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By: **Senator Astle**  
Introduced and read first time: February 7, 2002  
Assigned to: Rules  
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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 19, 2002

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CHAPTER \_\_\_\_\_

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 an inter vivos trust under certain circumstances;  
6 and generally relating to an exemption under the recordation tax for certain  
7 refinancing 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

1 (II) THE TRUSTEE OF A AN INTER VIVOS TRUST IF:

2 1. THE MORTGAGED PROPERTY IS USED AS A PRINCIPAL  
3 RESIDENCE OF THE ~~PRIMARY BENEFICIARY~~ SETTLOR OF THE TRUST; AND

4 2. THE TRUSTEE OR THE ~~PRIMARY BENEFICIARY~~ SETTLOR  
5 OF THE TRUST ORIGINALLY ASSUMED OR INCURRED THE DEBT SECURED BY THE  
6 MORTGAGE OR DEED OF TRUST.

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

12 (I) by the original mortgagor; OR

13 (II) BY THE ~~PRIMARY BENEFICIARY~~ SETTLOR OF ~~THE AN INTER~~  
14 VIVOS TRUST IF THE MORTGAGE OR DEED OF TRUST IS GIVEN BY A TRUSTEE OF A  
15 THE TRUST.

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

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

21 (ii) that the mortgaged property is the principal residence of the  
22 original mortgagor OR OF THE ~~PRIMARY BENEFICIARY~~ SETTLOR OF ~~THE AN INTER~~  
23 VIVOS TRUST IF THE MORTGAGE OR DEED OF TRUST IS GIVEN BY A TRUSTEE OF A  
24 THE TRUST; and

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

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