

Chapter 800

(House Bill 371)

AN ACT concerning

**Recordation Tax – ~~Authorization for Counties to Exempt Indemnity Mortgage~~
~~Exemption – Threshold Amount Mortgages~~ *Mortgage Exemption – Threshold*
*Amount***

FOR the purpose of ~~altering the threshold amount for certain indemnity mortgage transactions that are exempt from the recordation tax authorizing the Mayor and City Council of Baltimore City or the governing body of a county to grant an exemption from the recordation tax for certain indemnity mortgage transactions~~ *altering the threshold amount for certain indemnity mortgage transactions that are exempt from the recordation tax*; and generally relating to exemptions from the recordation tax.

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

BY adding to
Article – Tax – Property
Section 12–119
Annotated Code of Maryland
(2019 Replacement Volume and 2022 Supplement)

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

Article – Tax – Property

12–105.

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

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

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

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

(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~~ \$12,500,000 ~~\$15,000,000~~; OR ~~or~~

~~3. 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 AT LEAST \$3,000,000 BUT LESS THAN \$12,500,000 THAT IS EXEMPTED FROM RECORDATION TAX BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY UNDER § 12-119 OF THIS TITLE; OR~~

~~3.~~ 4. 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.

12-119.

~~(A) IN THIS SECTION, “INDEMNITY MORTGAGE” HAS THE MEANING STATED IN § 12-105(F)(7) OF THIS TITLE.~~

~~(B) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY MAY GRANT, BY LAW, AN EXEMPTION FROM THE RECORDATION TAX FOR AN INDEMNITY MORTGAGE THAT SECURES A GUARANTEE OF REPAYMENT OF A LOAN OR SERIES OF LOANS THAT ARE PART OF THE SAME TRANSACTION FOR ANY AMOUNT THAT IS AT LEAST \$3,000,000 BUT LESS THAN \$12,500,000.~~

~~(C) ON OR BEFORE SEPTEMBER 1 IMMEDIATELY FOLLOWING THE FIRST FISCAL YEAR IN WHICH A LOCAL LAW ENACTED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY UNDER THIS SECTION~~

~~IS IN EFFECT, AND EACH SEPTEMBER 1 THEREAFTER, THE COLLECTOR OR THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY, WHICHEVER IS DESIGNATED TO COLLECT RECORDATION TAX FOR THE COUNTY, SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE WAYS AND MEANS COMMITTEE THAT INCLUDES, FOR THE IMMEDIATELY PRECEDING FISCAL YEAR:~~

~~(1) THE THRESHOLD AMOUNT OF THE INDEMNITY MORTGAGE EXEMPTION UNDER THE LOCAL LAW ENACTED UNDER THIS SECTION;~~

~~(2) THE TOTAL NUMBER OF INDEMNITY MORTGAGES RECORDED THAT WERE EXEMPT FROM RECORDATION TAX UNDER THE LOCAL LAW ENACTED UNDER THIS SECTION;~~

~~(3) THE AMOUNT OF DEBT SECURED BY EACH INDEMNITY MORTGAGE THAT WAS EXEMPT FROM RECORDATION TAX UNDER THE LOCAL LAW ENACTED UNDER THIS SECTION; AND~~

~~(4) THE AMOUNT OF RECORDATION TAX REVENUE FORGONE BY THE COUNTY DUE TO THE INDEMNITY MORTGAGE EXEMPTION ENACTED UNDER THIS SECTION.~~

ON OR BEFORE JULY 1, 2025, AND EACH JULY 1 THEREAFTER, THE COLLECTOR OR THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY, WHICHEVER IS DESIGNATED TO COLLECT RECORDATION TAX FOR THE COUNTY, SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE WAYS AND MEANS COMMITTEE THAT INCLUDES, FOR THE IMMEDIATELY PRECEDING FISCAL YEAR:

(1) THE TOTAL NUMBER OF INDEMNITY MORTGAGES RECORDED THAT WERE EXEMPT FROM RECORDATION TAX UNDER § 12-105(F)(7)(III)2 OF THIS SUBTITLE;

(2) THE AMOUNT OF DEBT SECURED BY EACH INDEMNITY MORTGAGE THAT WAS EXEMPT FROM RECORDATION TAX UNDER § 12-105(F)(7)(III)2 OF THIS SUBTITLE; AND

(3) THE AMOUNT OF RECORDATION TAX REVENUE FORGONE DUE TO THE INDEMNITY MORTGAGE EXEMPTION FROM RECORDATION TAX UNDER § 12-105(F)(7)(III)2 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, ~~2023~~ 2024, and shall be applicable to all ~~all~~ instruments of writing recorded on or after July 1, ~~2023~~ 2024.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 28, 2023.