

SENATE BILL 129

Unofficial Copy
Q6
SB 781/02 - JUD

2003 Regular Session
3r0926

By: **Senator Astle**

Introduced and read first time: January 24, 2003

Assigned to: Budget and Taxation

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 an inter vivos trust under certain circumstances; and
6 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 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:

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 AN INTER VIVOS TRUST IF:

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

24 2. THE TRUSTEE OR THE SETTLOR OF THE TRUST
25 ORIGINALLY ASSUMED OR INCURRED THE DEBT SECURED BY THE MORTGAGE OR
26 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 SETTLOR OF AN INTER VIVOS TRUST IF THE MORTGAGE
8 OR DEED OF TRUST IS GIVEN BY A TRUSTEE OF THE TRUST.

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

14 (i) that the individual is the original mortgagor or agent of the
15 original mortgagor;

16 (ii) that the mortgaged property is the principal residence of the
17 original mortgagor OR OF THE SETTLOR OF AN INTER VIVOS TRUST IF THE
18 MORTGAGE OR DEED OF TRUST IS GIVEN BY A TRUSTEE OF THE TRUST; and

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

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

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

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

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