

HOUSE BILL 746

Q6

8lr1388

HB 1298/05 – W&M

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 2, 2008

CHAPTER _____

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; providing for the construction of this
8 Act; and generally relating to certain exemptions from recordation and transfer
9 taxes.

10 BY adding to

11 Article – Tax – Property
12 Section 12–101(e–1) through (e–5)
13 Annotated Code of Maryland
14 (2007 Replacement Volume)

15 BY repealing and reenacting, with amendments,

16 Article – Tax – Property
17 Section 12–108(c) and (d), 13–207(a)(2) and (3), and 13–403
18 Annotated Code of Maryland
19 (2007 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Tax – Property**

4 12-101.

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

7 (E-2) “DOMESTIC PARTNERSHIP” MEANS A RELATIONSHIP BETWEEN TWO
8 INDIVIDUALS WHO:

9 (1) ARE AT LEAST 18 YEARS OLD;

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

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

14 (4) AGREE TO BE IN A RELATIONSHIP OF MUTUAL
15 INTERDEPENDENCE IN WHICH EACH DOMESTIC PARTNER CONTRIBUTES TO THE
16 MAINTENANCE AND SUPPORT OF THE OTHER DOMESTIC PARTNER AND THE
17 RELATIONSHIP, EVEN IF BOTH DOMESTIC PARTNERS ARE NOT REQUIRED TO
18 CONTRIBUTE EQUALLY TO THE RELATIONSHIP; AND

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

21 (I) ~~ONE DOMESTIC PARTNER LEAVES THE COMMON~~
22 ~~RESIDENCE ON A SHORT TERM OR LONG TERM BASIS, WITH THE INTENT TO~~
23 ~~RETURN TO THE COMMON RESIDENCE;~~

24 ~~(II)~~ ONLY ONE OF THE DOMESTIC PARTNERS HAS THE RIGHT
25 TO LEGAL POSSESSION OF THE COMMON RESIDENCE; OR

26 ~~(III)~~ (II) ONE OF THE DOMESTIC PARTNERS HAS AN
27 ADDITIONAL RESIDENCE.

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

29 (1) AN AFFIDAVIT SIGNED UNDER PENALTY OF PERJURY BY TWO
30 INDIVIDUALS STATING THAT THEY HAVE ESTABLISHED A DOMESTIC
31 PARTNERSHIP; AND

1 (2) EVIDENCE OF ANY TWO OF THE FOLLOWING:

2 (I) JOINT LIABILITY OF THE INDIVIDUALS FOR A
3 MORTGAGE OR OTHER LOAN OR FOR A LEASE;

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

8 (III) THE DESIGNATION OF ONE OF THE INDIVIDUALS AS THE
9 PRIMARY BENEFICIARY OF THE WILL OF THE OTHER INDIVIDUAL;

10 (IV) A DURABLE POWER OF ATTORNEY FOR HEALTH CARE
11 OR FINANCIAL MANAGEMENT GRANTED BY ONE OF THE INDIVIDUALS TO THE
12 OTHER INDIVIDUAL;

13 (V) JOINT OWNERSHIP OR LEASE BY THE INDIVIDUALS OF A
14 MOTOR VEHICLE;

15 (VI) A JOINT CHECKING ACCOUNT, JOINT INVESTMENTS, OR
16 A JOINT CREDIT ACCOUNT;

17 (VII) A JOINT RENTER'S OR HOMEOWNER'S INSURANCE
18 POLICY;

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

21 (IX) JOINT RESPONSIBILITY FOR CHILDCARE, SUCH AS
22 SCHOOL DOCUMENTS OR GUARDIANSHIP DOCUMENTS; OR

23 (X) A RELATIONSHIP OR COHABITATION CONTRACT; ~~OR.~~

24 ~~(XI) DOCUMENTATION OF MARRIAGE, CIVIL UNION, OR~~
25 ~~DOMESTIC PARTNERSHIP ENTERED INTO UNDER THE LAWS OF THE UNITED~~
26 ~~STATES OR OF ANY STATE, LOCAL, OR FOREIGN JURISDICTION.~~

27 (E-4) "EVIDENCE OF DISSOLUTION OF A DOMESTIC PARTNERSHIP"
28 MEANS ~~AN AFFIDAVIT SIGNED UNDER PENALTY OF PERJURY BY TWO~~
29 ~~INDIVIDUALS STATING THAT THEY ARE NO LONGER IN A DOMESTIC~~
30 ~~PARTNERSHIP.;~~

31 (1) A DEATH CERTIFICATE; OR

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

4 **(E-5) “FORMER DOMESTIC PARTNER” MEANS AN INDIVIDUAL WITH WHOM**
 5 **ANOTHER INDIVIDUAL HAD ESTABLISHED A DOMESTIC PARTNERSHIP THAT HAS**
 6 **SUBSEQUENTLY BEEN DISSOLVED.**

7 12-108.

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

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

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

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

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

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

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

19 [(7)] (VII) grandchild or stepgrandchild; **OR**

20 **(VIII) DOMESTIC PARTNER OR FORMER DOMESTIC PARTNER.**

21 **(2) (I) TO QUALIFY AS A DOMESTIC PARTNER UNDER THIS**
 22 **SUBSECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF A DOMESTIC**
 23 **PARTNERSHIP.**

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

27 **(3) THE EXEMPTION UNDER PARAGRAPH (1) OF THIS**
 28 **SUBSECTION FOR TRANSFERS TO A DOMESTIC PARTNER OR FORMER DOMESTIC**
 29 **PARTNER OF THE TRANSFEROR APPLIES ONLY TO AN INSTRUMENT OF WRITING**
 30 **FOR RESIDENTIAL PROPERTY.**

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**
5 **PARTNERS.**

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

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

12 **(3) THE EXEMPTION UNDER PARAGRAPH (1) OF THIS**
13 **SUBSECTION FOR TRANSFERS BETWEEN DOMESTIC PARTNERS OR FORMER**
14 **DOMESTIC PARTNERS APPLIES ONLY TO AN INSTRUMENT OF WRITING FOR**
15 **RESIDENTIAL PROPERTY.**

16 13-207.

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

19 (2) § 12-108(c) of this article (Transfer between relatives **AND**
20 **DOMESTIC PARTNERS**);

21 (3) § 12-108(d) of this article (Transfer between spouses **AND**
22 **DOMESTIC PARTNERS**);

23 13-403.

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

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

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

3 (2) TO QUALIFY AS A FORMER DOMESTIC PARTNER UNDER THIS
4 SECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF DISSOLUTION OF A
5 DOMESTIC PARTNERSHIP.

6 (D) THE EXEMPTION UNDER SUBSECTION (B) OF THIS SECTION FOR
7 TRANSFERS BETWEEN DOMESTIC PARTNERS OR FORMER DOMESTIC PARTNERS
8 APPLIES ONLY TO AN INSTRUMENT OF WRITING FOR RESIDENTIAL PROPERTY.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
10 construed to have any effect on § 2-201 of the Family Law Article.

11 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
12 effect July 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.