

HOUSE BILL 371

Q6

3lr1758
CF 3lr2024

By: **Delegate Attar**

Introduced and read first time: January 26, 2023

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Recordation Tax – Indemnity Mortgage Exemption – Threshold Amount**

3 FOR the purpose of altering the threshold amount for certain indemnity mortgage
4 transactions that are exempt from the recordation tax; and generally relating to
5 exemptions from the recordation tax.

6 BY repealing and reenacting, with amendments,
7 Article – Tax – Property
8 Section 12–105(f)(7)
9 Annotated Code of Maryland
10 (2019 Replacement Volume and 2022 Supplement)

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

13 **Article – Tax – Property**

14 12–105.

15 (f) (7) (i) In this paragraph, “indemnity mortgage” includes any mortgage,
16 deed of trust, or other security interest in real property that secures a guarantee of
17 repayment of a loan for which the guarantor is not primarily liable.

18 (ii) Except as provided in subparagraph (iii) of this paragraph:

19 1. secured debt with respect to an indemnity mortgage
20 recorded on or after July 1, 2012, is deemed to be incurred for purposes of this subsection
21 when and to the same extent as debt is incurred on the guaranteed loan; and

22 2. the recordation tax applies under this subsection in the
23 same manner as if the guarantor were primarily liable for the guaranteed loan.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(iii) This paragraph does not apply:

1. to the extent that recordation tax is paid on another instrument of writing that secures payment of the guaranteed loan;

2. to an indemnity mortgage that secures a guarantee of repayment of a loan or series of loans that are part of the same transaction for less than ~~[\$3,000,000]~~ **\$15,000,000**; or

3. to a supplemental instrument of writing that confirms, corrects, modifies, supplements, or amends and restates a previously recorded instrument of writing regardless of whether recordation tax was paid on the instrument of writing, to the extent of the outstanding principal balance of the guaranteed loan immediately prior to the time the supplemental instrument of writing is entered into.

(iv) Recordation tax that is otherwise due on the recording of an indemnity mortgage may be allocated in the same manner described in subsection (a) of this section or calculated on the amount of the debt stated to be secured.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023, and shall be applicable to all instruments of writing recorded on or after July 1, 2023.