

SENATE BILL 675

Unofficial Copy
Q6
HB 878/98 - W&M

1999 Regular Session
9r1794

By: **Senator Currie**

Introduced and read first time: February 15, 1999

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Limited Liability Companies - Tax Exemption for Transfers of Real Property**
3 **to a Limited Liability Company and Conversions to a Limited Liability**
4 **Company**

5 FOR the purpose of allowing a foreign general partnership or a foreign limited
6 partnership to convert to a Maryland limited liability company; altering the
7 exemption from recordation and State and county transfer taxes, for an
8 instrument in writing that transfers title to real property to a limited liability
9 company, to include transfers from a foreign general partnership, foreign
10 limited partnership, foreign limited liability partnership, foreign limited
11 liability limited partnership, foreign proprietorship, or foreign joint venture;
12 altering a certain definition; and generally relating to conversions to limited
13 liability companies and the recordation and State and county transfer tax
14 exemption for certain transfers of real property from certain entities to a limited
15 liability company.

16 BY repealing and reenacting, without amendments,
17 Article - Corporations and Associations
18 Section 4A-101(a), (m), and (r)
19 Annotated Code of Maryland
20 (1993 Replacement Volume and 1998 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Corporations and Associations
23 Section 4A-211
24 Annotated Code of Maryland
25 (1993 Replacement Volume and 1998 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Tax - Property
28 Section 12-108(y)
29 Annotated Code of Maryland
30 (1994 Replacement Volume and 1998 Supplement)

1 BY repealing and reenacting, without amendments,
2 Article - Tax - Property
3 Section 13-207(a)(18) and 13-405(c)
4 Annotated Code of Maryland
5 (1994 Replacement Volume and 1998 Supplement)

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

8 **Article - Corporations and Associations**

9 4A-101.

10 (a) In this title the following terms have the meanings indicated.

11 (m) "Limited partnership" means a Maryland limited partnership or foreign
12 limited partnership as defined in § 10-101 of this article.

13 (r) "Partnership" means a partnership formed under the laws of this State,
14 any other state, or under the laws of a foreign country.

15 4A-211.

16 (a) A [general partnership formed under the provisions of Title 9 of this article
17 or a limited partnership formed under the provisions of Title 10 of this article]
18 PARTNERSHIP may convert to a limited liability company by filing articles of
19 organization that meet the requirements of § 4A-204 of this subtitle and include the
20 following:

21 (1) The name of the former general partnership or limited partnership;
22 and

23 (2) The date of formation of the partnership and place of filing of the
24 initial statement of partnership, if any, or certificate of limited partnership of the
25 former general partnership or limited partnership.

26 (b) The terms and conditions of a conversion of a general or limited
27 partnership to a limited liability company shall be approved by the partners in the
28 manner provided in the partnership's partnership agreement for amendments to the
29 partnership agreement or, if no such provision is made in a partnership agreement, by
30 unanimous agreement of the partners.

31 (c) (1) A general partner of a limited partnership or a partner of a general
32 partnership who becomes a member of a limited liability company as a result of the
33 conversion remains liable as a general partner of a limited partnership or a partner of
34 a general partnership for any obligation or liability of the partnership incurred or
35 arising before the conversion takes effect, to the extent that the partner or general
36 partner would have been obligated or liable if the conversion had not occurred.

1 (2) The partner's or general partner's liability for all obligations or
2 liabilities of the limited liability company incurred or arising after the conversion
3 takes effect is that of a member of a limited liability company, as provided in this title.

4 **Article - Tax - Property**

5 12-108.

6 (y) (1) In this subsection, "predecessor entity" includes a:

7 (i) MARYLAND OR FOREIGN general partnership;

8 (ii) MARYLAND OR FOREIGN limited partnership;

9 (iii) MARYLAND OR FOREIGN limited liability partnership;

10 (iv) MARYLAND OR FOREIGN limited liability limited partnership;

11 (v) MARYLAND OR FOREIGN proprietorship, comprised of one or
12 more individuals, which is involved principally in buying, selling, leasing, or
13 managing real property; and

14 (vi) MARYLAND OR FOREIGN joint venture.

15 (2) An instrument of writing that transfers title to real property from a
16 predecessor entity or a trustee or nominee of a predecessor entity to a limited liability
17 company is not subject to recordation tax if:

18 (i) 1. the members of the limited liability company are identical
19 to the partners of the converting general partnership, limited partnership, limited
20 liability partnership, or limited liability limited partnership;

21 2. the members of the limited liability company are identical
22 to the individual or individuals of the converting proprietorship; or

23 3. the members of the limited liability company are identical
24 to the joint venturers of the converting joint venture;

25 (ii) each member's allocation of the profits and losses of the limited
26 liability company is identical to that member's allocation of the profits and losses of
27 the converting predecessor entity; and

28 (iii) the instrument of writing that transfers title to real property
29 represents the dissolution of the predecessor entity for purposes of conversion to a
30 limited liability company.

31 13-207.

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

1 (18) § 12-108(y) of this article (Transfer from predecessor entity to limited
2 liability company).

3 13-405.

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect October 1, 1999.