

SENATE BILL 76

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Q6  
SB 129/03 - B&T

2004 Regular Session  
4r1305

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By: **Senator Astle**

Introduced and read first time: January 16, 2004

Assigned to: Budget and Taxation

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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 2003 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 if the mortgage or deed of trust secures the refinancing of real property  
5 that is:

6                   (i)     1.       used as a principal residence by the original mortgagor;  
7 and

8                   [(ii)]    2.    being refinanced by the original mortgagor or by the  
9 original mortgagor and the spouse of the original mortgagor; OR

10                   (II)    USED AS A PRINCIPAL RESIDENCE BY THE SETTLOR OF AN  
11 INTER VIVOS TRUST IF THE MORTGAGE OR DEED OF TRUST IS GIVEN BY A TRUSTEE  
12 OF THE TRUST.

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

18                   (i)     that the individual is the original mortgagor or agent of the  
19 original mortgagor;

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

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

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

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

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

31     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
32 effect July 1, 2004.