

**MEMORANDUM**

TO: County Council

FROM: Jeffrey L. Zyontz, Legislative Attorney *JLZ*

SUBJECT: **Public Hearing:** Bill 8-15, Taxation – Development Impact Tax - Exemptions

Bill 8-15, Taxation – Development Impact Tax - Exemptions, sponsored by Council Vice-President Floreen and Councilmembers Riemer, Rice, Katz and Navarro, was introduced on February 3. A Government Operations and Fiscal Policy Committee worksession will be scheduled at a later date.

Bill 8-15 would exempt the market-rate rental dwelling units in any development which consists of at least 25% affordable housing units from the transportation and school development impact taxes. This Bill is very similar to Bill 39-11 as that Bill was recommended to be amended by the Government Operations and Fiscal Policy Committee. On May 7, 2013, the Council considered Bill 39-11 and laid the bill on the table. Bill 39-11 expired without further action on December 1, 2014.

This packet contains:	<u>Circle #</u>
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Bill No. 8-15  
Concerning: Taxation - Development  
Impact Tax - Exemptions  
Revised: 1-20-15 Draft No. 1  
Introduced: February 3, 2015  
Expires: August 3, 2015  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council Vice-President Floreen, and Councilmembers Riemer, Rice, and Katz

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**AN ACT** to:

- (1) exempt certain housing units from certain development impact taxes; and
- (2) generally amend the law governing development impact taxes.

By amending

Montgomery County Code  
Chapter 52, Taxation  
Sections 52-49 and 52-89

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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

**Section 1. Sections 52-49 and 52-89 are amended as follows:**

**52-49. Imposition and applicability of development impact taxes.**

\* \* \*

(g) A development impact tax must not be imposed on:

(1) any Moderately Priced Dwelling Unit built under Chapter 25A or any similar program enacted by either Gaithersburg or Rockville;

(2) any other dwelling unit built under a government regulation or binding agreement that limits for at least 15 years the price or rent charged for the unit in order to make the unit affordable to households earning less than 60% of the area median income, adjusted for family size;

(3) any Personal Living Quarters unit built under Sec. 59-A-6.15, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;

(4) any dwelling unit in an Opportunity Housing Project built under Sections 56-28 through 56-32, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;

(5) any non-exempt rental dwelling unit in a development in which at least 25% of the dwelling units are exempt under paragraph (1), (2), (3), or (4), or any combination of them, if:

(A) the development is not located on publicly-owned land or land that was publicly-owned when the development was proposed; and

(B) the development has not received other benefits under Chapter 59 because the development includes more than the minimum required affordable housing; and

28 [(5)] (6) any development located in an enterprise zone designated by  
29 the State or in an area previously designated as an enterprise  
30 zone.

31 \* \* \*

32 **52-89. Imposition and applicability of tax.**

33 \* \* \*

34 (c) The tax under this Article must not be imposed on:

35 (1) any Moderately Priced Dwelling Unit built under Chapter 25A  
36 or any similar program enacted by either Gaithersburg or  
37 Rockville;

38 (2) any other dwelling unit built under a government regulation or  
39 binding agreement that limits for at least 15 years the price or  
40 rent charged for the unit in order to make the unit affordable to  
41 households earning less than 60% of the area median income,  
42 adjusted for family size;

43 (3) any Personal Living Quarters unit built under Sec. 59-A-6.15,  
44 which meets the price or rent eligibility standards for a  
45 moderately priced dwelling unit under Chapter 25A;

46 (4) any dwelling unit in an Opportunity Housing Project built under  
47 Sections 56-28 through 56-32, which meets the price or rent  
48 eligibility standards for a moderately priced dwelling unit under  
49 Chapter 25A;

50 (5) any non-exempt rental dwelling unit in a development in which at  
51 least 25% of the dwelling units are exempt under paragraph (1),  
52 (2), (3), or (4), or any combination of them, if:

53 (A) the development is not located on publicly-owned land or  
54 land that was publicly-owned when the development was

55 proposed; and  
 56 (B) the development has not received other benefits under  
 57 Chapter 59 because the development includes more than  
 58 the minimum required affordable housing; and  
 59 [(5)] (6) any development located in an enterprise zone designated by  
 60 the State or in an area previously designated as an enterprise  
 61 zone.

\* \* \*

63 **Section 2. Applicability.** County Code Section 52-49(g)(5) and Section 52-  
 64 89(c)(5), both inserted by Section 1 of this Act, do not apply to any development  
 65 which received preliminary subdivision plan approval or site plan approval (or a  
 66 similar approval in a municipality) before this Act took effect.

67 *Approved:*

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George Leventhal, President, County Council Date.

69 *Approved:*

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Isiah Leggett, County Executive Date

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

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Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Bill 8-15

### *Taxation – Development Impact Tax - Exemptions*

<b>DESCRIPTION:</b>	Exempts the market-rate rental dwelling units in any development which consists of at least 25% affordable housing units from the transportation and school development impact taxes.
<b>PROBLEM:</b>	Need to encourage provision of affordable housing.
<b>GOALS AND OBJECTIVES:</b>	To create further incentives to increase the share of low- and moderate-income housing in new developments
<b>COORDINATION:</b>	Department of Permitting Services, Department of Housing and Community Affairs, Planning Board
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Robert H. Drummer, Senior Legislative Attorney, 240-777-7895
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	Impact taxes apply County-wide.
<b>PENALTIES:</b>	Not applicable.