

SENATE BILL 18

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Q6

2001 Regular Session
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(PRE-FILED)

By: **Senator Haines**
Requested: October 27, 2000
Introduced and read first time: January 10, 2001
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Recordation and Transfer Tax - Transfer from Real Estate Enterprise to**
3 **Limited Liability Company**

4 FOR the purpose of adding an exemption to the recordation tax and State transfer tax
5 for certain instruments of writing that transfer title to real property from
6 certain real estate enterprises to a limited liability company under certain
7 circumstances; defining a certain term; and generally relating to a recordation
8 tax exemption and State transfer tax exemption for an instrument of writing
9 that transfers real property from certain real estate enterprises to a limited
10 liability company.

11 BY adding to
12 Article - Tax - Property
13 Section 12-108(bb)
14 Annotated Code of Maryland
15 (1994 Replacement Volume and 2000 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Tax - Property
18 Section 13-207(a)(18)
19 Annotated Code of Maryland
20 (1994 Replacement Volume and 2000 Supplement)

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

23 **Article - Tax - Property**

24 12-108.

25 (BB) (1) IN THIS SUBSECTION, "REAL ESTATE ENTERPRISE" MEANS A
26 BUSINESS CONDUCTED BY ONE OR MORE INDIVIDUALS WHO OWN REAL PROPERTY,

1 INCLUDING A SOLE PROPRIETORSHIP OR A TENANCY BY THE ENTIRETIES, AND ARE
2 INVOLVED IN BUYING, SELLING, LEASING, OR MANAGING REAL PROPERTY.

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

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

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

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

14 (IV) THE TRANSFER IS PART OF A DISCONTINUATION OF THE REAL
15 ESTATE ENTERPRISE; AND

16 (V) ALL REAL PROPERTY OWNED BY THE INDIVIDUALS AND USED
17 IN THE CONDUCT OF THE REAL ESTATE ENTERPRISE IS BEING CONVEYED TO A
18 LIMITED LIABILITY COMPANY.

19 13-207.

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

22 (18) § 12-108(y) OR (BB) of this article (Transfer from predecessor entity
23 OR REAL ESTATE ENTITY to limited liability company);

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 2001.