
By: **Delegates Finifter and Conroy**
Introduced and read first time: February 11, 2000
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 25, 2000

CHAPTER _____

1 AN ACT concerning

2 **Recordation and Transfer Tax - Transfer from Predecessor Tenancy by the**
3 **Entireties Real Estate Enterprises to Limited Liability Company**

4 FOR the purpose of ~~including tenancies by the entireties within the definition of~~
5 ~~predecessor entities eligible for a recordation tax exemption and State transfer~~
6 ~~tax exemption for an instrument of writing that transfers property from a~~
7 ~~predecessor entity to a limited liability company; altering certain exemptions~~
8 ~~from the recordation tax and State transfer tax to provide for a separate~~
9 ~~exemption for certain instruments of writing that transfer title to real property~~
10 ~~from the individual or individuals conducting certain real estate enterprises,~~
11 ~~including sole proprietorships and tenancies by the entireties, to a limited~~
12 ~~liability company under certain circumstances; and generally relating to a~~
13 ~~recordation tax exemption and State transfer tax exemption for an instrument~~
14 ~~of writing that transfers property from a predecessor entity certain real estate~~
15 ~~enterprises to a limited liability company.~~

16 BY repealing and reenacting, with amendments,
17 Article - Tax - Property
18 Section 12-108(y) and 13-207(a)(18)
19 Annotated Code of Maryland
20 (1994 Replacement Volume and 1999 Supplement)

21 ~~BY repealing and reenacting, without amendments,~~
22 ~~Article - Tax - Property~~
23 ~~Section 13-207(a)(18)~~
24 ~~Annotated Code of Maryland~~
25 ~~(1994 Replacement Volume and 1999 Supplement)~~

1 BY adding to
 2 Article - Tax - Property
 3 Section 12-108(aa)
 4 Annotated Code of Maryland
 5 (1994 Replacement Volume and 1999 Supplement)

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

8 **Article - Tax - Property**

9 12-108.

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

11 (i) general partnership;

12 (ii) limited partnership;

13 (iii) limited liability partnership;

14 (iv) limited liability limited partnership; AND

15 (v) ~~proprietorship, comprised of one or more individuals, which is~~
 16 ~~involved principally in buying, selling, leasing, or managing real property;~~

17 ~~(VI) TENANCY BY THE ENTIRETIES; and~~

18 ~~{(vi)}~~ (VII) joint venture.

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

22 (i) 1. the members of the limited liability company are identical
 23 to the partners of the converting general partnership, limited partnership, limited
 24 liability partnership, or limited liability limited partnership;

25 2. the members of the limited liability company are identical
 26 to the individual or individuals of the converting proprietorship; {or}

27 3. the members of the limited liability company are identical
 28 to the joint venturers of the converting joint venture; ~~OR~~

29 4. ~~THE MEMBERS OF THE LIMITED LIABILITY COMPANY ARE~~
 30 ~~THE HUSBAND AND WIFE WHO HELD THE PROPERTY AS TENANTS BY THE~~
 31 ~~ENTIRETIES;~~

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

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

7 (AA) (1) IN THIS SUBSECTION, "REAL ESTATE ENTERPRISE" MEANS A
8 BUSINESS CONDUCTED BY ONE OR MORE INDIVIDUALS WHO OWN REAL PROPERTY,
9 INCLUDING A SOLE PROPRIETORSHIP OR A TENANCY BY THE ENTIRETIES, AND ARE
10 INVOLVED PRINCIPALLY IN BUYING, SELLING, LEASING, OR MANAGING REAL
11 PROPERTY.

12 (2) AN INSTRUMENT OF WRITING THAT TRANSFERS TITLE TO REAL
13 PROPERTY FROM THE INDIVIDUAL OR INDIVIDUALS CONDUCTING A REAL ESTATE
14 ENTERPRISE TO A LIMITED LIABILITY COMPANY IS NOT SUBJECT TO RECORDATION
15 TAX IF:

16 (I) THE TRANSFER IS FOR NO CONSIDERATION OTHER THAN THE
17 ISSUANCE OF MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY;

18 (II) THE MEMBERS OF THE LIMITED LIABILITY COMPANY ARE
19 IDENTICAL TO THE PARTNERS OF THE CONVEYING REAL ESTATE ENTERPRISE;

20 (III) EACH MEMBER'S ALLOCATION OF THE PROFITS AND LOSSES OF
21 THE LIMITED LIABILITY COMPANY IS IDENTICAL TO THAT MEMBER'S ALLOCATION
22 OF THE PROFITS AND LOSSES OF THE CONVEYING REAL ESTATE ENTERPRISE;

23 (IV) THE TRANSFER IS PART OF A DISCONTINUATION OF THE REAL
24 PROPERTY ENTERPRISE; AND

25 (V) ALL REAL PROPERTY OWNED BY THE INDIVIDUALS AND USED
26 IN THE CONDUCT OF ANY REAL PROPERTY ENTERPRISE IS BEING CONVEYED TO A
27 SINGLE LIMITED LIABILITY COMPANY.

28 13-207.

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

31 (18) § 12-108(y) OR (AA) of this article (Transfer from predecessor entity
32 OR REAL ESTATE ENTERPRISE to limited liability company); or

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 July 1, 2000.

