

# HOUSE BILL 1015

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1lr2274

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By: **Delegate Hill**

Introduced and read first time: February 5, 2021

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Transfer to Heir – Exemption From Prepayment of Taxes**

3 FOR the purpose of providing that certain requirements for the prepayment of certain real  
4 property taxes do not apply to an instrument of writing transferring certain property  
5 from the estate of a decedent to an heir of the decedent; making conforming changes;  
6 and generally relating to the transfer of real property from the estate of a decedent  
7 to the heir of a decedent.

8 BY repealing and reenacting, without amendments,

9 Article – Real Property

10 Section 3–104(a) and (b)

11 Annotated Code of Maryland

12 (2015 Replacement Volume and 2020 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Real Property

15 Section 3–104(c)

16 Annotated Code of Maryland

17 (2015 Replacement Volume and 2020 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

19 That the Laws of Maryland read as follows:

20 **Article – Real Property**

21 3–104.

22 (a) (1) The Clerk of the Circuit Court may record an instrument that effects a  
23 change of ownership if the instrument is:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) Endorsed with the certificate of the collector of taxes of the  
2 county in which the property is assessed, required under subsection (b) of this section;

3 (ii) 1. Accompanied by a complete intake sheet; or

4 2. Endorsed by the assessment office for the county as  
5 provided in subsection (g)(8) of this section; and

6 (iii) Accompanied by a copy of the instrument, and any survey, for  
7 submission to the Department of Assessments and Taxation.

8 (2) The Supervisor of Assessments shall transfer ownership of property in  
9 the assessment records, effective as of the date of recordation, upon receipt from the Clerk  
10 of the Circuit Court of a copy of the instrument, the completed intake sheet, and any survey  
11 submitted under paragraph (1) of this subsection.

12 (b) (1) (i) Except as provided in subsection (c) of this section, property may  
13 not be transferred on the assessment books or records until:

14 1. All public taxes, assessments, and charges currently due  
15 and owed on the property have been paid to the treasurer, tax collector, or director of  
16 finance of the county in which the property is assessed; and

17 2. All taxes on personal property in the county due by the  
18 transferor have been paid when all land owned by the transferor in the county is being  
19 transferred.

20 (ii) The certificate of the collecting agent designated by law, showing  
21 that all taxes, assessments, and charges have been paid, shall be endorsed on the deed, and  
22 the endorsement shall be sufficient authority for transfer on the assessment books.

23 (2) (i) Except as provided in subsection (c) of this section, in Allegany,  
24 Cecil, Charles, Dorchester, Harford, Howard, Kent, Queen Anne's, Somerset, and St.  
25 Mary's counties no property may be transferred on the assessment books or records until:

26 1. All public taxes, assessments, any charges due a  
27 municipal corporation, and charges due on the property have been paid as required by law;  
28 and

29 2. All taxes on personal property in the county due by the  
30 transferor have been paid when all land owned by the transferor in the county and  
31 municipal corporation is being transferred.

32 (ii) The certificate of the collecting agent and municipal corporation  
33 designated by law showing that all taxes, assessments, and charges have been paid, shall  
34 be endorsed on the deed and the endorsement shall be sufficient authority for transfer on  
35 the assessment books.

1 (c) (1) (i) 1. The requirements for prepayment of personal property  
2 taxes in subsection (b) of this section do not apply to grants of land made:

3 [1.] A. By or on behalf of any mortgagee, lien creditor,  
4 trustee of a deed of trust, judgment creditor, trustee in bankruptcy or receiver, and any  
5 other court-appointed officer in an insolvency or liquidation proceeding; or

6 [2.] B. By a deed in lieu of foreclosure to any holder of a  
7 mortgage or deed of trust or to the holder's assignee or designee.

8 **2. THE REQUIREMENTS FOR PREPAYMENT OF REAL**  
9 **PROPERTY TAXES IN SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO GRANTS**  
10 **OF LAND THAT TRANSFER RESIDENTIAL REAL PROPERTY FROM THE ESTATE OF A**  
11 **DECEDENT TO AN HEIR OF THE DECEDENT.**

12 (ii) Notwithstanding any other provision of law, and except as  
13 provided in subparagraph (iii) of this paragraph, after the recordation of a deed or other  
14 instrument that effects a grant of land described in subparagraph [(i)] (I)1 of this  
15 paragraph, the land shall be free and clear of, and unencumbered by, any lien or claim of  
16 lien for any unpaid taxes on personal property.

17 (iii) Subparagraph (ii) of this paragraph does not apply to:

18 1. Any lien for unpaid taxes on personal property that  
19 attached to the land by recording and indexing a notice as provided in § 14-804(b) of the  
20 Tax – Property Article prior to the recording of the mortgage, lien, deed of trust, or other  
21 encumbrance giving rise to the grant of land described in subparagraph [(i)] (I)1 of this  
22 paragraph; or

23 2. Unpaid taxes on personal property owed by the transferee  
24 or subsequent owner of the land after a grant of land described in subparagraph [(i)] (I)1  
25 of this paragraph.

26 (iv) This paragraph does not affect the rights of the personal property  
27 tax lienholder to make a claim to any surplus proceeds from a judicial sale of land resulting  
28 in a grant of land described in subparagraph [(i)] (I)1 of this paragraph.

29 (2) Subsection (b) of this section does not apply in Charles, St. Mary's,  
30 Dorchester, Harford, Howard, Kent, Prince George's, Worcester, Carroll, Montgomery,  
31 Frederick and Washington counties to any deed executed as a mere conduit or for  
32 convenience in holding and passing title, known popularly as a straw deed or, as provided  
33 in § 4-108 of this article, a deed making a direct grant in lieu of a straw deed, or to a deed  
34 which is a supplementary instrument merely confirming, correcting, or modifying a  
35 previously recorded deed, if there is no actual consideration paid or to be paid for the  
36 execution of the supplementary instrument.

1           (3) Subsection (b) of this section does not apply in Baltimore City and Anne  
2 Arundel, Baltimore, Carroll, Frederick, St. Mary's, or Washington counties to any deed  
3 transferring property to the county when the controller or treasurer of the county has  
4 certified that the conveyance does not impair the security for any public taxes, assessments,  
5 and charges due on the remaining property of the grantor.

6           (4) (i) Property may be transferred on the assessment books or records  
7 in July, August, or September if instead of paying the taxes required under subsection (b)(1)  
8 of this section on a property transfer by assumption, a lender or the attorney handling the  
9 transfer of title files with the county treasurer, tax collector, or director of finance of the  
10 county in which the property is assessed a statement that certifies that the lender  
11 maintains a real estate tax escrow account.

12           (ii) Upon receipt of the statement required in subparagraph (i) of  
13 this paragraph, the county treasurer, tax collector, or director of finance shall endorse on  
14 the deed an appropriate certification and the endorsement shall be sufficient authority for  
15 transfer on the assessment books.

16           (5) (I) **[At] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
17 **PARAGRAPH, AT** the time of transfer of real property subject to a semiannual payment  
18 schedule for the payment of property taxes, only those semiannual payments that are due  
19 for the current taxable year under § 10-204.3 of the Tax – Property Article must be paid  
20 prior to the transfer of the property.

21           **(II) IF THE PROPERTY BEING TRANSFERRED IS RESIDENTIAL**  
22 **REAL PROPERTY THAT IS BEING TRANSFERRED FROM THE ESTATE OF A DECEDENT**  
23 **TO AN HEIR OF THE DECEDENT, THE SEMIANNUAL PAYMENTS THAT ARE DUE FOR**  
24 **THE CURRENT TAXABLE YEAR UNDER § 10-204.3 OF THE TAX – PROPERTY ARTICLE**  
25 **ARE NOT REQUIRED TO BE PAID BEFORE THE TRANSFER OF THE PROPERTY.**

26           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2021.