

SENATE BILL 76

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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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Committee Report: Favorable

Senate action: Adopted

Read second time: February 10, 2004

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CHAPTER \_\_\_\_\_

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:

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

3                                   2.       THE TRUSTEE OR THE SETTLOR OF THE TRUST  
4 ORIGINALLY ASSUMED OR INCURRED THE DEBT SECURED BY THE MORTGAGE OR  
5 DEED OF TRUST.

6                   (2)       A mortgage or deed of trust is not subject to recordation tax to the  
7 extent that it secures the refinancing of an amount not greater than the unpaid  
8 principal amount secured by an existing mortgage or deed of trust at the time of  
9 refinancing if the mortgage or deed of trust secures the refinancing of real property  
10 that is:

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

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

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

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

23                               (i)       that the individual is the original mortgagor or agent of the  
24 original mortgagor;

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

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

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

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

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

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

