
By: **Senator Boozer**

Introduced and read first time: February 6, 1998

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Recordation and Transfer Taxes - Exemption and Payment**

3 FOR the purpose of providing that an agent of a grantee who is otherwise eligible for
4 certain exemptions from the State and county transfer taxes may provide a
5 statement required for the exemptions; providing that the agent may also
6 provide a statement that results in a seller's liability for payment of recordation
7 and local transfer taxes under certain circumstances; requiring the agent to
8 include certain affirmations with the statements; and generally relating to
9 exemptions from and payment of recordation and transfer taxes.

10 BY repealing and reenacting, with amendments,
11 Article - Real Property
12 Section 14-104
13 Annotated Code of Maryland
14 (1996 Replacement Volume and 1997 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article - Tax - Property
17 Section 13-203 and 13-409
18 Annotated Code of Maryland
19 (1994 Replacement Volume and 1997 Supplement)

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

22 **Article - Real Property**

23 14-104.

24 (a) In this section, "first-time Maryland home buyer" means an individual
25 who has never owned in the State residential real property that has been the
26 individual's principal residence.

27 (b) Except as provided in subsection (c) of this section, in every written or oral
28 agreement for the sale or other disposition of property, it is presumed in the absence

1 of a contrary provision in the agreement or the law, that the parties to the agreement
2 intended that the cost of any recordation tax or any State or local transfer tax shall be
3 shared equally between the grantor and grantee. This section does not apply to
4 mortgages or deeds of trust.

5 (c) (1) The entire amount of recordation tax and local transfer tax shall be
6 paid by the seller of improved, residential real property that is sold to a first-time
7 Maryland home buyer who will occupy the property as a principal residence, unless
8 there is an express agreement between the parties to the agreement that the
9 recordation tax and local transfer tax will not be paid entirely by the seller.

10 (2) The entire amount of State transfer tax shall be paid by the seller of
11 improved, residential real property that is sold to a first-time Maryland home buyer
12 who will occupy the property as a principal residence.

13 (3) This subsection does not apply to tax sales of property under Title 14,
14 Subtitle 8 of the Tax - Property Article.

15 (4) If there are two or more grantees, this subsection does not apply
16 unless each grantee is a first-time Maryland home buyer or a co-maker or guarantor
17 of a purchase money mortgage or purchase money deed of trust as defined in §
18 12-108(i) of the Tax - Property Article for the property and the co-maker or
19 guarantor will not occupy the residence as the co-maker's or guarantor's principal
20 residence.

21 (5) [Paragraphs] SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION,
22 PARAGRAPHS (1) and (2) of this subsection apply only if each grantee OR AN AGENT
23 OF EACH GRANTEE provides a statement that is signed under oath by the grantee OR
24 THE AGENT stating that:

25 (i) 1. The grantee is a first-time Maryland home buyer as
26 defined under subsection (a) of this section; and

27 2. The residence will be occupied by the grantee as the
28 grantee's principal residence; or

29 (ii) 1. The grantee is a co-maker or guarantor of a purchase
30 money mortgage or purchase money deed of trust as defined in § 12-108(i) of the Tax
31 - Property Article for the property; and

32 2. The grantee will not occupy the residence as the
33 co-maker's or guarantor's principal residence.

34 (6) IF AN AGENT OF A GRANTEE PROVIDES THE STATEMENT UNDER
35 PARAGRAPH (5) OF THIS SUBSECTION, THE AGENT SHALL INCLUDE AN AFFIRMATION
36 THAT THE STATEMENT IS:

37 (I) BASED ON A DILIGENT INQUIRY MADE BY THE AGENT AS TO
38 THE FACTS SET FORTH IN THE STATEMENT; AND

1 (II) TRUE TO THE BEST OF THE KNOWLEDGE, INFORMATION, AND
2 BELIEF OF THE AGENT.

3 **Article - Tax - Property**

4 13-203.

5 (a) Except as provided in subsection (b) of this section, the rate of the transfer
6 tax is 0.5% of the consideration payable for the instrument of writing. The
7 consideration includes the amount of any mortgage or deed of trust assumed by the
8 grantee.

9 (b) (1) In this subsection, "first-time Maryland home buyer" means an
10 individual who has never owned in the State residential real property that has been
11 the individual's principal residence.

12 (2) If there are two or more grantees, this subsection does not apply
13 unless each grantee is a first-time Maryland home buyer or a co-maker or guarantor
14 of a purchase money mortgage or purchase money deed of trust as defined in §
15 12-108(i) of this article for the property and the co-maker or guarantor will not
16 occupy the residence as the co-maker's or guarantor's principal residence.

17 (3) Notwithstanding any other provision of law, for a sale of improved
18 residential real property to a first-time Maryland home buyer who will occupy the
19 property as a principal residence, the rate of the transfer tax is 0.25% of the
20 consideration payable for the instrument of writing and the transfer tax shall be paid
21 entirely by the seller.

22 (4) [To] SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, TO qualify
23 for the exemption under paragraph (3) of this subsection, each grantee OR AN AGENT
24 OF EACH GRANTEE shall provide a statement that is signed under oath by the grantee
25 OR THE AGENT stating that:

26 (i) 1. the grantee is an individual who has never owned in the
27 State residential real property that has been the individual's principal residence; and

28 2. the residence will be occupied by the grantee as the
29 grantee's principal residence; or

30 (ii) 1. the grantee is a co-maker or guarantor of a purchase
31 money mortgage or purchase money deed of trust as defined in § 12-108(i) of this
32 article for the property; and

33 2. the grantee will not occupy the residence as the
34 co-maker's or guarantor's principal residence.

35 (5) IF AN AGENT OF A GRANTEE PROVIDES THE STATEMENT UNDER
36 PARAGRAPH (5) OF THIS SUBSECTION, THE AGENT SHALL INCLUDE AN AFFIRMATION
37 THAT THE STATEMENT IS:

1 (I) BASED ON A DILIGENT INQUIRY MADE BY THE AGENT AS TO
2 THE FACTS SET FORTH IN THE STATEMENT; AND

3 (II) TRUE TO THE BEST OF THE KNOWLEDGE, INFORMATION, AND
4 BELIEF OF THE AGENT.

5 13-409.

6 (A) [Any] SUBJECT TO SUBSECTION (B) OF THIS SECTION, ANY county having
7 a county transfer tax may provide for an exemption from the tax for an instrument of
8 writing for residentially improved owner-occupied real property if the instrument of
9 writing is accompanied by a statement under oath signed by each grantee OR AN
10 AGENT OF EACH GRANTEE that:

11 (1) (i) the grantee is an individual who has never owned in the State
12 residential real property that has been the individual's principal residence; and

13 (ii) the residence will be occupied by the grantee as the grantee's
14 principal residence; or

15 (2) (i) the grantee is a co-maker or guarantor of a purchase money
16 mortgage or purchase money deed of trust as defined in § 12-108(i) of this article for
17 the property; and

18 (ii) the grantee will not occupy the residence as the co-maker's or
19 guarantor's principal residence.

20 (B) IF AN AGENT OF A GRANTEE PROVIDES THE STATEMENT UNDER
21 SUBSECTION (A) OF THIS SECTION, THE AGENT SHALL INCLUDE AN AFFIRMATION
22 THAT THE STATEMENT IS:

23 (I) BASED ON A DILIGENT INQUIRY MADE BY THE AGENT AS TO
24 THE FACTS SET FORTH IN THE STATEMENT; AND

25 (II) TRUE TO THE BEST OF THE KNOWLEDGE, INFORMATION, AND
26 BELIEF OF THE AGENT.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1998.