

SENATE BILL 112

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Q6
SB 286/02 - B&T

2003 Regular Session
3lr0113

By: **Chairman, Budget and Taxation Committee (By Request -
Departmental - Natural Resources)**

Introduced and read first time: January 23, 2003
Rules suspended
Assigned to: Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 11, 2003

CHAPTER _____

1 AN ACT concerning

2 **Recordation and Transfer Tax - Land Trusts - Exemption**

3 FOR the purpose of exempting ~~the transfer of~~ certain instruments of writing that
4 transfer certain conservation easements and fee simple interests from
5 recordation and State and county transfer taxes under certain circumstances;
6 and generally relating to the transfer of conservation easements and fee simple
7 interests to land trusts.

8 BY adding to
9 Article - Tax - Property
10 Section 12-108(cc) and 13-410
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2002 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Tax - Property
15 Section 13-207(a)
16 Annotated Code of Maryland
17 (2001 Replacement Volume and 2002 Supplement)

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

1 **Article - Tax - Property**

2 12-108.

3 (CC) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
4 MEANINGS INDICATED.

5 (II) "LAND TRUST" MEANS A QUALIFIED CONSERVATION
6 ORGANIZATION THAT:

7 1. IS A QUALIFIED ORGANIZATION UNDER § 170(H)(3) OF THE
8 INTERNAL REVENUE CODE AND REGULATIONS ADOPTED UNDER THAT SECTION;
9 AND

10 2. HAS EXECUTED A COOPERATIVE AGREEMENT WITH THE
11 MARYLAND ENVIRONMENTAL TRUST.

12 (III) "CONSERVATION EASEMENT" MEANS ~~ANY INSTRUMENT OF~~
13 ~~WRITING A RESTRICTION PROHIBITING OR LIMITING THE USE OF WATER OR LAND~~
14 ~~AREAS, OR ANY IMPROVEMENT OR APPURTENANCE THERETO,~~ DESCRIBED IN § 2-118
15 OF THE REAL PROPERTY ARTICLE.

16 (2) ~~A CONVEYANCE OR ASSIGNMENT OF AN INSTRUMENT OF WRITING~~
17 ~~CONVEYING OR ASSIGNING~~ A CONSERVATION EASEMENT TO BOTH A LAND TRUST
18 AND THE UNITED STATES, THE STATE, AN AGENCY OF THE STATE, OR A POLITICAL
19 SUBDIVISION OF THE STATE IS NOT SUBJECT TO RECORDATION TAX.

20 (3) AN INSTRUMENT OF WRITING CONVEYING A CONSERVATION
21 EASEMENT OR FEE SIMPLE TITLE TO A LAND TRUST IS NOT SUBJECT TO
22 RECORDATION TAX IF THE LAND TRUST FILES A DECLARATION OF INTENT TO
23 CONVEY ITS CONSERVATION EASEMENT OR FEE SIMPLE TITLE TO THE UNITED
24 STATES, THE STATE, AN AGENCY OF THE STATE, OR A POLITICAL SUBDIVISION OF
25 THE STATE WITHIN 18 MONTHS OF THE DATE OF THE DECLARATION.

26 13-207.

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

29 (1) § 12-108(a) of this article (Transfer to government or public agency);

30 (2) § 12-108(c) of this article (Transfer between relatives);

31 (3) § 12-108(d) of this article (Transfer between spouses);

32 (4) § 12-108(e) of this article (Supplemental instrument);

33 (5) § 12-108(f) of this article (Previously recorded instrument);

34 (6) § 12-108(l) of this article (Judgments);

- 1 (7) § 12-108(n) of this article (Order of satisfaction);
- 2 (8) § 12-108(o) of this article (Participation agreement);
- 3 (9) § 12-108(p) of this article (Transfer of corporate property between
4 related corporations);
- 5 (10) § 12-108(q) of this article (Corporate or partnership conveyance);
- 6 (11) § 12-108(r) of this article (Land installment contracts);
- 7 (12) § 12-108(s) of this article (Options to purchase real property);
- 8 (13) § 12-108(t) of this article (Deed for prior contract of sale);
- 9 (14) § 12-108(u) of this article (Leases of 7 years or less);
- 10 (15) § 12-108(v) of this article (Mergers);
- 11 (16) § 12-108(w) of this article (Consolidations);
- 12 (17) § 12-108(x) of this article (Cooperative housing corporations);
- 13 (18) § 12-108(y) or (bb) of this article (Transfer from predecessor entity or
14 real estate enterprise to limited liability company);
- 15 (19) § 12-108(z) of this article (Transfer from a Class I Railroad Carrier to
16 its wholly-owned limited liability company); [or]
- 17 (20) § 12-108(aa) of this article (Transfers involving certain Maryland
18 Stadium Authority affiliates); OR
- 19 (21) § 12-108(CC) OF THIS ARTICLE (CERTAIN TRANSFERS TO LAND
20 TRUSTS).

21 13-410.

22 ~~(A) AN INSTRUMENT OF WRITING IS NOT SUBJECT TO THE COUNTY TRANSFER~~
23 ~~TAX TO THE SAME EXTENT THAT IT IS NOT SUBJECT TO THE RECORDATION TAX~~
24 ~~UNDER § 12-108 (CC) OF THIS ARTICLE.~~

25 ~~(B) A TRANSFER CONVEYED TO A LAND TRUST AS DEFINED IN § 12-108(CC) OF~~
26 ~~THIS ARTICLE IS NOT SUBJECT TO THE COUNTY TRANSFER TAX.~~

27 AN INSTRUMENT OF WRITING THAT IS EXEMPT FROM RECORDATION TAX
28 UNDER § 12-108(CC) OF THIS ARTICLE (CERTAIN TRANSFERS TO LAND TRUSTS) IS NOT
29 SUBJECT TO THE COUNTY TRANSFER TAX.

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

