AN EXPEDITED ACT to:

(1) modify the amount of certain residential real property taxes for which payment may be deferred;
(2) revise the income limits and interest rates that apply to deferred property taxes; [[and]]
(3) require the Director of Finance to record certain documents in the County’s land records;
(4) repeal language that requires a property owner to pay certain recording fees;
(5) define certain terms; and
(6) update and generally amend the law regarding deferral of County property taxes.

By amending
Montgomery County Code
Chapter 52, Taxation
Section 52-18F
Sec. 1. Section 52-18F is amended as follows:

52-18F. Residential real property tax deferral-General.

(a) Definitions. In this Section the following words have the meanings indicated:

(1) "Director" means the Director of the Department of Finance.
(2) "Legal interest" has the meaning stated in Section 9-104 of the Tax-Property Article of the Maryland Code.
(3) "Owner" means an individual who has a legal interest in residential real property.

(b) Authorization; Amount of Deferral. [For taxable year beginning July 1, 1990, and thereafter, a] [[A property]] An owner may defer payment of County property taxes due on residential real property occupied by the owner as the owner's principal residence if the owner meets the requirements of this Section. The amount of taxes that may be deferred for any one year is the amount that County taxes due exceeds the amount of County property taxes paid in the prior taxable year, adjusted by any change in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Area from March of the previous year to March of the current year.

[(b)] (c) Program Eligibility. An owner is eligible for a payment deferral under this Section if:

(1) the gross income or combined gross income of all [[owners, and all]] individuals who actually reside in the dwelling (except a dependent under Section 152 of the Internal Revenue Code or a person who pays reasonable fixed charges for rent or room and board), did not exceed $[60,000] 120,000 for the calendar year that immediately precedes the taxable year for which the deferral
is sought; and

(2) the owner, or at least one of the owners, has resided in the dwelling as that person's principal place of residence for 5 consecutive years and continues to occupy the property for that purpose.

For purposes of income determination under paragraph (1), and to the extent consistent with this Section, gross income or combined gross income must be calculated in accordance with Section 9-104 of the Tax-Property Article of the Maryland Code. [Until executive regulations are adopted under subsection (p), the Director of Finance may use the adopted regulations of the State Department of Assessments and Taxation for Section 9-104.]

[(d)] Eligible Residential Property. [(The residential property subject to a payment deferral must be owned by the taxpayer in fee simple.)] The amount of the property eligible for a deferral is limited to the real property on which the residence is located, the curtilage, as determined by the Supervisor of Assessments, and any adjacent unimproved land on the same lot or parcel that is not assessed on the basis of agricultural use. A deferral must not be granted for taxes attributable to any improvement to the property that was not reflected in the assessment used for the base year for which taxes were paid to determine the amount of tax deferral under subsection [(a)] (b).

[(e)] Eligible Taxes. County real property taxes that are eligible for deferral are the general County tax and, where applicable, special service area taxes

[(f)] Interest. Interest accrues on the deferred taxes at [the rate of 9% per year] a rate set annually by the Director [(of Finance)] that does not
exceed the prime lending rate generally available [[at that time]] on June 1 of the preceding fiscal year. The regulations adopted under subsection (q) must specify the source or sources that the Director must use to calculate the prime rate generally available on June 1 of each year. The annual interest rate set by the Director applies to any tax deferred that year, regardless of the year when the tax was first deferred.

[(f)] (g) Annual Tax Bills. The cumulative amount of the payment deferral and accrued interest must be specified in the taxpayer's annual property tax bill. The Director [(of Finance)] must record the amount of that deferral in the County tax records.

[(g)] (h) Limitations Limits on Deferrals. The accumulation of deferred taxes and accrued interest must not exceed 50 percent of the full cash value of the property, as determined by the Supervisor of Assessments, or a lesser amount elected by the taxpayer and specified in the agreement required under subsection [(k)] (l). When the maximum amounts have been reached, those amounts may continue to be deferred until any of the events specified in subsection [(j)] (k) occur. An owner [receiving] who receives a tax deferral under this Section [may] must not also receive a tax deferral under Section 52-18C [(for rezonings)].

[(h)] (i) Penalties. A penalty must not be charged during the period of the deferral on any taxes deferred under this Section.

[(i)] (j) Liens. All taxes deferred and interest accrued on the taxes are a first lien on the property, with the priority of real property taxes, until paid or otherwise extinguished by operation of law. The deferred taxes and accrued interest are collectible by suit or by tax sale, regardless of any period of limitations imposed under law. In the event of tax sale for
nonpayment of taxes, the property must be sold for all unpaid taxes and
interest, including deferred taxes and interest. In addition to being a
first lien on the property, the deferred taxes and accrued interest
constitutes a personal liability of the person or persons who owned the
property immediately before the occurrence of any [[of the events]]
event specified in subsection [[(i)]] (k).

[(i)] (k) Events Accelerating Payment. Except as otherwise provided in this
subsection, all deferred taxes and accrued interest [[becomes]] become
due and payable if:

(1) [[a person deferring taxes, including any joint owner, ceases to
own the property in fee simple through sale or other transfer of
the property]] ownership of the property is transferred;

(2) an owner no longer occupies the property as [their] that person’s
principal residence;

(3) the property becomes subject to tax sale; or

(4) the use of the property changes.

However, the property tax deferral remains available to a surviving
spouse, or to a spouse or former spouse in possession of the residence
under a written separation agreement or divorce decree, for amounts
previously deferred. A spouse or former spouse may continue to defer
taxes if that person is otherwise eligible under subsection [[(b)] (c).

[(k)] (l) Applications; Agreement with Director of Finance. An application
for a tax deferral under this Section must be submitted to the Director
[[of Finance]] no later than September 1 of the tax year in which the
taxpayer seeks to obtain a tax deferral, or any other date established by
[executive] regulations. An eligible owner may receive a refund,
without interest, for deferrable taxes paid for the first tax year.
Applications must be on forms acceptable to the Director and must be sworn to as true by the owner or each joint owner. The Director may request information to verify eligibility under this Section, including income tax records, and may require a certification by the applicant of all joint owners, persons having an equitable interest in the property, and parties having a secured interest in the property. If the applicant is eligible, the Director or the Director's designee[,] must execute a written agreement with the owner or each joint owner before a tax deferral can be made. The agreement must reflect the terms and conditions of the deferral, including notice of the lien. The agreement may provide for repayment of the deferred taxes and accrued interest in installments if the owner ceases to occupy the property as that owner's principal residence but maintains ownership. Interest must be assessed at the rate specified under subsection [(e)] [(f)]. [(The agreement must be recorded in the land records of the County at the owner's expense. Notice of termination of the deferral must also be recorded in the land records by the County at the owner's expense.]) The Director must record the written agreement in the County's land records. The agreement must include a conspicuous statement that indicates it is being recorded by or on behalf of the County.

[(l)] (m) Notification of Secured Parties. The Director [(of Finance)] must notify all mortgagees or beneficiaries under any deed of trust of a payment deferral under this Section and of the amount of tax to be deferred. In [making its notification] selecting who to notify, the Director may rely on any certification made by the taxpayer under subsection [(k)] [(l)]. Notification must also be given when participation in the payment deferral program terminates.
Program Withdrawal. A taxpayer may terminate the deferral at any time by giving written notice to the director and paying all deferred taxes and accrued interest. If a taxpayer terminates a deferral, the Director must record a notice of a termination of deferral in the County’s land records. The notice must include a conspicuous statement that indicates it is being recorded by or on behalf of the County.

Penalties for False or Fraudulent Information. A person who knowingly submits a false or fraudulent application[, ] or statement, or withholds information, in order to obtain a deferral under this Section has committed a class A violation. In addition, the person is liable for and must repay to the County deferred taxes and accrued interest and penalties applicable to overdue taxes. The County may enforce this subsection by appropriate judicial action. A person who violates this Section is liable for all court costs and expenses of the County in a civil action.

Appeals. Any owner aggrieved by a decision of the Director under this Section may appeal to the Maryland Tax Court. An appeal must be filed within 30 days after the owner receives written notice of the decision from the Director.

Regulations. The County Executive must adopt regulations under method (2) [for the administration of] to administer this tax deferral program.

Annual Report. The Director must provide an annual report to the County Council by January 1 of each year that describes the extent of program participation, aggregate amounts of taxes deferred, interest accrued, administrative costs, and other relevant
Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on July 1, 2005, and applies to any tax year that begins on or after that date.

Approved:

Thomas E. Perez, President, County Council

Approved:

Douglas M. Duncan, County Executive

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council