

# HOUSE BILL 746

Q6  
HB 1298/05 – W&M

8lr1388

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By: **Delegates Kaiser, Hixson, Barkley, Barnes, Barve, Bobo, Bronrott, Cardin, Carr, Dumais, Feldman, Frick, Gaines, Gilchrist, Gutierrez, Hubbard, Hucker, Ivey, Lee, Manno, McIntosh, McKee, Mizeur, Montgomery, Niemann, Pena-Melnyk, Pendergrass, Ramirez, Reznik, Rice, Ross, Stukes, F. Turner, Valderrama, Waldstreicher, and Weldon**

Introduced and read first time: February 4, 2008

Assigned to: Ways and Means

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## 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 adding to  
10 Article – Tax – Property  
11 Section 12–101(e–1) through (e–5)  
12 Annotated Code of Maryland  
13 (2007 Replacement Volume)

14 BY repealing and reenacting, with amendments,  
15 Article – Tax – Property  
16 Section 12–108(c) and (d), 13–207(a)(2) and (3), and 13–403  
17 Annotated Code of Maryland  
18 (2007 Replacement Volume)

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

21 **Article – Tax – Property**

22 12–101.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(E-1) “DOMESTIC PARTNER” MEANS AN INDIVIDUAL WITH WHOM**  
2 **ANOTHER INDIVIDUAL HAS ESTABLISHED A DOMESTIC PARTNERSHIP.**

3           **(E-2) “DOMESTIC PARTNERSHIP” MEANS A RELATIONSHIP BETWEEN TWO**  
4 **INDIVIDUALS WHO:**

5                   **(1) ARE AT LEAST 18 YEARS OLD;**

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

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

10                   **(4) AGREE TO BE IN A RELATIONSHIP OF MUTUAL**  
11 **INTERDEPENDENCE IN WHICH EACH DOMESTIC PARTNER CONTRIBUTES TO THE**  
12 **MAINTENANCE AND SUPPORT OF THE OTHER DOMESTIC PARTNER AND THE**  
13 **RELATIONSHIP, EVEN IF BOTH DOMESTIC PARTNERS ARE NOT REQUIRED TO**  
14 **CONTRIBUTE EQUALLY TO THE RELATIONSHIP; AND**

15                   **(5) SHARE A COMMON RESIDENCE WHERE BOTH DOMESTIC**  
16 **PARTNERS LIVE, EVEN IF:**

17                           **(I) ONE DOMESTIC PARTNER LEAVES THE COMMON**  
18 **RESIDENCE ON A SHORT-TERM OR LONG-TERM BASIS, WITH THE INTENT TO**  
19 **RETURN TO THE COMMON RESIDENCE;**

20                           **(II) ONLY ONE OF THE DOMESTIC PARTNERS HAS THE RIGHT**  
21 **TO LEGAL POSSESSION OF THE COMMON RESIDENCE; OR**

22                           **(III) ONE OF THE DOMESTIC PARTNERS HAS AN ADDITIONAL**  
23 **RESIDENCE.**

24           **(E-3) “EVIDENCE OF A DOMESTIC PARTNERSHIP” MEANS:**

25                   **(1) AN AFFIDAVIT SIGNED UNDER PENALTY OF PERJURY BY TWO**  
26 **INDIVIDUALS STATING THAT THEY HAVE ESTABLISHED A DOMESTIC**  
27 **PARTNERSHIP; AND**

28                   **(2) EVIDENCE OF ANY TWO OF THE FOLLOWING:**

29                           **(I) JOINT LIABILITY OF THE INDIVIDUALS FOR A**  
30 **MORTGAGE OR OTHER LOAN OR FOR A LEASE;**

1                   (II) THE DESIGNATION OF ONE OF THE INDIVIDUALS AS THE  
2 PRIMARY BENEFICIARY UNDER A LIFE INSURANCE POLICY ON THE LIFE OF THE  
3 OTHER INDIVIDUAL OR UNDER A RETIREMENT PLAN OF THE OTHER  
4 INDIVIDUAL;

5                   (III) THE DESIGNATION OF ONE OF THE INDIVIDUALS AS THE  
6 PRIMARY BENEFICIARY OF THE WILL OF THE OTHER INDIVIDUAL;

7                   (IV) A DURABLE POWER OF ATTORNEY FOR HEALTH CARE  
8 OR FINANCIAL MANAGEMENT GRANTED BY ONE OF THE INDIVIDUALS TO THE  
9 OTHER INDIVIDUAL;

10                  (V) JOINT OWNERSHIP OR LEASE BY THE INDIVIDUALS OF A  
11 MOTOR VEHICLE;

12                  (VI) A JOINT CHECKING ACCOUNT, JOINT INVESTMENTS, OR  
13 A JOINT CREDIT ACCOUNT;

14                  (VII) A JOINT RENTER'S OR HOMEOWNER'S INSURANCE  
15 POLICY;

16                  (VIII) COVERAGE OF ONE OF THE INDIVIDUALS UNDER A  
17 HEALTH INSURANCE POLICY OF THE OTHER INDIVIDUAL;

18                  (IX) JOINT RESPONSIBILITY FOR CHILDCARE, SUCH AS  
19 SCHOOL DOCUMENTS OR GUARDIANSHIP DOCUMENTS;

20                  (X) A RELATIONSHIP OR COHABITATION CONTRACT; OR

21                  (XI) DOCUMENTATION OF MARRIAGE, CIVIL UNION, OR  
22 DOMESTIC PARTNERSHIP ENTERED INTO UNDER THE LAWS OF THE UNITED  
23 STATES OR OF ANY STATE, LOCAL, OR FOREIGN JURISDICTION.

24                  (E-4) "EVIDENCE OF DISSOLUTION OF A DOMESTIC PARTNERSHIP"  
25 MEANS AN AFFIDAVIT SIGNED UNDER PENALTY OF PERJURY BY TWO  
26 INDIVIDUALS STATING THAT THEY ARE NO LONGER IN A DOMESTIC  
27 PARTNERSHIP.

28                  (E-5) "FORMER DOMESTIC PARTNER" MEANS AN INDIVIDUAL WITH WHOM  
29 ANOTHER INDIVIDUAL HAD ESTABLISHED A DOMESTIC PARTNERSHIP THAT HAS  
30 SUBSEQUENTLY BEEN DISSOLVED.

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

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

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

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

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

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

11 [(6)] (VI) brother, sister, stepbrother, or stepsister; [or]

12 [(7)] (VII) grandchild or stepgrandchild; OR

13 (VIII) DOMESTIC PARTNER OR FORMER DOMESTIC PARTNER.

14 (2) (I) TO QUALIFY AS A DOMESTIC PARTNER UNDER THIS  
 15 SUBSECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF A DOMESTIC  
 16 PARTNERSHIP.

17 (II) TO QUALIFY AS A FORMER DOMESTIC PARTNER UNDER  
 18 THIS SUBSECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF DISSOLUTION  
 19 OF A DOMESTIC PARTNERSHIP.

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

22 (I) SPOUSES OR FORMER SPOUSES; OR

23 (II) DOMESTIC PARTNERS OR FORMER DOMESTIC  
 24 PARTNERS.

25 (2) (I) TO QUALIFY AS A DOMESTIC PARTNER UNDER THIS  
 26 SUBSECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF A DOMESTIC  
 27 PARTNERSHIP.

1                   **(II) TO QUALIFY AS A FORMER DOMESTIC PARTNER UNDER**  
2 **THIS SUBSECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF DISSOLUTION**  
3 **OF A DOMESTIC PARTNERSHIP.**

4 13-207.

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

7                   (2) § 12-108(c) of this article (Transfer between relatives **AND**  
8 **DOMESTIC PARTNERS**);

9                   (3) § 12-108(d) of this article (Transfer between spouses **AND**  
10 **DOMESTIC PARTNERS**);

11 13-403.

12           **(A) IN THIS SECTION, “DOMESTIC PARTNER”, “EVIDENCE OF A**  
13 **DOMESTIC PARTNERSHIP”, “EVIDENCE OF DISSOLUTION OF A DOMESTIC**  
14 **PARTNERSHIP”, AND “FORMER DOMESTIC PARTNER” HAVE THE MEANINGS**  
15 **STATED IN § 12-101 OF THIS ARTICLE.**

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

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

22                   **(2) TO QUALIFY AS A FORMER DOMESTIC PARTNER UNDER THIS**  
23 **SECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF DISSOLUTION OF A**  
24 **DOMESTIC PARTNERSHIP.**

25           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 July 1, 2008.