

HOUSE BILL 848

Q6

0lr0427

By: **Montgomery County Delegation**

Introduced and read first time: February 3, 2020

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Agricultural Land Transfer Tax – Alterations**

3 **MC 7–20**

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

11 BY repealing and reenacting, with amendments,
12 The Public Local Laws of Montgomery County
13 Section 52–30
14 Article 16 – Public Local Laws of Maryland
15 (2004 Edition and June 2019 Supplement, as amended)

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

18 **Article 16 – Montgomery County**

19 52–30.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

11 (1) Six percent of the value of the consideration for any transfer of land,
12 excluding improvements thereon, [which, while owned by the transferor, has been] **THAT**
13 **IS OR WAS** assessed [at any time during the five years preceding transfer] on the basis of
14 being actively devoted to farm or agricultural use. The tax shall be paid by the transferor
15 of [such] **THE** land. **THE TAX DOES NOT APPLY TO A TRANSFER OF LAND IF THE LAND**
16 **WAS SUBJECT TO THE TAX AT THE TIME OF A PREVIOUS TRANSFER. THE REVENUE**
17 **DERIVED FROM THE TAX SHALL BE USED FOR AGRICULTURAL LAND PRESERVATION**
18 **PROGRAMS OR OTHER PROGRAMS THAT SUPPORT AGRICULTURE IN THE COUNTY.**
19 **THE TAX SHALL BE REDUCED BY 65% IF THE LAND WAS ASSESSED ON THE BASIS OF**
20 **ANY ASSESSMENT OTHER THAN THE FARM OR AGRICULTURAL USE ASSESSMENT FOR**
21 **5 OR MORE FULL CONSECUTIVE TAXABLE YEARS BEFORE THE TRANSFER;** or

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

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

33 (4) Four percent of the value of the consideration for the initial transfer of
34 stock or other evidence of membership in a cooperative housing corporation or similar entity
35 where such stock corresponds to a residential unit which is being converted from rental
36 status to a system of cooperative housing corporation ownership under which title to a

1 multi-unit residential facility is held by a corporation, the shareholders or members of
2 which, by virtue of such ownership or membership, are entitled to enter into an occupancy
3 agreement for a particular residential unit. This tax shall not be applicable to transfers
4 made pursuant to the purchase of a building by or on behalf of a bona fide tenants
5 association. The tax shall be paid by the initial transferor of the residential unit and shall
6 be in addition to the tax provided in paragraph (5) of this subsection; or

7 (5) One percent of the value of the consideration for any other transfer
8 including any nonresidential leasehold interest and fee interest under subsection (a)(4) of
9 this section based on the:

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

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

14 1. 105 percent of the minimum average annual rent, as
15 determined by the lease, capitalized at 10 percent, plus any additional consideration
16 payable, other than rent; or

17 2. 150 percent of the assessment of the real property subject
18 to lease.

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

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

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

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
35 1, 2020.