

HOUSE BILL 163
EMERGENCY BILL

Unofficial Copy
Q6

2003 Regular Session
3r1309

By: **Delegates Healey and Moe**

Introduced and read first time: January 27, 2003

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Recordation Tax - Refinancing Instrument - Exemption for Spouses**

3 FOR the purpose of altering a certain exemption from the recordation tax for a
4 mortgage or deed of trust that secures the refinancing of real property; making
5 this Act an emergency measure; and generally relating to an exemption from the
6 recordation tax for a mortgage or deed of trust that secures the refinancing of
7 real property.

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 2002 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 an individual who
18 assumed a debt secured by real property that the individual purchased as a principal
19 residence and who paid the recordation tax on the consideration paid for the property.

20 (2) A mortgage or deed of trust is not subject to recordation tax to the
21 extent that it secures the refinancing of an amount not greater than the unpaid
22 principal amount secured by an existing mortgage or deed of trust at the time of
23 refinancing [by the original mortgagor] IF THE MORTGAGE OR DEED OF TRUST
24 SECURES THE REFINANCING of real property that is:

25 (I) used as a principal residence by the original mortgagor; AND

26 (II) BEING REFINANCED BY THE ORIGINAL MORTGAGOR OR BY THE
27 ORIGINAL MORTGAGOR AND THE SPOUSE OF THE ORIGINAL MORTGAGOR.

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

6 (i) that the individual is the original mortgagor or agent of the
7 original mortgagor;

8 (ii) that the mortgaged property is the principal residence of the
9 original mortgagor; and

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

12 (4) A statement under paragraph (3) of this subsection by an agent of the
13 original mortgagor shall state that the statement:

14 (i) is based on a diligent inquiry made by the agent with respect to
15 the facts set forth in the statement; and

16 (ii) is true to the best of the knowledge, information, and belief of
17 the agent.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
19 measure, is necessary for the immediate preservation of the public health or safety,
20 has been passed by a ye and nay vote supported by three-fifths of all the members
21 elected to each of the two Houses of the General Assembly, and shall take effect from
22 the date it is enacted.