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Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Recordation and Transfer Taxes - Exemptions - Domestic Partners**

3 FOR the purpose of exempting from recordation tax and State and county transfer
4 taxes certain instruments of writing transferring property between domestic
5 partners and former domestic partners under certain circumstances; requiring
6 the submission of certain documents under certain circumstances to qualify for
7 certain exemptions; defining certain terms; and generally relating to certain
8 exemptions from recordation and transfer taxes.

9 BY repealing and reenacting, with amendments,
10 Article - Tax - Property
11 Section 12-101, 12-108(c) and (d), 13-207(a)(2) and (3), and 13-403
12 Annotated Code of Maryland
13 (2001 Replacement Volume and 2004 Supplement)

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

16 **Article - Tax - Property**

17 12-101.

18 (a) In this title the following words have the meanings indicated.

19 (b) "Articles of transfer" has the meaning stated in § 1-101(c) of the
20 Corporations and Associations Article.

21 (C) "DOMESTIC PARTNER" MEANS AN INDIVIDUAL WITH WHOM ANOTHER
22 INDIVIDUAL HAS ESTABLISHED A DOMESTIC PARTNERSHIP.

23 (D) "DOMESTIC PARTNERSHIP" MEANS A RELATIONSHIP BETWEEN TWO
24 INDIVIDUALS WHO:

25 (1) ARE AT LEAST 18 YEARS OLD;

1 (2) ARE NOT RELATED TO THE OTHER BY BLOOD OR MARRIAGE WITHIN
2 FOUR DEGREES OF CONSANGUINITY UNDER THE CIVIL LAW RULE;

3 (3) ARE NOT MARRIED OR A MEMBER OF A CIVIL UNION OR DOMESTIC
4 PARTNERSHIP WITH ANOTHER INDIVIDUAL;

5 (4) AGREE TO BE IN A RELATIONSHIP OF MUTUAL INTERDEPENDENCE
6 IN WHICH EACH DOMESTIC PARTNER CONTRIBUTES TO THE MAINTENANCE AND
7 SUPPORT OF THE OTHER DOMESTIC PARTNER AND THE RELATIONSHIP, EVEN IF
8 BOTH DOMESTIC PARTNERS ARE NOT REQUIRED TO CONTRIBUTE EQUALLY TO THE
9 RELATIONSHIP; AND

10 (5) SHARE A COMMON RESIDENCE WHERE BOTH DOMESTIC PARTNERS
11 LIVE, EVEN IF:

12 (I) ONE DOMESTIC PARTNER LEAVES THE COMMON RESIDENCE
13 ON A SHORT-TERM OR LONG-TERM BASIS, WITH THE INTENT TO RETURN TO THE
14 COMMON RESIDENCE;

15 (II) ONLY ONE OF THE DOMESTIC PARTNERS HAS THE RIGHT TO
16 LEGAL POSSESSION OF THE COMMON RESIDENCE; OR

17 (III) ONE OF THE DOMESTIC PARTNERS HAS AN ADDITIONAL
18 RESIDENCE.

19 (E) "EVIDENCE OF A DOMESTIC PARTNERSHIP" MEANS AN AFFIDAVIT SIGNED
20 UNDER PENALTY OF PERJURY BY TWO INDIVIDUALS STATING THAT THEY HAVE
21 ESTABLISHED A DOMESTIC PARTNERSHIP.

22 (F) "EVIDENCE OF DISSOLUTION OF A DOMESTIC PARTNERSHIP" MEANS:

23 (1) A DEATH CERTIFICATE; OR

24 (2) AN AFFIDAVIT SIGNED UNDER PENALTY OF PERJURY BY TWO
25 INDIVIDUALS WHO FORMERLY ESTABLISHED A DOMESTIC PARTNERSHIP STATING
26 THAT THE DOMESTIC PARTNERSHIP HAS BEEN DISSOLVED.

27 (G) "FORMER DOMESTIC PARTNER" MEANS AN INDIVIDUAL WITH WHOM
28 ANOTHER INDIVIDUAL HAD ESTABLISHED A DOMESTIC PARTNERSHIP THAT HAS
29 SUBSEQUENTLY BEEN DISSOLVED.

30 [(c)] (H) (1) "Instrument of writing" means a written instrument that:

31 (i) conveys title to or creates or gives notice of a security interest in
32 real property; or

33 (ii) creates or gives notice of a security interest in personal
34 property.

35 (2) "Instrument of writing" includes:

- 1 (i) a deed or contract;
- 2 (ii) a mortgage, deed of trust, or other contract that creates an
3 encumbrance on real property;
- 4 (iii) a lease of real property;
- 5 (iv) an assignment of a lessee's interest in real property;
- 6 (v) articles of transfer;
- 7 (vi) a security agreement;
- 8 (vii) articles of merger or other document which evidences a merger
9 of foreign corporations, foreign partnerships, foreign limited liability companies, or
10 foreign limited partnerships; and
- 11 (viii) articles of consolidation or other document which evidences a
12 consolidation of foreign corporations.
- 13 [(d)] (I) "Recordation tax" means the tax imposed under this title.
- 14 [(e)] (J) (1) "Security agreement" means an agreement that creates or
15 provides for a security interest.
- 16 (2) "Security agreement" includes a financing statement filed under the
17 Maryland Uniform Commercial Code to perfect a security interest.
- 18 [(f)] (K) (1) "Security interest" means an interest in real property or
19 personal property that secures payment or performance of an obligation.
- 20 (2) "Security interest" includes a lien or encumbrance on real property or
21 personal property.
- 22 [(g)] (L) (1) "Supplemental instrument of writing" means an instrument of
23 writing that confirms, corrects, modifies, or supplements a previously recorded
24 instrument of writing.
- 25 (2) "Supplemental instrument of writing" includes an instrument of
26 writing that secures a debt and grants a security interest in property in addition to or
27 in substitution for property described in the previously recorded instrument of
28 writing.
- 29 [(h)] (M) "Successor" has the meaning stated in § 1-101(u) of the Corporations
30 and Associations Article.
- 31 [(i)] (N) "Articles of merger" means a document filed with the Department
32 under § 3-107, § 4A-703, § 9A-903, or § 10-208 of the Corporations and Associations
33 Article which evidences a merger involving at least one Maryland corporation,
34 Maryland limited liability company, Maryland partnership, or Maryland limited
35 partnership.

1 [(j)] (O) "Articles of consolidation" means a document filed with the
 2 Department under § 3-107 of the Corporations and Associations Article which
 3 evidences a consolidation of at least one Maryland corporation with another
 4 corporation to form a new Maryland corporation.

5 [(k)] (P) "Documents which evidence the merger or consolidation of foreign
 6 corporations, foreign partnerships, foreign limited liability companies, or foreign
 7 limited partnerships" means those documents that are filed or recorded with:

8 (1) the Department under § 3-117, § 4A-1012, § 9A-910, or § 10-912 of
 9 the Corporations and Associations Article; or

10 (2) the clerk of the circuit court of a county evidencing that title to real
 11 property has been conveyed through a merger or consolidation of 2 or more foreign
 12 corporations, foreign limited liability companies, foreign partnerships, or foreign
 13 limited partnerships.

14 [(l)] (Q) "Subsidiary corporation" includes any corporation that is a subsidiary
 15 of either a parent corporation or any other subsidiary corporation of the parent
 16 corporation.

17 12-108.

18 (c) (1) When property is transferred subject to a mortgage or deed of trust,
 19 the recordation tax does not apply to the principal amount of debt assumed by the
 20 transferee, if the instrument of writing transfers the property from the transferor to
 21 a:

22 [(1)] (I) spouse or former spouse;

23 [(2)] (II) son, daughter, stepson, or stepdaughter;

24 [(3)] (III) parent or stepparent;

25 [(4)] (IV) son-in-law, daughter-in-law, stepson-in-law, or
 26 stepdaughter-in-law;

27 [(5)] (V) parent-in-law or stepparent-in-law; [or]

28 [(6)] (VI) grandchild or stepgrandchild; OR

29 (VII) DOMESTIC PARTNER OR FORMER DOMESTIC PARTNER.

30 (2) (I) TO QUALIFY AS A DOMESTIC PARTNER UNDER THIS
 31 SUBSECTION AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF A DOMESTIC
 32 PARTNERSHIP.

33 (II) TO QUALIFY AS A FORMER DOMESTIC PARTNER UNDER THIS
 34 SUBSECTION AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF DISSOLUTION OF A
 35 DOMESTIC PARTNERSHIP.

1 (d) (1) An instrument of writing that transfers property between [spouses
2 or former spouses] THE FOLLOWING INDIVIDUALS is not subject to recordation tax:

3 (I) SPOUSES OR FORMER SPOUSES; OR

4 (II) DOMESTIC PARTNERS OR FORMER DOMESTIC PARTNERS.

5 (2) (I) TO QUALIFY AS A DOMESTIC PARTNER UNDER THIS
6 SUBSECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF A DOMESTIC
7 PARTNERSHIP.

8 (II) TO QUALIFY AS A FORMER DOMESTIC PARTNER UNDER THIS
9 SUBSECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF DISSOLUTION OF A
10 DOMESTIC PARTNERSHIP.

11 13-207.

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

14 (2) § 12-108(c) of this article (Transfer between relatives AND DOMESTIC
15 PARTNERS);

16 (3) § 12-108(d) of this article (Transfer between spouses AND DOMESTIC
17 PARTNERS);

18 13-403.

19 (A) IN THIS SECTION, "DOMESTIC PARTNER", "EVIDENCE OF A DOMESTIC
20 PARTNERSHIP", "EVIDENCE OF DISSOLUTION OF A DOMESTIC PARTNERSHIP", AND
21 "FORMER DOMESTIC PARTNER" HAVE THE MEANINGS STATED IN § 12-101 OF THIS
22 ARTICLE.

23 (B) An instrument of writing that transfers property between spouses or
24 former spouses OR BETWEEN DOMESTIC PARTNERS OR FORMER DOMESTIC
25 PARTNERS in accordance with a property settlement [or], divorce decree, OR
26 DISSOLUTION OF A DOMESTIC PARTNERSHIP is not subject to a county transfer tax.

27 (C) (1) TO QUALIFY AS A DOMESTIC PARTNER UNDER THIS SECTION, AN
28 INDIVIDUAL SHALL SUBMIT EVIDENCE OF A DOMESTIC PARTNERSHIP.

29 (2) TO QUALIFY AS A FORMER DOMESTIC PARTNER UNDER THIS
30 SECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF DISSOLUTION OF A
31 DOMESTIC PARTNERSHIP.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect July 1, 2005.