

SENATE BILL 730

Q6

3lr1203
CF HB 1236

By: **Senators King, Colburn, Garagiola, and Manno**

Introduced and read first time: February 1, 2013

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2013

CHAPTER _____

1 AN ACT concerning

2 **Recordation and Transfer Taxes – Low Income Housing Projects –**
3 **Controlling Interest**

4 FOR the purpose of establishing the consideration used to calculate the recordation
5 and State and county transfer tax on certain transactions for which a
6 controlling interest is conveyed; providing for the application of this Act; and
7 generally relating to the recordation and State and county transfer taxes.

8 BY repealing and reenacting, with amendments,
9 Article – Tax – Property
10 Section 12–103(a), 13–203(a), and 13–412
11 Annotated Code of Maryland
12 (2012 Replacement Volume)

13 BY adding to
14 Article – Tax – Property
15 Section 12–103(a–1), and 13–203(a–1), ~~and 13–412(e)~~
16 Annotated Code of Maryland
17 (2012 Replacement Volume)

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

20 **Article – Tax – Property**

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 12-103.

2 (a) (1) [The] **EXCEPT AS PROVIDED IN SUBSECTION (A-1) OF THIS**
3 **SECTION, THE** recordation tax rates under this section are applied to each \$500 or
4 fraction of \$500 of consideration payable or of the principal amount of the debt secured
5 for an instrument of writing.

6 (2) The consideration:

7 (i) includes the amount of any mortgage or deed of trust
8 assumed by the grantee; and

9 (ii) subject to item (i) of this paragraph, includes only the
10 amount paid or delivered in return for the sale of the property and does not include
11 the amount of any debt forgiven or no longer secured by a mortgage or deed of trust on
12 the property.

13 **(A-1) (1) THE RECORDATION TAX RATES UNDER THIS SECTION ARE**
14 **APPLIED TO EACH \$500 OR FRACTION OF \$500 OF CONSIDERATION PAID FOR**
15 **THE CONVEYANCE OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY**
16 **AS DEFINED IN § 12-117 OF THIS SUBTITLE THAT HAS DEVELOPED REAL**
17 **PROPERTY UNDER SECTION 42 OF THE INTERNAL REVENUE CODE, THE LOW**
18 **INCOME HOUSING TAX CREDIT PROGRAM.**

19 **(2) THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE**
20 **THE ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE**
21 **PURCHASE OF THE INTEREST.**

22 13-203.

23 (a) (1) Except **AS PROVIDED IN SUBSECTION (A-1) OF THIS SECTION**
24 **AND EXCEPT** as provided in subsection (b) of this section, the rate of the transfer tax
25 is 0.5% of the consideration payable for the instrument of writing.

26 (2) The consideration:

27 (i) includes the amount of any mortgage or deed of trust
28 assumed by the grantee; and

29 (ii) subject to item (i) of this paragraph, includes only the
30 amount paid or delivered in return for the sale of the property and does not include
31 the amount of any debt forgiven or no longer secured by a mortgage or deed of trust on
32 the property.

33 **(A-1) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
34 **THE RATE OF THE TRANSFER TAX IS 0.5% OF THE CONSIDERATION PAID FOR**

1 THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AS
2 DEFINED IN § 13-103 OF THIS TITLE THAT HAS DEVELOPED REAL PROPERTY
3 UNDER SECTION 42 OF THE INTERNAL REVENUE CODE, THE LOW INCOME
4 HOUSING TAX CREDIT PROGRAM.

5 (2) THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE
6 THE ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE
7 PURCHASE OF THE INTEREST.

8 13-412.

9 (a) (1) Except AS PROVIDED IN SUBSECTION (C) OF THIS SECTION
10 AND EXCEPT as provided in paragraph (2) of this subsection, a county transfer tax
11 shall apply to the consideration payable for an instrument of writing.

12 (2) If a county transfer tax applies to mortgages or deeds of trust, the
13 county transfer tax shall apply to the consideration payable or the principal amount of
14 the debt secured for an instrument of writing.

15 (b) [The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
16 THE consideration:

17 (1) includes the amount of any mortgage or deed of trust assumed by
18 the grantee; and

19 (2) subject to item (1) of this subsection, includes only the amount paid
20 or delivered in return for the sale of the property and does not include the amount of
21 any debt forgiven or no longer secured by a mortgage or deed of trust on the property.

22 (c) (1) A COUNTY TRANSFER TAX APPLIES TO THE CONSIDERATION
23 PAID FOR THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY
24 ENTITY AS DEFINED IN § 13-103 OF THIS TITLE THAT HAS DEVELOPED REAL
25 PROPERTY UNDER SECTION 42 OF THE INTERNAL REVENUE CODE, THE LOW
26 INCOME HOUSING TAX CREDIT PROGRAM.

27 (2) THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE
28 THE ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE
29 PURCHASE OF THE INTEREST.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 July 1, 2013, and shall be applicable to all instruments of writing recorded or filed on
32 or after July 1, 2013.