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**By: Senators Craig, Colburn, Middleton, Derr, and Stoltzfus**

Introduced and read first time: January 30, 1997

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

**2 Recordation Tax and State Transfer Tax - Transfer of Agricultural Land**

3 FOR the purpose of exempting an instrument of writing that transfers title to certain  
4 agricultural land from the recordation tax and the State transfer tax under certain  
5 circumstances; imposing the recordation tax and State transfer tax on certain  
6 agricultural land that is subject to a declaration of intent to farm under certain  
7 circumstances; making certain tax and penalty a lien on certain land; and generally  
8 relating to the application of the recordation tax and the State transfer tax to  
9 certain agricultural land under certain circumstances.

10 BY adding to

11 Article - Tax - Property  
12 Section 12-108(z) and 13-207(a)(19) and (c)  
13 Annotated Code of Maryland  
14 (1994 Replacement Volume and 1996 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article - Tax - Property  
17 Section 13-207(a)(17) and (18)  
18 Annotated Code of Maryland  
19 (1994 Replacement Volume and 1996 Supplement)

20 BY repealing and reenacting, without amendments,

21 Article - Tax - Property  
22 Section 13-301(b) and 13-305  
23 Annotated Code of Maryland  
24 (1994 Replacement Volume and 1996 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

26 MARYLAND, That the Laws of Maryland read as follows:

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1           **Article - Tax - Property**

2 12-108.

3           (Z) (1) IN THIS SUBSECTION, "AGRICULTURAL LAND" HAS THE MEANING  
4 STATED IN § 13-301 OF THIS ARTICLE.

5           (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN  
6 INSTRUMENT OF WRITING THAT TRANSFERS TITLE TO AGRICULTURAL LAND IS NOT  
7 SUBJECT TO RECORDATION TAX IF THE INSTRUMENT OF WRITING IS WHOLLY OR  
8 PARTLY EXEMPT FROM THE AGRICULTURAL LAND TRANSFER TAX UNDER § 13-305  
9 (C) OR (D) OF THIS ARTICLE.

10           (3) IF THE TRANSFEREE FILES A DECLARATION OF INTENT TO FARM  
11 WITH RESPECT TO LESS THAN ALL OF THE TRANSFERRED AGRICULTURAL LAND  
12 UNDER § 13-305(D) OF THIS ARTICLE, THE RECORDATION TAX APPLIES TO THE  
13 VALUE OF THE LAND NOT SUBJECT TO THE DECLARATION OF INTENT TO THE SAME  
14 EXTENT AS THE AGRICULTURAL LAND TRANSFER TAX APPLIES.

15           (4) (I) IF THERE IS A FAILURE TO COMPLY WITH A DECLARATION OF  
16 INTENT FILED UNDER § 13-305(C) OR (D) OF THIS ARTICLE INCLUDING THE BUILDING  
17 OF NONAGRICULTURAL IMPROVEMENTS OR NONAGRICULTURAL SITE  
18 IMPROVEMENTS OR THERE IS A FAILURE TO QUALIFY FOR FARM OR  
19 AGRICULTURAL USE ASSESSMENT UNDER § 8-209 OF THIS ARTICLE DURING THE  
20 TIME THAT A DECLARATION OF INTENT IS IN EFFECT, THE RECORDATION TAX, PLUS  
21 PENALTY, IS DUE ON THAT PORTION OF THE LAND SUBJECT TO THE DECLARATION  
22 OF INTENT THAT FAILS TO COMPLY WITH THE DECLARATION OF INTENT OR FAILS  
23 TO QUALIFY FOR FARM OR AGRICULTURAL USE ASSESSMENT.

24           (II) THE TAX AND PENALTY DUE UNDER THIS PARAGRAPH:

25                           1. ARE A LIEN ON THE AGRICULTURAL LAND THAT WAS  
26 TRANSFERRED; AND

27                           2. ARE DUE ON THE EARLIER OF:

28                                 A. THE NEXT DATE ON WHICH PROPERTY TAX ON THE  
29 AGRICULTURAL LAND IS DUE UNDER § 10-102 OF THIS ARTICLE; OR

30                                 B. THE DATE OF THE NEXT TRANSFER OF ANY PART OF THE  
31 AGRICULTURAL LAND.

32           (5) FOR THE PURPOSE OF PARAGRAPH (4) OF THIS SUBSECTION, THE  
33 SUPERVISOR SHALL CALCULATE THE AMOUNT OF THE RECORDATION TAX DUE BY:

34                           (I) DETERMINING THE FAIR MARKET VALUE OF THE LAND  
35 SUBJECT TO THE TAX AS OF THE MOST RECENT JULY 1 AND PROVIDING THE  
36 PROPERTY OWNER WITH A NOTICE OF THAT VALUE, WHICH THE PROPERTY OWNER  
37 MAY APPEAL AS PROVIDED BY § 8-404 OF THIS ARTICLE;

38                           (II) MULTIPLYING THE FAIR MARKET VALUE OF THE LAND  
39 SUBJECT TO THE TAX BY THE APPLICABLE RECORDATION TAX RATE IN EFFECT AS  
40 OF THE DUE DATE FOR THE TAX; AND

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1 (III) ADDING TO THE TAX CALCULATED UNDER SUBPARAGRAPH  
2 (II) OF THIS PARAGRAPH A PENALTY IN THE AMOUNT OF 10% OF THE TAX DUE.

3 (6) THE COLLECTOR FOR THE COUNTY SHALL:

4 (I) COLLECT THE TAX AND PENALTY DUE UNDER PARAGRAPH (4)  
5 OF THIS SUBSECTION; AND

6 (II) DISTRIBUTE THE TAX AND PENALTY COLLECTED TO THE  
7 GOVERNING BODY OF THE COUNTY.

8 13-207.

9 (a) An instrument of writing is not subject to transfer tax to the same extent that  
10 it is not subject to recordation tax under:

11 (17) § 12-108(x) of this article (Cooperative housing corporations); [or]

12 (18) § 12-108(y) of this article (Transfer from partnership to limited liability  
13 company); OR

14 (19) § 12-108(Z) OF THIS ARTICLE (TRANSFER OF AGRICULTURAL LAND  
15 EXEMPT FROM AGRICULTURAL LAND TRANSFER TAX).

16 (C) (1) (I) IF THERE IS A FAILURE TO COMPLY WITH A DECLARATION OF  
17 INTENT FILED UNDER § 13-305(C) OR (D) OF THIS ARTICLE INCLUDING THE BUILDING  
18 OF NONAGRICULTURAL IMPROVEMENTS OR NONAGRICULTURAL SITE  
19 IMPROVEMENTS OR THERE IS A FAILURE TO QUALIFY FOR FARM OR  
20 AGRICULTURAL USE ASSESSMENT UNDER § 8-209 OF THIS ARTICLE DURING THE  
21 TIME THAT A DECLARATION OF INTENT IS IN EFFECT, THE TRANSFER TAX, PLUS  
22 PENALTY, IS DUE ON THAT PORTION OF THE LAND SUBJECT TO THE DECLARATION  
23 OF INTENT THAT FAILS TO COMPLY WITH THE DECLARATION OF INTENT OR FAILS  
24 TO QUALIFY FOR FARM OR AGRICULTURAL USE ASSESSMENT.

25 (II) THE TAX AND PENALTY DUE UNDER THIS PARAGRAPH:

26 1. ARE A LIEN ON THE AGRICULTURAL LAND THAT WAS  
27 TRANSFERRED; AND

28 2. ARE DUE ON THE EARLIER OF:

29 A. THE NEXT DATE ON WHICH PROPERTY TAX ON THE  
30 AGRICULTURAL LAND IS DUE UNDER § 10-102 OF THIS ARTICLE; OR

31 B. THE DATE OF THE NEXT TRANSFER OF ANY PART OF THE  
32 AGRICULTURAL LAND.

33 (2) FOR THE PURPOSE OF PARAGRAPH (1) OF THIS SUBSECTION, THE  
34 SUPERVISOR SHALL CALCULATE THE AMOUNT OF THE TRANSFER TAX DUE BY:

35 (I) DETERMINING THE FAIR MARKET VALUE OF THE LAND  
36 SUBJECT TO THE TAX AS OF THE MOST RECENT JULY 1 AND PROVIDING THE  
37 PROPERTY OWNER WITH A NOTICE OF THAT VALUE, WHICH THE PROPERTY OWNER  
38 MAY APPEAL AS PROVIDED BY § 8-404 OF THIS ARTICLE;

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1 (II) MULTIPLYING THE FAIR MARKET VALUE OF THE LAND  
2 SUBJECT TO THE TAX BY THE TRANSFER TAX RATE UNDER § 13-203 OF THIS  
3 SUBTITLE; AND

4 (III) ADDING TO THE TAX CALCULATED UNDER SUBPARAGRAPH  
5 (II) OF THIS PARAGRAPH A PENALTY IN THE AMOUNT OF 10% OF THE TAX DUE.

6 (3) THE COLLECTOR FOR THE COUNTY SHALL:

7 (I) COLLECT THE TAX AND PENALTY DUE UNDER PARAGRAPH (1)  
8 OF THIS SUBSECTION; AND

9 (II) DISTRIBUTE THE TAX AND PENALTY COLLECTED TO THE  
10 COMPTROLLER FOR DEPOSIT IN A SPECIAL FUND AS PROVIDED UNDER § 13-209 OF  
11 THIS SUBTITLE.

12 13-301.

13 (b) "Agricultural land" means real property that is or was assessed on the basis of  
14 farm or agricultural use under § 8-209 of this article.

15 13-305.

16 (a) An instrument of writing is not subject to the agricultural land transfer tax, if  
17 property tax on the land has been paid for 5 full consecutive taxable years before the  
18 transfer on the basis of an assessment other than the farm or agricultural use assessment  
19 under § 8-209 of this article.

20 (b) If the amount of agricultural land transferred is not greater than the  
21 applicable residential minimum zoning size in effect at the time of transfer, an instrument  
22 of writing for the residential use of the owner of the agricultural land or the owner's  
23 immediate family is not subject to the agricultural land transfer tax.

24 (c) (1) Except as provided in paragraph (2) of this subsection, an instrument of  
25 writing that transfers title to agricultural land that is eligible for farm or agricultural use  
26 assessment under § 8-209 of this article is not subject to the agricultural land transfer tax  
27 if the transferee:

28 (i) files with the supervisor before the transfer a declaration of intent  
29 to farm the agricultural land that specifies that all of the transferred agricultural land will  
30 remain in farm or agricultural use for at least 5 full consecutive taxable years; and

31 (ii) applies for farm or agricultural use assessment under § 8-209 of  
32 this article for the land that is transferred.

33 (2) (i) If there is a failure to comply with a declaration of intent filed  
34 under paragraph (1) of this subsection including the building of nonagricultural  
35 improvements or nonagricultural site improvements or there is a failure to qualify for the  
36 farm or agricultural use assessment under § 8-209 of this article during the time that a  
37 declaration of intent is in effect, the agricultural land transfer tax, plus penalty, is due on  
38 that portion of the land that fails to comply with the declaration of intent or to qualify for  
39 farm or agricultural use.

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1 (ii) The tax and penalty due under this subsection are a lien on the  
2 agricultural land that was transferred. The tax and penalty are due on the earlier of:

3 1. the next date on which property tax on the agricultural land  
4 is due under § 10-102 of this article; or

5 2. the date of the next transfer of any part of the agricultural  
6 land.

7 (3) For the purpose of paragraph (2) of this subsection, the supervisor shall  
8 calculate the amount of the agricultural land transfer tax due by:

9 (i) determining the fair market value of the land subject to the tax as  
10 of the most recent July 1 and providing the property owner with a notice of that value,  
11 which the property owner may appeal as provided by § 8-404 of this article;

12 (ii) multiplying the fair market value of the land subject to the tax by  
13 the rate of tax provided under § 13-303 of this article; and

14 (iii) adding to the tax calculated under subparagraph (ii) of this  
15 paragraph a penalty in the amount of 10% of the tax due.

16 (d) (1) An instrument of writing that transfers title to agricultural land that is  
17 eligible for farm or agricultural use assessment or that received the agricultural use  
18 assessment as of the most recent July 1 under § 8-209 of this article is subject to the  
19 agricultural land transfer tax as provided in paragraph (2) of this subsection, if the  
20 transferee:

21 (i) files with the supervisor before the transfer a declaration of intent  
22 to farm the land that specifies that part of the agricultural land will remain in farm or  
23 agricultural use for at least 5 full consecutive taxable years;

24 (ii) for a parcel that can be further subdivided into 2 or more parcels,  
25 provides the supervisor with a survey that accurately identifies the location of the land  
26 and the amount of acreage that is subject to the declaration of intent; and

27 (iii) applies for farm or agricultural use assessment for part of the  
28 agricultural land that is transferred.

29 (2) The agricultural land transfer tax applies to the value of the land not  
30 subject to the declaration of intent, exclusive of the items stated in § 13-304.

31 (3) For the purpose of paragraph (2) of this subsection, the supervisor:

32 (i) shall determine the fair market value of the land not subject to the  
33 declaration of intent as of the most recent July 1 and provide the transferee with a notice  
34 of that value, which the transferee may appeal as provided by § 8-404 of this article; and

35 (ii) calculate the amount of the tax due by multiplying the fair market  
36 value of the land subject to the tax by the rate of the tax provided under § 13-303 of this  
37 article.

38 (4) If there is a failure to comply with a declaration of intent filed under  
39 paragraph (1) of this subsection or a failure to qualify for the farm or agricultural use

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1 assessment under § 8-209 of this article during the time that a declaration of intent is in  
2 effect, the agricultural land transfer tax, plus penalty, is due on the land subject to the  
3 declaration of intent.

4 (5) The tax and penalty due under this subsection are a lien on the  
5 agricultural land that was transferred. The tax and penalty are due on the earlier date of:

6 (i) the date on which property tax on the agricultural land is due  
7 under § 10-102 of this article; or

8 (ii) the date of the next transfer of any part of the agricultural land.

9 (6) For the purpose of paragraph (4) of this subsection, the supervisor shall  
10 calculate the amount of the agricultural land transfer tax due by:

11 (i) determining the fair market value of the land subject to the tax as  
12 of the most recent July 1 and providing the property owner with a notice of that value,  
13 which the property owner may appeal as provided by § 8-404 of this article;

14 (ii) multiplying the fair market value of the land subject to the tax by  
15 the rate of the tax under § 13-303 of this article; and

16 (iii) adding to the tax calculated under subparagraph (ii) of this  
17 paragraph a penalty in the amount of 10% of the tax due.

18 (e) The owner of real property which is subject to the agricultural use assessment  
19 must notify the Department when there is:

20 (1) a failure to comply with a declaration of intent; or

21 (2) failure to continue the property in agricultural use.

22 (f) If there is a failure to comply with a declaration of intent filed under  
23 subsection (c) or subsection (d) of this section, the supervisor in determining the fair  
24 market value of the land subject to the violation shall:

25 (1) identify the size and location of the land by:

26 (i) making a physical inspection of the property;

27 (ii) considering pertinent governmental records such as building  
28 permits, zoning maps, and regulations;

29 (iii) considering information provided by the property owner; and

30 (iv) determining that in the case of the building of a dwelling for the  
31 residential use of the owner, the size of the building site is 1 acre unless more land is  
32 actually used; and

33 (2) appraise the land utilizing generally accepted appraisal approaches  
34 including consideration of the sales of comparable land.

35 (g) For the purposes of subsections (d) and (f) of this section, if under current  
36 governmental land use regulations the parcel cannot be further subdivided into 2 or more  
37 parcels, the supervisor shall:

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1           (1) appraise the entire parcel; and

2           (2) apportion the amount of the total market value of the parcel to that part  
3 of the parcel subject to the tax in accordance with generally accepted appraisal  
4 approaches including consideration of prevailing homesite land values in that area.

5           (h) In addition to the exemptions otherwise provided by this section, the  
6 agricultural land transfer tax does not apply to an instrument of writing described in  
7 Section 13-207(a) of this title.

8           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 July 1, 1997.