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To: Members of Senate Judicial Proceedings Committee

From: MSBA Estate & Trust Law Section

Date: January 19, 2026

Subject: **SB0033** – Recordation and Transfer Taxes - Exemption for Related Business Entities - Common Law Trusts

Position: Support

The Estate & Trust Law Section of the Maryland State Bar Association (MSBA) **supports Senate Bill 0033 – Recordation and Transfer Taxes - Exemption for Related Business Entities - Common Law Trusts.** Senate Bill 0033 would provide an exemption from transfer and recordation tax for the transfer of Maryland real estate from a common law trust to an LLC that is wholly-owned by said trust.

Problem with Current Law

Maryland law (Md. Tax Real Property Code Ann. §12-108) currently provides several exemptions from transfer and recordation tax for the transfer of Maryland real estate. For example, transfers of real estate from an individual to an LLC that is wholly-owned by said individual would be exempt. Similarly, transfers of real estate from multiple individuals to an LLC that is owned by said individuals in the same proportions as they own the real estate would be exempt. As a final example, if a business entity (*e.g.* limited liability company, corporation, limited partnership or statutory trust) transfers real estate to an LLC that is wholly-owned by said business entity, such a transfer would be exempt from transfer and recordation tax.

However, Trustees of common law trusts are unable to transfer real property via a deed from a trust to an LLC that is wholly owned by that trust, without incurring such transfer and recordation tax.

Transfer and recordation tax, unless an exemption applies, could be approximately three percent (3%) of the consideration paid or value of the property at time of transfer, inclusive of state and local taxes.

How SB0033 Solves the Problem

Trustees of common law trusts would now be able to transfer real property from the trust to an LLC that is wholly owned by that trust. This is achieved by expanding the definition of an exempt transferor (“business entity” and “owner”) to include Trustees of trusts.

For the reasons stated above, the Estate & Trust Law Section of the MSBA **supports SB0033 and urges a favorable committee report.**

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