COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

(1) authorize the deferral of certain development impact tax payments for a certain period; and
(2) generally amend the law regarding payment of impact taxes.

By adding
Montgomery County Code
Chapter 52, Taxation
Section 52-51A

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Section 52-51A is added as follows:

52-51A. Deferral of payments.

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

(1) Department means the Department of Permitting Services.

(2) Director means the Director of the Department of Permitting Services.

(3) Impact tax or tax means the Taxes imposed under this Article and Article XII.

(4) Owner means a person who has a legal record title interest in real property, including a creditor with a recorded lien on the property, on which taxable development is proposed.

(b) Authorization to defer. An owner may defer payment of all impact tax due, if the requirements of this Section are met, for 12 months after a building permit is issued.

(c) Conditions of deferral.

(1) An owner must apply for deferral of the impact tax to the Director on a form supplied by the Department.

(2) As part of the application, the owner must execute a written agreement with the Director. The agreement must confirm that the owner consents to all terms and conditions of the deferral, including collection of the deferred impact tax through the tax sale process and recordation of the agreement or notice of the agreement in the County land records.

(3) The Director must record the agreement or notice of the agreement in the County land records. The notice must include a
conspicuous statement that indicates it is being recorded by or on behalf of the County.

(d) **Events accelerating payment.** All deferred impact taxes and accumulated interest and penalty, if any, become immediately payable when:

1. the ownership of the property which is subject to a lien for repayment of the impact taxes is transferred; or
2. the property becomes subject to tax sale.

(e) **Payment; early payment; termination of lien.**

1. An owner must pay all deferred impact taxes on or before the end of the deferral period.
2. After the owner pays the deferred impact tax and any accrued interest and penalty, the Director must record a notice of termination of the tax deferral lien in the County land records. The notice must include a conspicuous statement that indicates it is being recorded by or on behalf of the County.

(f) **Interest and penalty for delinquent taxes.** Impact taxes paid after the 12 month deferral period expires accrue interest and penalty on the amount of the deferred taxes until paid at the rate which applies to delinquent real property taxes.

(g) **Lien on real property and collection.** All taxes deferred and any accrued interest and penalty constitute a first lien on the real property to which the taxes apply until paid and must be enforced as provided in Section 52-50(j). Except for a creditor which holds a lien on the property, the deferred taxes constitute a personal liability of the owner of the property.
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:

(1) has committed a Class A violation;
(2) is liable for and must repay to the County any deferred impact taxes plus interest and penalty at the rate which applies to delinquent real property taxes from the date of the deferral to the date of payment; and
(3) is liable for all court costs and expenses of the County, including attorney’s fees, in a civil action brought by the County.

Regulations. The County Executive may adopt regulations under Method (2) to administer this tax deferral program.

Sec. 2. Sunset. County Code Section 52-51A, inserted by Section 1 of this Act, expires on April 1, 2010.

Sec. 3. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect 60 days after it becomes law.

Approved:

Philip M. Andrews, President, County Council

Approved:

Isiah Leggett, County Executive
This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date