Fact Sheet
HB 1298: Recordation and Transfer Taxes - Exemptions - Domestic Partners
Delegate Anne R. Kaiser

Background Information

- When property is bought or sold it is recorded by the Clerk of the Court, a tax is levied on this, known as the recordation tax. When ownership of property is amended to include or remove a third party a tax is levied known as transfer tax.
- Married couples are exempt from the recordation and transfer tax, when one spouse brings the other onto the lease in the process of creating joint ownership.
- For married couples, the statement "this is my wife/husband" is enough to exempt them from incurring recordation and transfer taxes. There has been little or no concern about fraud in these transactions.

How the Bill Works:

- Domestic partners sign affidavits confirming their interdependent relationship. The Clerk of the Court, then exempts the recordation tax (at the front end) and the transfer tax (at the back end). No recordation or transfer tax is paid.
- Fraud has not proven to be a problem in Montgomery County. The very fact that an affidavit between two people signed under perjury stating that they are in an interdependent relationship appears to be enough to curb incidents of fraud.

This Bill Expands Exemptions to Include Domestic Partners by Specifically:

- Recordation tax will not apply on the principle amount of debt assumed by transferee.
- Transfer of property between domestic partners is not subject to the recordation tax.
- In case of the dissolution of a domestic partnership, a property transfer is not subject to county transfer tax.

How this Bill will help:

- Define 'Domestic Partnerships' and who can enter into one.
- Equalize current law to include Domestic Partners among those exempt from recordation and transfer taxes.
- Equalize treatment of property and taxes when a relationship ends - divorce for married couples and dissolution for domestic partnerships.
- Give security and protections equally to all committed partners in Maryland.