

Expedited Bill No. 37-14
Concerning: Real Property Transfer Tax
- Exemption - Enterprise Zones
Revised: 9-24-14 Draft No. 4
Introduced: July 15, 2014
Enacted: September 30, 2014
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Navarro, Floreen, and Riemer,
Council President Rice, and Councilmember Berliner

AN EXPEDITED ACT to:

- (1) exempt from a certain provision of the real property transfer tax certain transfers of rezoned property located in an enterprise zone;
- (2) repeal archaic and obsolete language and references, and make conforming and stylistic changes; and
- (3) generally amend County law regarding the real property transfer tax.

By amending

Montgomery County Code
Chapter 52, Taxation
Article II, Real Property Transfer Tax
Section 52-21

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

28 mean] as used in this subsection means a classification, reclassification,
 29 or change in zone which permits a greater number of dwelling units per
 30 acre in any residential zone, or which permits a greater number of
 31 permitted uses regardless of area or allows more floor area in a
 32 commercial, ~~[[zone]]~~ commercial/residential, employment, or industrial
 33 zone, or is from any residential zone to any commercial,
 34 commercial/residential, employment, or industrial zone, or is from any
 35 industrial zone to any commercial, commercial/residential, or
 36 employment, zone.

37 "Rezoned to a more intensive use" [shall] does not include:

- 38 (1) A zoning from a residential zone to a ~~[[Planned Unit~~
 39 ~~Development Zone]]~~ [under division 59-C-7 granted after
 40 January 1, 1980], residential floating zone if the approved
 41 ~~[[development]]~~ floating zone plan, including any amendments to
 42 the plan, does not increase the total number of permitted dwelling
 43 units and does not permit commercial or industrial uses,
 44 [provided however, that] but the transfer [shall] must be subject
 45 to [additional] any tax otherwise due under this subsection if at
 46 any time an amendment to the ~~[[development]]~~ floating zone plan
 47 increases the total number of permitted dwelling units or permits
 48 commercial or industrial uses;
- 49 (2) A zoning from a residential zone to a commercial,
 50 commercial/residential, or employment, zone within one ~~[(1)]~~
 51 year after the property was down zoned from a ~~[[commercial]]~~
 52 zone of equal or greater intensity to a residential zone by
 53 sectional map amendment; [or]

54 (3) A rezoning from an industrial zone to a commercial,
 55 commercial/residential, or employment, zone which:

56 (i) Is necessitated by a previously adopted amendment to [the
 57 zoning ordinance text,] Chapter 59 that was not [upon
 58 application or at the instance of] requested by the
 59 transferor, transferee, owner, or former owner of the real
 60 property, or by any person who has or has previously had
 61 an interest of any kind in the property, including a
 62 contractual interest; and

63 (ii) Allows establishment or continuance of a use or uses
 64 which were permitted uses on the property under the
 65 industrial zone immediately [prior to] before the text
 66 amendment, to which use or uses the property was
 67 restricted by bona fide covenants recorded among the land
 68 records [prior to] before July 1, 1971, and which covenants
 69 are in effect at the time of a transfer; or

70 (4) a rezoning of any property that is located in an enterprise zone
 71 when the property is transferred.

72 [The tax levied and imposed in this subsection shall not apply to
 73 transfers which are made pursuant to a bona fide written contract or
 74 agreement of sale entered into prior to July 1, 1971; provided, that the
 75 director of finance may require satisfactory proof that the contract or
 76 agreement was entered into prior to such date. There shall be deducted
 77 from the consideration as defined in section 59-19 the] The taxpayer
 78 may deduct from the consideration on which the tax is based any cost
 79 [or expense] actually incurred by the transferor for public
 80 improvements, such as sewer, water, roads, sidewalks, storm drainage

81 structures, and permanent soil erosion and sediment control measures,
 82 [subject to the submission to the director of finance of] if the taxpayer
 83 submits satisfactory proof of [such] costs [or expenses] documented by
 84 certificates from public agencies where applicable[; provided, that], but
 85 the rate of [such] the tax on a single transfer [shall] must not exceed [six
 86 (6)] 6 percent of the bona fide market value consideration for the
 87 transfer. [Where] If a transfer is subject both to the tax imposed by this
 88 subsection and the tax imposed by subsection (d), the tax imposed by
 89 this subsection [shall] must be the only tax imposed on the transfer.
 90 Any tax collected under this subsection [shall] must be collected only
 91 once on the first taxable transaction after each rezoning to a more
 92 intensive use, and [all transfers] any transfer that does not [subsequent
 93 to] follow a rezoning to a more intensive use [shall] must be [taxable]
 94 taxed at the rates applicable under other subsections of this section. The
 95 [county executive] Executive may [from time to time] issue [written]
 96 regulations under method (3) [of section 2A-15 of this Code, pertaining
 97 to] regarding the collection of the tax levied in this subsection.

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 99 * * *

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 101 **Sec. 2. Expedited Effective Date.** The Council declares that this
 102 legislation is necessary for the immediate protection of the public interest. This Act
 103 takes effect on the date when it becomes law.

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105 *Approved:*

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 10/2/2014
Craig L. Rice, President, County Council Date

108 *Approved:*

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110

Isiah Leggett, County Executive Date

111 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council Date