

SENATE BILL 597

Q6
HB 1298/05 – W&M

8lr2453
CF HB 746

By: **Senators Kramer, Currie, Della, Forehand, Frosh, Jones, King, Madaleno, Middleton, Munson, Pinsky, Robey, Rosapepe, and Zirkin**

Introduced and read first time: February 1, 2008

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 21, 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)

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

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 **Article - Tax - Property**

2 12-101.

3 **(E-1) "DOMESTIC PARTNER" MEANS AN INDIVIDUAL WITH WHOM**
4 **ANOTHER INDIVIDUAL HAS ESTABLISHED A DOMESTIC PARTNERSHIP.**

5 **(E-2) "DOMESTIC PARTNERSHIP" MEANS A RELATIONSHIP BETWEEN TWO**
6 **INDIVIDUALS WHO:**

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

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

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

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

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

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

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

24 **(III) ONE OF THE DOMESTIC PARTNERS HAS AN ADDITIONAL**
25 **RESIDENCE.**

26 **(E-3) "EVIDENCE OF A DOMESTIC PARTNERSHIP" MEANS:**

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

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

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

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

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

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

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

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

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

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

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

22 (X) A RELATIONSHIP OR COHABITATION CONTRACT; ~~OR~~

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

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

30 (1) EVIDENCE THAT A DOMESTIC PARTNERSHIP HAD PREVIOUSLY
31 EXISTED; AND

32 (2) (1) A DEATH CERTIFICATE; OR

1 **(II) AN AFFIDAVIT SIGNED UNDER PENALTY OF PERJURY BY**
 2 **TWO 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**

1 **FOR A COMMON RESIDENCE WHERE BOTH DOMESTIC PARTNERS OR FORMER**
 2 **DOMESTIC PARTNERS LIVE OR HAVE LIVED.**

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

5 (I) **SPOUSES OR FORMER SPOUSES; OR**

6 (II) **DOMESTIC PARTNERS OR FORMER DOMESTIC**
 7 **PARTNERS.**

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

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

14 (3) **THE EXEMPTION UNDER PARAGRAPH (1) OF THIS**
 15 **SUBSECTION FOR TRANSFERS BETWEEN DOMESTIC PARTNERS OR FORMER**
 16 **DOMESTIC PARTNERS APPLIES ONLY TO AN INSTRUMENT OF WRITING FOR A**
 17 **COMMON RESIDENCE WHERE BOTH DOMESTIC PARTNERS OR FORMER**
 18 **DOMESTIC PARTNERS LIVE OR HAVE LIVED.**

19 13-207.

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

22 (2) § 12-108(c) of this article (Transfer between relatives **AND**
 23 **DOMESTIC PARTNERS**);

24 (3) § 12-108(d) of this article (Transfer between spouses **AND**
 25 **DOMESTIC PARTNERS**);

26 13-403.

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

31 (B) An instrument of writing that transfers property between spouses or
 32 former spouses **OR BETWEEN DOMESTIC PARTNERS OR FORMER DOMESTIC**

1 PARTNERS in accordance with a property settlement [or], divorce decree, OR
2 DISSOLUTION OF A DOMESTIC PARTNERSHIP is not subject to a county transfer tax.

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

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

8 (D) THE EXEMPTION UNDER SUBSECTION (B) OF THIS SECTION FOR
9 TRANSFERS BETWEEN DOMESTIC PARTNERS OR FORMER DOMESTIC PARTNERS
10 APPLIES ONLY TO AN INSTRUMENT OF WRITING FOR A COMMON RESIDENCE
11 WHERE BOTH DOMESTIC PARTNERS OR FORMER DOMESTIC PARTNERS LIVE OR
12 HAVE LIVED.

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.