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By: **Senator Astle**

Introduced and read first time: February 7, 2002

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Recordation Tax - Refinancing Instrument - Trusts**

3 FOR the purpose of including within the definition of "original mortgagor" for  
4 purposes of an exemption under the recordation tax for certain refinancing  
5 instruments the trustee of a trust under certain circumstances; and generally  
6 relating to an exemption under the recordation tax for certain refinancing  
7 instruments.

8 BY repealing and reenacting, with amendments,  
9 Article - Tax - Property  
10 Section 12-108(g)  
11 Annotated Code of Maryland  
12 (2001 Replacement Volume and 2001 Supplement)

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

15 **Article - Tax - Property**

16 12-108.

17 (g) (1) In this subsection, "original mortgagor" includes:

18 (I) an individual who assumed a debt secured by real property that  
19 the individual purchased as a principal residence and who paid the recordation tax on  
20 the consideration paid for the property; AND

21 (II) THE TRUSTEE OF A TRUST IF:

22 1. THE MORTGAGED PROPERTY IS USED AS A PRINCIPAL  
23 RESIDENCE OF THE PRIMARY BENEFICIARY OF THE TRUST; AND

24 2. THE TRUSTEE OR THE PRIMARY BENEFICIARY OF THE  
25 TRUST ORIGINALLY ASSUMED OR INCURRED THE DEBT SECURED BY THE MORTGAGE  
26 OR DEED OF TRUST.

1           (2)     A mortgage or deed of trust is not subject to recordation tax to the  
2 extent that it secures the refinancing of an amount not greater than the unpaid  
3 principal amount secured by an existing mortgage or deed of trust at the time of  
4 refinancing by the original mortgagor of real property that is used as a principal  
5 residence:

6                   (I)     by the original mortgagor; OR

7                   (II)    BY THE PRIMARY BENEFICIARY OF THE TRUST IF THE  
8 MORTGAGE OR DEED OF TRUST IS GIVEN BY A TRUSTEE OF A TRUST.

9           (3)     To qualify for an exemption under paragraph (2) of this subsection an  
10 original mortgagor shall include a statement in the recitals or in the acknowledgment  
11 of the mortgage or deed of trust, or submit with the mortgage or deed of trust, an  
12 affidavit under oath, signed by the original mortgagor, stating:

13                   (i)     that the individual is the original mortgagor;

14                   (ii)    that the mortgaged property is the principal residence of the  
15 original mortgagor OR OF THE PRIMARY BENEFICIARY OF THE TRUST IF THE  
16 MORTGAGE OR DEED OF TRUST IS GIVEN BY A TRUSTEE OF A TRUST; and

17                   (iii)   the amount of unpaid principal of the original mortgage or deed  
18 of trust that is being refinanced.

19     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 July 1, 2002.