

Chapter 342

(House Bill 848)

AN ACT concerning

Montgomery County – Agricultural Land Transfer Tax – Alterations

MC 7–20

FOR the purpose of altering the circumstances under which the Montgomery County Council may impose a tax on the transfer of agricultural land; providing that the tax does not apply to certain transfers of agricultural land; requiring that the revenue derived from the tax on transfers of agricultural land be used for certain agricultural purposes; requiring that the tax on the transfer of agricultural land be reduced in a certain manner under certain circumstances; making a technical correction; and generally relating to the Montgomery County agricultural land transfer tax.

BY repealing and reenacting, with amendments,
The Public Local Laws of Montgomery County
Section 52–30
Article 16 – Public Local Laws of Maryland
(2004 Edition and June 2019 Supplement, as amended)

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

Article 16 – Montgomery County

52–30.

(a) The county council for Montgomery County is empowered and authorized to levy and impose by resolution or ordinance a tax to be paid and collected on the transfer in Montgomery County of:

(1) Any fee simple interest in real property, except by way of mortgage, deed of trust, or deed of trust for the benefit of creditors;

(2) Stock or other evidence of ownership in a cooperative housing corporation or similar entity; [and]

(3) Any leasehold interest in real property, where such lease contains a covenant for perpetual renewal; and

(4) Any nonresidential leasehold interest in real property where there is a simultaneous or subsequent transfer of the fee interest in the real property to:

(i) Any transferee or assignee of the leasehold; or

(ii) Any entity in which a transferee or assignee of the leasehold has any interest.

(b) The rate of such tax shall not exceed:

(1) Six percent of the value of the consideration for any transfer of land, excluding improvements thereon, [which, while owned by the transferor, has been] **THAT IS OR WAS** assessed [at any time during the five years preceding transfer] on the basis of being actively devoted to farm or agricultural use. The tax shall be paid by the transferor of [such] **THE** land. **THE TAX DOES NOT APPLY TO A TRANSFER OF LAND IF THE LAND WAS SUBJECT TO THE TAX AT THE TIME OF A PREVIOUS TRANSFER. THE REVENUE DERIVED FROM THE TAX SHALL BE USED FOR AGRICULTURAL LAND PRESERVATION PROGRAMS OR OTHER PROGRAMS THAT SUPPORT AGRICULTURE IN THE COUNTY. THE TAX SHALL BE REDUCED BY 65% IF THE LAND WAS ASSESSED ON THE BASIS OF ANY ASSESSMENT OTHER THAN THE FARM OR AGRICULTURAL USE ASSESSMENT FOR 5 OR MORE FULL CONSECUTIVE TAXABLE YEARS BEFORE THE TRANSFER;** or

(2) Six percent of the value of the consideration for any transfer of real property which, after the effective date of any such rate of tax has been rezoned to a more intensive use at the instance of the transferor, transferee, or any other person who has or had at the time of application for rezoning a financial, contractual, or proprietary interest in the property, but excluding the value of improvements constructed after such rezoning; or

(3) Four percent of the value of the consideration for the initial transfer of a residential unit subject to a condominium regime offered for rent for residential purposes prior to the establishment of the condominium regime. The tax shall be paid by the initial transferor of the residential unit. The tax shall be in addition to the tax provided in paragraph (5) of this subsection; or

(4) Four percent of the value of the consideration for the initial transfer of stock or other evidence of membership in a cooperative housing corporation or similar entity where such stock corresponds to a residential unit which is being converted from rental status to a system of cooperative housing corporation ownership under which title to a multi-unit residential facility is held by a corporation, the shareholders or members of which, by virtue of such ownership or membership, are entitled to enter into an occupancy agreement for a particular residential unit. This tax shall not be applicable to transfers made pursuant to the purchase of a building by or on behalf of a bona fide tenants association. The tax shall be paid by the initial transferor of the residential unit and shall be in addition to the tax provided in paragraph (5) of this subsection; or

(5) One percent of the value of the consideration for any other transfer including any nonresidential leasehold interest and fee interest under subsection (a)(4) of

this section based on the:

(i) Average annual rent over the term of the lease, including renewals, capitalized at 10 percent plus any additional consideration payable, other than rent; or

(ii) If the average annual rent can not be determined, the greater of:

1. 105 percent of the minimum average annual rent, as determined by the lease, capitalized at 10 percent, plus any additional consideration payable, other than rent; or

2. 150 percent of the assessment of the real property subject to lease.

(c) No transfer of any interest in such property shall be taxed hereunder where the transfer is to any nonprofit hospital or nonprofit religious or charitable organization, association or corporation, nor to any municipal, county or State government, or instrumentalities, agencies or political subdivisions thereof; provided, that no exemption shall be granted hereunder to a transfer under paragraph (b)(1) of this section unless the transferor is a nonprofit hospital or nonprofit religious or charitable organization, association or corporation, or a municipal, county or State government, or instrumentality, agency or political subdivision thereof. The county council may provide for any additional exemptions from the provisions of this section.

(d) No tax levied pursuant to this section shall apply to transfers pursuant to contracts or agreements entered into prior to the effective date of such tax.

(e) The county council is further empowered and authorized to fix a penalty not in excess of one thousand dollars or imprisonment not exceeding six months, or both such fine and imprisonment, for violation of the provisions of any resolution or ordinance of the county council adopted pursuant to this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.