

## **2021 HB 815 Proponent Testimony.pdf**

Uploaded by: Cole, Molli

Position: FAV

## **PROPONENT TESTIMONY; HB815**

**TO:** Maryland House of Delegates; House Ways and Means Committee

**FROM:** David K. Bowersox, Esquire  
24 North Court Street  
Westminster, MD 21157

**HEARING DATE:** February 23, 2021

---

Madam Chair and Members of the Ways and Means Committee:

HB815 is remedial legislation protecting sellers of agricultural property under contract prior to July 1, 2019 from the perpetual "recapture" of State Agricultural Transfer Tax created by the adoption of Chapters 566 and 567, Acts 2019, effective July 1, 2019.

Prior to the 2019 amendments, the Annotated Code provided for a gradual total amortization of the Agricultural Transfer Tax due on a sale of the property subject to the recapture. If a property owner elected to forego the agricultural assessment and pay real property taxes for that property based on the full value assessment, after one year of paying annual real property taxes based on full value assessment, a sale would be subject to an Agricultural Transfer Tax recapture of 75% of what would otherwise be payable if they had maintained their agricultural assessment. After two years of paying annual real property taxes based on the regular assessment, a sale would only be subject to 50% of the Agricultural Transfer Tax; after three years, 25% and in the fourth and subsequent years of regular value assessment annual tax payments the recapture ceased so that no Agricultural Transfer Tax would be due as long as the property continued to pay annual real estate taxes based on the full value assessment.

2019's amendments changed that dramatically. Now, in the third and all subsequent years of annual real estate taxes based on regular assessed values, the Agricultural Transfer Tax recapture must be paid in the amount of 35%. Recapture at that rate will continue indefinitely no matter how many years the previously agriculturally assessed property continues paying annual taxes based on a resumed full value assessment.

Many of these agricultural properties are family properties. State Code provisions provide that where the contract of sale of the property is otherwise silent, the Seller, or the family, is responsible for the payment of the entirety of any Agricultural Transfer Tax due. The amount of Agricultural Transfer Tax on a parcel of over 20 acres is 5% of the total purchase price plus an additional 25% of that amount as a surcharge. This is a substantial sum of money which can be an unwelcome surprise to a Seller who may not be sophisticated in real estate transactional matters.

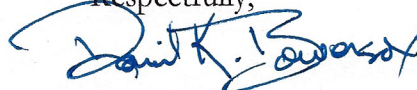
Not uncommonly settlement on contracts for these properties, particularly those of larger acreages, occurs after a period of time from the date of the contract or, settlement is conducted in phases with portions of the property being conveyed to a Seller over a number of years. This may be because the owner wishes to retain title until an agreed future date or, if the property is being developed, to satisfy contingencies that require periods of extensive State and local permitting, among other reasons.

In those cases, because of the significant percentage of Agricultural Transfer Tax relative to purchase price, the allocation of who pays the Agricultural Transfer Tax or how much of the Agricultural Transfer Tax typically becomes a significant issue of negotiations and a substantial financial component of contracts to sell this land.

HB815 is intended to protect those citizens who have negotiated contracts prior to the July 1, 2019 effective date of 2019's amendments extending into perpetuity recapture of State Agricultural Transfer Taxes even though settlement won't occur until after July 1, 2019. It only applies to those transactions pursuant to contracts of sale executed prior to the effective date of 2019's legislation. Contracts negotiated after the July 1, 2019 effective date of last year's amendments would be subject to those amendments.

HB815 is remedial, provides an equitable solution for an unintended consequence of last year's amendments to the Code, and acknowledges that the legislature is going to honor and respect contract terms negotiated in good faith prior to the effective date of last year's amendments.

Respectfully,

A handwritten signature in blue ink, appearing to read "David K. Bowersox", with a stylized flourish at the end.

David K. Bowersox, Esquire

# **Senate\_HB815\_AgTransferTax\_HearingDoc.pdf**

Uploaded by: Cole, Molli

Position: FAV



THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

**Support HB815**

**State Agricultural Land Transfer Tax – Application of  
Nonagricultural Use Reduction and Exemption**

Senate Budget and Taxation Committee

- This bill is a reprint of HB1609 from the 2020 Session, which was passed by the House (133-0) and passed onto the Senate for consideration before the pandemic forced us to shutdown
- This bill clarifies that certain provisions of law concerning the method of calculating a certain reduction in the State agricultural land transfer tax apply to a transfer under a contract of sale dated on or after July 1, 2019
- It would also clarify that a certain exemption from the State agricultural land transfer tax applies to a transfer under a contract of sale dated on or after July 1, 2019
- Chapters 566 and 567 of 2019 repealed an exemption from the State agricultural land transfer tax for certain property

## **HB 815.pdf**

Uploaded by: May, Lisa

Position: FAV





**House Bill 815 - State Agricultural Land Transfer Tax – Application of Nonagricultural Use Reduction and Exemption**

**Position: Support**

In 2019, the General Assembly altered the transfer tax rates charged on an agricultural property sale. The Maryland REALTORS® support HB 815, to clarify the rates that are applied to agriculture real estate transactions which occurred around the effective date of that change.

The sale of an agricultural property can at times be a lengthy process. Some property owners entered into a contract for sale prior to July 1, using the prior agricultural land transfer tax rates in their calculations, but did not complete the sale until after that date. When the amendments to Chapters 566 and 567 were implemented without a grandfathering provision, those property owners were charged a higher tax rate than expected.

HB 815 will allow those properties which were in the sales process to retain the more generous tax treatment available prior to July 1, 2019. This adjustment has a minimal impact on the state's finances but could make a significant difference to these affected property owners.

The Maryland REALTORS® requests a favorable report on HB 815.

**For more information contact [bill.castelli@mdrealtor.org](mailto:bill.castelli@mdrealtor.org),  
[susan.mitchell@mdrealtor.org](mailto:susan.mitchell@mdrealtor.org) or [lisa.may@mdrealtor.org](mailto:lisa.may@mdrealtor.org)**