
By: **Delegates Elmore, Bartlett, Boschert, Boteler, Bozman, Cane, Cardin,
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Smigiel, and Sossi**

Introduced and read first time: February 18, 2003
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Sales of Property by Nonresidents**

3 FOR the purpose of requiring the transferee of certain property to withhold and remit
4 to the Comptroller a certain part of the total payment for property that is sold or
5 exchanged by certain nonresidents of the State or certain out-of-state entities;
6 providing that the amounts required to be withheld on the sale or exchange of
7 certain property by certain nonresidents and certain out-of-state entities are a
8 personal liability of the transferee of the property and a lien on the property of
9 the transferee for a certain period of time; and generally relating to requiring
10 certain income tax withholding on sales of certain property by nonresidents of
11 the State or certain out-of-state entities.

12 BY adding to
13 Article - Tax - General
14 Section 10-912
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 2002 Supplement)

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

19 **Article - Tax - General**

20 10-912.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) "NONRESIDENT CORPORATION" MEANS A CORPORATION THAT:

24 (I) IS NOT INCORPORATED IN THE STATE; AND

1 (II) IS NOT QUALIFIED BY THE DEPARTMENT OF ASSESSMENTS
2 AND TAXATION TO DO BUSINESS IN THE STATE.

3 (3) "TOTAL PAYMENT" MEANS THE NET PROCEEDS OF A SALE ACTUALLY
4 PAID TO A NONRESIDENT OR NONRESIDENT CORPORATION TRANSFEROR INCLUDING
5 THE FAIR MARKET VALUE OF ANY PROPERTY TO BE TRANSFERRED TO THE
6 TRANSFEROR.

7 (B) IN A SALE OR EXCHANGE OF REAL PROPERTY AND ASSOCIATED TANGIBLE
8 PERSONAL PROPERTY OWNED BY A NONRESIDENT OR NONRESIDENT CORPORATION,
9 THE TRANSFEREE OF THE PROPERTY SHALL DEDUCT AND WITHHOLD FROM THE
10 PAYMENT TO THE TRANSFEROR AN AMOUNT EQUAL TO 3% OF THE TOTAL PAYMENT.

11 (C) (1) A TRANSFEREE SUBJECT TO THE WITHHOLDING, DEDUCTION, AND
12 PAYMENT PROVISIONS OF THIS SECTION IS PERSONALLY LIABLE FOR ALL AMOUNTS
13 WITHHELD OR REQUIRED TO BE WITHHELD.

14 (2) THE AMOUNT REQUIRED TO BE WITHHELD UNDER THE PROVISIONS
15 OF THIS SECTION SHALL, UNTIL REMITTED, CONSTITUTE A LIEN ON THE PROPERTY
16 OF THE TRANSFEREE.

17 (D) WITHIN 3 BUSINESS DAYS AFTER THE DATE OF CLOSING ON THE SALE OR
18 EXCHANGE OF THE PROPERTY, THE TRANSFEREE SHALL PAY OVER TO THE
19 COMPTROLLER THE AMOUNT DEDUCTED AND WITHHELD UNDER SUBSECTION (B) OF
20 THIS SECTION, USING FORMS PRESCRIBED BY THE COMPTROLLER.

21 (E) (1) AMOUNTS DEDUCTED AND WITHHELD UNDER SUBSECTION (B) OF
22 THIS SECTION AND PAID OVER TO THE COMPTROLLER UNDER SUBSECTION (D) OF
23 THIS SECTION SHALL BE DEEMED TO HAVE BEEN PAID TO THE COMPTROLLER ON
24 BEHALF OF THE TRANSFEROR FROM WHOM THE AMOUNTS WERE WITHHELD.

25 (2) THE TRANSFEROR SHALL BE CREDITED WITH HAVING PAID THE
26 AMOUNTS FOR THE TAXABLE YEAR IN WHICH THE TRANSACTION THAT IS THE
27 SUBJECT OF THE TAX OCCURRED.

28 (F) THE CLOSING ATTORNEY, LENDING INSTITUTION, AND REAL ESTATE
29 AGENT OR BROKER IN ANY TRANSACTION SUBJECT TO THIS SECTION ARE NOT
30 LIABLE FOR ANY AMOUNTS REQUIRED TO BE DEDUCTED, WITHHELD, AND PAID
31 OVER TO THE COMPTROLLER UNDER THIS SECTION.

32 (G) NOTWITHSTANDING SUBSECTION (C)(2) OF THIS SECTION, A LIEN
33 CREATED UNDER THIS SECTION SHALL CEASE TO BE A LIEN ON OR ENFORCEABLE
34 AGAINST REAL ESTATE 10 YEARS AFTER THE DATE OF THE SALE OF REAL PROPERTY
35 AND ASSOCIATED TANGIBLE PERSONAL PROPERTY THAT GAVE RISE TO THE LIEN.

36 (H) THIS SECTION DOES NOT:

37 (1) IMPOSE ANY TAX ON A TRANSFEROR OR AFFECT ANY LIABILITY OF
38 THE TRANSFEROR FOR ANY TAX; OR

1 (2) PROHIBIT THE COMPTROLLER FROM COLLECTING ANY TAXES DUE
2 FROM A TRANSFEROR IN ANY OTHER MANNER AUTHORIZED BY LAW.

3 (I) THE COMPTROLLER SHALL ADOPT REGULATIONS TO ADMINISTER THIS
4 SECTION.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 July 1, 2003.