

HOUSE BILL 20

Q6

9lr0526

(PRE-FILED)

By: **Delegate Luedtke**

Requested: October 2, 2018

Introduced and read first time: January 9, 2019

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **State Agricultural Land Transfer Tax – Nonagricultural Use Exemption –**
3 **Repeal**

4 FOR the purpose of repealing an exemption from the State agricultural land transfer tax
5 for an instrument of writing that transfers land on which the property tax has been
6 paid for a certain number of taxable years on the basis of certain assessments; and
7 generally relating to exemptions from the State agricultural land transfer tax.

8 BY repealing and reenacting, with amendments,
9 Article – Tax – Property
10 Section 13–303(c) and 13–305
11 Annotated Code of Maryland
12 (2012 Replacement Volume and 2018 Supplement)

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

15 **Article – Tax – Property**

16 13–303.

17 (c) Except as provided by § [13–305(c)(2)] **13–305(B)(2)** of this subtitle, the
18 agricultural land transfer tax determined under subsection (a) or subsection (b) of this
19 section is reduced by 25% for each consecutive full taxable year before a transfer in which
20 property tax on the agricultural land was paid on the basis of any assessment other than
21 the farm or agricultural use assessment under § 8–209 of this article.

22 13–305.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 [(a) An instrument of writing is not subject to the agricultural land transfer tax,
2 if property tax on the land has been paid for 5 full consecutive taxable years before the
3 transfer on the basis of an assessment other than the farm or agricultural use assessment
4 under § 8–209 of this article.]

5 [(b)] (A) If the amount of agricultural land transferred is not greater than the
6 applicable residential minimum zoning size in effect at the time of transfer, an instrument
7 of writing for the residential use of the owner of the agricultural land or the owner's
8 immediate family is not subject to the agricultural land transfer tax.

9 [(c)] (B) (1) Except as provided in paragraph (2) of this subsection, an
10 instrument of writing that transfers title to agricultural land that is eligible for farm or
11 agricultural use assessment under § 8–209 of this article is not subject to the agricultural
12 land transfer tax if the transferee:

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

17 (ii) applies for farm or agricultural use assessment under § 8–209 of
18 this article for the land that is transferred.

19 (2) (i) If there is a failure to comply with a declaration of intent filed
20 under paragraph (1) of this subsection including the building of nonagricultural
21 improvements or nonagricultural site improvements or there is a failure to qualify for the
22 farm or agricultural use assessment under § 8–209 of this article during the time that a
23 declaration of intent is in effect, the agricultural land transfer tax, plus penalty, is due on
24 that portion of the land that fails to comply with the declaration of intent or to qualify for
25 farm or agricultural use.

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

28 1. the next date on which property tax on the agricultural
29 land is due under § 10–102 of this article; or

30 2. the date of the next transfer of any part of the agricultural
31 land.

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

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

1 (ii) multiplying the fair market value of the land subject to the tax
2 by the rate of tax provided under § 13–303 of this subtitle; and

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

5 **[(d)] (C)** (1) An instrument of writing that transfers title to agricultural land
6 that is eligible for farm or agricultural use assessment or that received the agricultural use
7 assessment as of the most recent July 1 under § 8–209 of this article is subject to the
8 agricultural land transfer tax as provided in paragraph (2) of this subsection, if the
9 transferee:

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

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

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

18 (2) The agricultural land transfer tax applies to the value of the land not
19 subject to the declaration of intent, exclusive of the items stated in § 13–304 of this subtitle.

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

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

25 (ii) calculate the amount of the tax due by multiplying the fair
26 market value of the land subject to the tax by the rate of the tax provided under § 13–303
27 of this subtitle.

28 (4) If there is a failure to comply with a declaration of intent filed under
29 paragraph (1) of this subsection or a failure to qualify for the farm or agricultural use
30 assessment under § 8–209 of this article during the time that a declaration of intent is in
31 effect, the agricultural land transfer tax, plus penalty, is due on the land subject to the
32 declaration of intent.

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

1 (i) the date on which property tax on the agricultural land is due
2 under § 10–102 of this article; or

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

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

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

9 (ii) multiplying the fair market value of the land subject to the tax
10 by the rate of the tax under § 13–303 of this subtitle; and

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

13 **[(e)] (D)** The owner of real property which is subject to the agricultural use
14 assessment must notify the Department when there is:

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

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

17 **[(f)] (E)** If there is a failure to comply with a declaration of intent filed under
18 subsection **[(c)] (B)** or subsection **[(d)] (C)** of this section, the supervisor in determining the
19 fair market value of the land subject to the violation shall:

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

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

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

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

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

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

1 **[(g)] (F)** For the purposes of subsections **[(d)] (C)** and **[(f)] (E)** of this section, if
2 under current governmental land use regulations the parcel cannot be further subdivided
3 into 2 or more parcels, the supervisor shall:

4 (1) appraise the entire parcel; and

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

8 **[(h)] (G)** In addition to the exemptions otherwise provided by this section, the
9 agricultural land transfer tax does not apply to an instrument of writing described in §
10 13–207(a) of this title.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
12 1, 2019.