, 1997

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 1997

CHAPTER ____

1 AN ACT concerning

2 ~~Recordation and Transfer Taxes – Exemptions for Partnerships, Limited Liability~~
3 ~~Companies, and Corporations~~
4 Limited Liability Companies - Tax Exemption for Transfers of Real Property From a
5 Predecessor Entity to a Limited Liability Company

6 FOR the purpose of ~~providing for an exemption from the recordation tax and the State~~
7 ~~and county transfer taxes for certain transfers of title to real property to or from a~~
8 ~~partnership, limited liability company, or corporation under certain circumstances~~
9 clarifying that an instrument of writing that transfers title to real property for
10 certain entities to a limited liability company is not subject to recordation and State
11 or county transfer tax under certain circumstances; defining a term; and generally
12 relating to the recordation and State or county transfer tax exemption on certain
13 transfers of real property from certain entities to a limited liability company.

14 ~~BY adding to~~
15 ~~Article – Tax – Property~~
16 ~~Section 12-108(z)~~
17 ~~Annotated Code of Maryland~~
18 ~~(1994 Replacement Volume and 1996 Supplement)~~

19 BY repealing and reenacting, with amendments,
20 Article - Tax - Property
21 Section ~~13-207(a)(17) and (18) and 13-405(e)~~ 12-108(y) and 13-207(a)(18)
22 Annotated Code of Maryland
23 (1994 Replacement Volume and 1996 Supplement)

24 BY repealing and reenacting, without amendments,

2

1 Article - Tax - Property
2 Section 13-405(c)
3 Annotated Code of Maryland
4 (1994 Replacement Volume and 1996 Supplement)

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

7 **Article - Tax - Property**

8 12-108.

9 ~~(Z) AN INSTRUMENT OF WRITING IS NOT SUBJECT TO RECORDATION TAX IF~~
10 ~~THE INSTRUMENT OF WRITING IS:~~

11 ~~(1) A TRANSFER OF TITLE TO REAL PROPERTY AS A CAPITAL~~
12 ~~CONTRIBUTION TO A CORPORATION, LIMITED LIABILITY COMPANY, OR A~~
13 ~~PARTNERSHIP SOLELY IN EXCHANGE FOR AN EQUITY INTEREST IN THE ENTITY;~~

14 ~~(2) A TRANSFER OF TITLE TO REAL PROPERTY BETWEEN TWO~~
15 ~~PARTNERSHIPS OR BETWEEN TWO LIMITED LIABILITY COMPANIES OR BETWEEN A~~
16 ~~PARTNERSHIP AND A LIMITED LIABILITY COMPANY FOR NO CONSIDERATION OR~~
17 ~~NOMINAL CONSIDERATION IF:~~

18 ~~(I) THE OWNERS AND THEIR RESPECTIVE INTERESTS OF BOTH~~
19 ~~ENTITIES ARE IDENTICAL; AND~~

20 ~~(II) THE OWNERS OF THE TRANSFEREE ENTITY ARE ORIGINAL~~
21 ~~OWNERS OF THE TRANSFEROR ENTITY OR BECAME OWNERS THROUGH A GIFT OR~~
22 ~~BEQUEST FROM AN ORIGINAL OWNER;~~

23 ~~(3) ARTICLES OF MERGER OR A DOCUMENT WHICH EVIDENCES THE~~
24 ~~MERGER OF PARTNERSHIPS OR LIMITED LIABILITY COMPANIES IF THERE IS A~~
25 ~~TRANSFER OF REAL PROPERTY FROM A PARTNERSHIP OR LIMITED LIABILITY~~
26 ~~COMPANY MERGING OUT OF EXISTENCE TO ITS SUCCESSOR WHERE RECORDATION~~
27 ~~TAX AND, IF THEN REQUIRED TO HAVE BEEN PAID, TRANSFER TAX WERE PAID~~
28 ~~WHEN THE PARTNERSHIP OR LIMITED LIABILITY COMPANY MERGING OUT OF~~
29 ~~EXISTENCE ACQUIRED TITLE TO THE REAL PROPERTY;~~

30 ~~(4) A TRANSFER OF TITLE TO REAL PROPERTY FROM A PARTNERSHIP~~
31 ~~TO A LIMITED LIABILITY COMPANY, A LIMITED LIABILITY TO A PARTNERSHIP, A~~
32 ~~GENERAL PARTNERSHIP TO A LIMITED PARTNERSHIP, OR A LIMITED PARTNERSHIP~~
33 ~~TO A GENERAL PARTNERSHIP IF:~~

34 ~~(I) THE OWNERS AND THEIR RESPECTIVE INTERESTS IN BOTH~~
35 ~~ENTITIES ARE IDENTICAL; AND~~

36 ~~(II) THE OWNERS OF THE TRANSFEREE ENTITY ARE ORIGINAL~~
37 ~~OWNERS OF THE TRANSFEROR ENTITY OR BECAME OWNERS THROUGH A GIFT OR~~
38 ~~BEQUEST FROM AN ORIGINAL OWNER; OR~~

39 ~~(5) A TRANSFER OF TITLE TO REAL PROPERTY FROM A CORPORATION~~
40 ~~OR PARTNERSHIP OR LIMITED LIABILITY COMPANY IN PARTIAL LIQUIDATION OF~~

3

1 ~~THE CORPORATION OR PARTNERSHIP OR LIMITED LIABILITY COMPANY IF THE~~
2 ~~TRANSFeree IS:~~

3 ~~(I) AN ORIGINAL STOCKHOLDER OF THE CORPORATION OR AN~~
4 ~~ORIGINAL PARTNER OF THE PARTNERSHIP OR AN ORIGINAL MEMBER OF THE~~
5 ~~LIMITED LIABILITY COMPANY;~~

6 ~~(II) A DIRECT DESCENDANT OR RELATIVE WITHIN 2 DEGREES OF~~
7 ~~AN ORIGINAL STOCKHOLDER OF THE CORPORATION OR AN ORIGINAL PARTNER OF~~
8 ~~THE PARTNERSHIP OR AN ORIGINAL MEMBER OF THE LIMITED LIABILITY COMPANY~~
9 ~~COUNTING BY THE CIVIL LAW METHOD; OR~~

10 ~~(III) A STOCKHOLDER OR A PARTNER OR A MEMBER WHO BECAME~~
11 ~~A STOCKHOLDER OR A PARTNER OR A MEMBER THROUGH A GIFT OR BEQUEST~~
12 ~~FROM AN ORIGINAL STOCKHOLDER OF THE CORPORATION OR AN ORIGINAL~~
13 ~~PARTNER OF THE PARTNERSHIP OR AN ORIGINAL MEMBER OF THE LIMITED~~
14 ~~LIABILITY COMPANY.~~

15 ~~13-207.~~

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

18 ~~(17) § 12-108(x) of this article (Cooperative housing corporations); [or]~~

19 ~~(18) § 12-108(y) of this article (Transfer from partnership to limited liability~~
20 ~~company); OR~~

21 ~~(19) § 12-108(Z) OF THIS ARTICLE (CERTAIN PARTNERSHIP AND~~
22 ~~CORPORATE CONVEYANCES).~~

23 ~~13-405.~~

24 ~~(e) A corporate, limited liability company, or partnership transfer as described in~~
25 ~~§ 12-108(p), (q), (v), (w), [and] (y), AND (Z) of this article is not subject to the county~~
26 ~~transfer tax.~~

27 ~~(y) (1) IN THIS SUBSECTION, "PREDECESSOR ENTITY" INCLUDES A:~~

28 ~~(I) GENERAL PARTNERSHIP;~~

29 ~~(II) LIMITED PARTNERSHIP;~~

30 ~~(III) LIMITED LIABILITY PARTNERSHIP;~~

31 ~~(IV) LIMITED LIABILITY LIMITED PARTNERSHIP;~~

32 ~~(V) PROPRIETORSHIP, COMPRISED OF ONE OR MORE~~
33 ~~INDIVIDUALS, WHICH IS INVOLVED PRINCIPALLY IN BUYING, SELLING, LEASING, OR~~
34 ~~MANAGING REAL PROPERTY; AND~~

35 ~~(VI) JOINT VENTURE.~~

4

1 (2) An instrument of writing that transfers title to real property from a
2 [partnership] PREDECESSOR ENTITY OR A TRUSTEE OR NOMINEE OF A
3 PREDECESSOR ENTITY to a limited liability company is not subject to recordation tax if:

4 [(1)] (I) 1. the members of the limited liability company are identical to
5 the partners of the converting GENERAL partnership, LIMITED PARTNERSHIP, LIMITED
6 LIABILITY PARTNERSHIP, LIMITED LIABILITY LIMITED PARTNERSHIP; [and] OR

7 2. THE MEMBERS OF THE LIMITED LIABILITY COMPANY
8 ARE IDENTICAL TO THE INDIVIDUAL OR INDIVIDUALS OF THE CONVERTING
9 PROPRIETORSHIP; OR

10 3. THE MEMBERS OF THE LIMITED LIABILITY COMPANY
11 ARE IDENTICAL TO THE JOINT VENTURERS OF THE CONVERTING JOINT VENTURE;

12 [(2)] (II) each member's allocation of the profits and losses of the limited
13 liability company is identical to that member's allocation of the profits and losses of the
14 converting [partnership] PREDECESSOR ENTITY; AND

15 (III) THE INSTRUMENT OF WRITING THAT TRANSFERS TITLE TO
16 REAL PROPERTY REPRESENTS THE DISSOLUTION OF THE PREDECESSOR ENTITY
17 FOR PURPOSES OF CONVERSION TO A LIMITED LIABILITY COMPANY.

18 13-207.

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

21 (18) § 12-108(y) of this article (Transfer from [partnership] PREDECESSOR
22 ENTITY to limited liability company).

23 13-405.

24 (c) A corporate, limited liability company, or partnership transfer as described in
25 § 12-108(p), (q), (v), (w), and (y) of this article is not subject to the county transfer tax.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 July 1, 1997 October 1, 1997.