

SENATE BILL 344

Q6

9lr2519
CF HB 20

By: **Senators Zucker and Feldman**

Introduced and read first time: January 30, 2019

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2019

CHAPTER _____

1 AN ACT concerning

2 **State Agricultural Land Transfer Tax – ~~Nonagricultural Use Exemption~~**
3 **~~Repeal~~ Alteration of Nonagricultural Use Reduction and Exemptions**

4 FOR the purpose of ~~repealing an exemption from the State agricultural land transfer tax~~
5 ~~for an instrument of writing that transfers land on which the property tax has been~~
6 ~~paid for a certain number of taxable years on the basis of certain assessments; and~~
7 ~~generally relating to exemptions from the State agricultural land transfer tax~~
8 altering the method of calculating a certain reduction in the State agricultural land
9 transfer tax for an instrument of writing that transfers title to agricultural land on
10 which property tax was paid on the basis of an assessment other than farm or
11 agricultural use in certain years before the transfer; repealing an exemption from
12 the State agricultural land transfer tax for an instrument of writing that transfers
13 title to agricultural land on which property tax was paid on the basis of an
14 assessment other than farm or agricultural use for a certain number of years before
15 the transfer; exempting an instrument of writing from the agricultural land transfer
16 tax if the instrument of writing transfers title to agricultural land that was
17 previously transferred by an instrument of writing that was subject to the
18 agricultural land transfer tax; and generally relating to the nonagricultural use
19 reduction to the State agricultural land transfer tax and exemptions from the State
20 agricultural land transfer tax.

21 BY repealing and reenacting, without amendments,
22 Article – Tax – Property
23 Section 13–301(a) and (b) and 13–302(a) and (b)
24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2012 Replacement Volume and 2018 Supplement)

2 BY repealing and reenacting, with amendments,
 3 Article – Tax – Property
 4 Section ~~13-303(e)~~ 13-303 and 13-305
 5 Annotated Code of Maryland
 6 (2012 Replacement Volume and 2018 Supplement)

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

9 **Article – Tax – Property**

10 ~~13-303.~~

11 ~~(e) Except as provided by § [13-305(e)(2)] **13-305(B)(2)** of this subtitle, the~~
 12 ~~agricultural land transfer tax determined under subsection (a) or subsection (b) of this~~
 13 ~~section is reduced by 25% for each consecutive full taxable year before a transfer in which~~
 14 ~~property tax on the agricultural land was paid on the basis of any assessment other than~~
 15 ~~the farm or agricultural use assessment under § 8-209 of this article.~~

16 13-301.

17 (a) In this subtitle the following words have the meanings indicated.

18 (b) “Agricultural land” means real property that is or was assessed on the basis
 19 of farm or agricultural use under § 8-209 of this article.

20 13-302.

21 (a) Except as otherwise provided in § 13-305 of this subtitle, agricultural land
 22 transfer tax is imposed on an instrument of writing that transfers title to agricultural land.

23 (b) Agricultural land transfer tax is payable in addition to any other transfer tax
 24 imposed under this title.

25 13-303.

26 (a) The agricultural land transfer tax applies at the following rates:

27 (1) for a transfer of 20 acres or more of agricultural land, 5%;

28 (2) except as provided in item (3) of this subsection, for a transfer of less
 29 than 20 acres of agricultural land assessed for agricultural use or as unimproved
 30 agricultural land, 4%; or

1 (3) for a transfer of less than 20 acres of agricultural land assessed as
2 improved agricultural land or agricultural land with site improvements, 3%.

3 (b) If an instrument of writing is subject to different rates of agricultural land
4 transfer tax under subsection (a) of this section, the total agricultural land transfer tax due
5 is computed separately for each portion of agricultural land to which a different rate
6 applies.

7 (c) Except as provided by § [13-305(c)(2)] **13-305(B)(2) OR (C)(4)** of this
8 subtitle, the agricultural land transfer tax determined under subsection (a) or subsection
9 (b) of this section is reduced by:

10 **(1) 25% [for each consecutive full taxable year before a transfer in which]**
11 **IF property tax on the agricultural land was paid on the basis of any assessment other than**
12 **the farm or agricultural use assessment under § 8-209 of this article FOR 1 FULL TAXABLE**
13 **YEAR BEFORE A TRANSFER;**

14 **(2) 50% IF PROPERTY TAX ON THE AGRICULTURAL LAND WAS PAID ON**
15 **THE BASIS OF ANY ASSESSMENT OTHER THAN THE FARM OR AGRICULTURAL USE**
16 **ASSESSMENT UNDER § 8-209 OF THIS ARTICLE FOR 2 FULL CONSECUTIVE TAXABLE**
17 **YEARS BEFORE A TRANSFER; AND**

18 **(3) 65% IF PROPERTY TAX ON THE AGRICULTURAL LAND WAS PAID ON**
19 **THE BASIS OF ANY ASSESSMENT OTHER THAN THE FARM OR AGRICULTURAL USE**
20 **ASSESSMENT UNDER § 8-209 OF THIS ARTICLE FOR 3 OR MORE FULL CONSECUTIVE**
21 **TAXABLE YEARS BEFORE A TRANSFER.**

22 (d) (1) Except as provided in paragraph (2) of this subsection, in addition to
23 the agricultural land transfer tax, a surcharge in an amount equal to 25% of the tax
24 determined under subsections (a) through (c) of this section is imposed on an instrument of
25 writing that transfers title to agricultural land.

26 (2) The surcharge imposed under paragraph (1) of this subsection does not
27 apply to an instrument of writing that transfers property of 2 acres or less to be improved
28 to a child or grandchild of the owner.

29 (e) When determining the rate of the agricultural land transfer tax to be imposed
30 under subsection (a) or (b) of this section, the amount of agricultural land transferred that
31 is exempt from the tax in accordance with § 13-305 of this subtitle may not be included in
32 the amount of agricultural land that is transferred.

33 13-305.

34 [(a) An instrument of writing is not subject to the agricultural land transfer tax,
35 if property tax on the land has been paid for 5 full consecutive taxable years before the

1 transfer on the basis of an assessment other than the farm or agricultural use assessment
2 under § 8–209 of this article.]

3 [(b)] (A) If the amount of agricultural land transferred is not greater than the
4 applicable residential minimum zoning size in effect at the time of transfer, an instrument
5 of writing for the residential use of the owner of the agricultural land or the owner's
6 immediate family is not subject to the agricultural land transfer tax.

7 [(c)] (B) (1) Except as provided in paragraph (2) of this subsection, an
8 instrument of writing that transfers title to agricultural land that is eligible for farm or
9 agricultural use assessment under § 8–209 of this article is not subject to the agricultural
10 land transfer tax if the transferee:

11 (i) files with the supervisor before the transfer a declaration of
12 intent to farm the agricultural land that specifies that all of the transferred agricultural
13 land will remain in farm or agricultural use for at least 5 full consecutive taxable years;
14 and

15 (ii) applies for farm or agricultural use assessment under § 8–209 of
16 this article for the land that is transferred.

17 (2) (i) If there is a failure to comply with a declaration of intent filed
18 under paragraph (1) of this subsection including the building of nonagricultural
19 improvements or nonagricultural site improvements or there is a failure to qualify for the
20 farm or agricultural use assessment under § 8–209 of this article during the time that a
21 declaration of intent is in effect, the agricultural land transfer tax, plus penalty, is due on
22 that portion of the land that fails to comply with the declaration of intent or to qualify for
23 farm or agricultural use.

24 (ii) The tax and penalty due under this subsection are a lien on the
25 agricultural land that was transferred. The tax and penalty are due on the earlier of:

26 1. the next date on which property tax on the agricultural
27 land is due under § 10–102 of this article; or

28 2. the date of the next transfer of any part of the agricultural
29 land.

30 (3) For the purpose of paragraph (2) of this subsection, the supervisor shall
31 calculate the amount of the agricultural land transfer tax due by:

32 (i) determining the fair market value of the land subject to the tax
33 as of the most recent July 1 and providing the property owner with a notice of that value,
34 which the property owner may appeal as provided by § 8–404 of this article;

35 (ii) multiplying the fair market value of the land subject to the tax
36 by the rate of tax provided under § 13–303 of this subtitle; and

1 (iii) adding to the tax calculated under subparagraph (ii) of this
2 paragraph a penalty in the amount of 10% of the tax due.

3 [(d)] (C) (1) An instrument of writing that transfers title to agricultural land
4 that is eligible for farm or agricultural use assessment or that received the agricultural use
5 assessment as of the most recent July 1 under § 8–209 of this article is subject to the
6 agricultural land transfer tax as provided in paragraph (2) of this subsection, if the
7 transferee:

8 (i) files with the supervisor before the transfer a declaration of
9 intent to farm the land that specifies that part of the agricultural land will remain in farm
10 or agricultural use for at least 5 full consecutive taxable years;

11 (ii) for a parcel that can be further subdivided into 2 or more parcels,
12 provides the supervisor with a survey that accurately identifies the location of the land and
13 the amount of acreage that is subject to the declaration of intent; and

14 (iii) applies for farm or agricultural use assessment for part of the
15 agricultural land that is transferred.

16 (2) The agricultural land transfer tax applies to the value of the land not
17 subject to the declaration of intent, exclusive of the items stated in § 13–304 of this subtitle.

18 (3) For the purpose of paragraph (2) of this subsection, the supervisor:

19 (i) shall determine the fair market value of the land not subject to
20 the declaration of intent as of the most recent July 1 and provide the transferee with a
21 notice of that value, which the transferee may appeal as provided by § 8–404 of this article;
22 and

23 (ii) calculate the amount of the tax due by multiplying the fair
24 market value of the land subject to the tax by the rate of the tax provided under § 13–303
25 of this subtitle.

26 (4) If there is a failure to comply with a declaration of intent filed under
27 paragraph (1) of this subsection or a failure to qualify for the farm or agricultural use
28 assessment under § 8–209 of this article during the time that a declaration of intent is in
29 effect, the agricultural land transfer tax, plus penalty, is due on the land subject to the
30 declaration of intent.

31 (5) The tax and penalty due under this subsection are a lien on the
32 agricultural land that was transferred. The tax and penalty are due on the earlier date of:

33 (i) the date on which property tax on the agricultural land is due
34 under § 10–102 of this article; or

1 (ii) the date of the next transfer of any part of the agricultural land.

2 (6) For the purpose of paragraph (4) of this subsection, the supervisor shall
3 calculate the amount of the agricultural land transfer tax due by:

4 (i) determining the fair market value of the land subject to the tax
5 as of the most recent July 1 and providing the property owner with a notice of that value,
6 which the property owner may appeal as provided by § 8–404 of this article;

7 (ii) multiplying the fair market value of the land subject to the tax
8 by the rate of the tax under § 13–303 of this subtitle; and

9 (iii) adding to the tax calculated under subparagraph (ii) of this
10 paragraph a penalty in the amount of 10% of the tax due.

11 **[(e)] (D)** The owner of real property which is subject to the agricultural use
12 assessment must notify the Department when there is:

13 (1) a failure to comply with a declaration of intent; or

14 (2) failure to continue the property in agricultural use.

15 **[(f)] (E)** If there is a failure to comply with a declaration of intent filed under
16 subsection **[(c)] (B)** or subsection **[(d)] (C)** of this section, the supervisor in determining the
17 fair market value of the land subject to the violation shall:

18 (1) identify the size and location of the land by:

19 (i) making a physical inspection of the property;

20 (ii) considering pertinent governmental records such as building
21 permits, zoning maps, and regulations;

22 (iii) considering information provided by the property owner; and

23 (iv) determining that in the case of the building of a dwelling for the
24 residential use of the owner, the size of the building site is 1 acre unless more land is
25 actually used; and

26 (2) appraise the land utilizing generally accepted appraisal approaches
27 including consideration of the sales of comparable land.

28 **[(g)] (F)** For the purposes of subsections **[(d)] (C)** and **[(f)] (E)** of this section, if
29 under current governmental land use regulations the parcel cannot be further subdivided
30 into 2 or more parcels, the supervisor shall:

31 (1) appraise the entire parcel; and

1 (2) apportion the amount of the total market value of the parcel to that part
2 of the parcel subject to the tax in accordance with generally accepted appraisal approaches
3 including consideration of prevailing homesite land values in that area.

4 [(h)] (G) In addition to the exemptions otherwise provided by this section, the
5 agricultural land transfer tax does not apply to an instrument of writing described in §
6 13-207(a) of this title.

7 (H) THE AGRICULTURAL LAND TRANSFER TAX DOES NOT APPLY TO AN
8 INSTRUMENT OF WRITING THAT TRANSFERS TITLE TO AGRICULTURAL LAND THAT
9 WAS PREVIOUSLY TRANSFERRED BY AN INSTRUMENT OF WRITING THAT WAS
10 SUBJECT TO THE AGRICULTURAL LAND TRANSFER TAX.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
12 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.