

CHAPTER 610

(Senate Bill 662)

AN ACT concerning

Agricultural Land Transfer Tax - ~~Rates~~ Surcharge and Distribution of Revenue

FOR the purpose of ~~altering certain agricultural land transfer tax rates~~; imposing a certain surcharge under certain circumstances in addition to the agricultural land transfer tax imposed on certain instruments of writing; altering the distribution of certain revenues attributable to the agricultural land transfer tax; altering the distribution of the State transfer tax revenues under certain circumstances; providing that the Maryland Agricultural and Resource-Based Industry Development Corporation may use a certain percentage of certain funds for certain administrative costs; declaring the intent of the General Assembly that certain counties be encouraged to establish Priority Preservation Areas for agricultural land preservation as authorized under a certain act and that new funds that may be provided to the Maryland Agricultural Land Preservation Foundation for preservation easement acquisition ~~under a Critical Farm Program~~ shall be used only in Priority Preservation Areas on or after a certain date; authorizing the use of certain funds for certain easement purchase payments approved by the Maryland Agricultural Land Preservation Foundation under certain circumstances; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the agricultural land transfer tax.

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section ~~13-303(a)~~ 13-301(c) and 13-306(a) and (b)

Annotated Code of Maryland

(2007 Replacement Volume)

BY adding to

Article – Tax – Property

Section 13-303(d)

Annotated Code of Maryland

(2007 Replacement Volume)

~~BY repealing and reenacting, without amendments,~~

~~Article – Tax – Property~~

~~Section 13-306(b)~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume)~~

BY repealing and reenacting, with amendments,
 Article 41 – Governor – Executive and Administrative Departments
 Section 13–513(c)
 Annotated Code of Maryland
 (2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 10–523
Annotated Code of Maryland
(As enacted by Chapter (H.B. 1050) of the Acts of the General Assembly of
2008)

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

Article – Tax – Property

13–301.

(c) (1) “Agricultural land transfer tax” means the tax imposed under this subtitle.

(2) “AGRICULTURAL LAND TRANSFER TAX” INCLUDES THE SURCHARGE IMPOSED UNDER ~~§ 13–301(D)~~ § 13–303(D) OF THIS SUBTITLE.

13–303.

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

(1) ~~for a transfer of 20 acres or more of agricultural land, [5%] 10%;~~

(2) ~~except as provided in item (3) of this subsection, for a transfer of less than 20 acres of agricultural land assessed for agricultural use or as unimproved agricultural land, [4%] 8%; or~~

(3) ~~for a transfer of less than 20 acres of agricultural land assessed as improved agricultural land or agricultural land with site improvements, [3%] 6%.~~

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN ADDITION TO THE TAX IMPOSED UNDER THIS SECTION, A SURCHARGE IN AN AMOUNT EQUAL TO 25% OF THE TAX DETERMINED UNDER SUBSECTIONS (A) THROUGH (C) OF THIS SECTION IS IMPOSED ON AN INSTRUMENT OF WRITING THAT TRANSFERS TITLE TO AGRICULTURAL LAND.

(2) THE SURCHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN INSTRUMENT OF WRITING THAT TRANSFERS PROPERTY OF 2 ACRES OR LESS TO BE IMPROVED TO A CHILD OR GRANDCHILD OF THE OWNER.

13-306.

(a) (1) Except in Montgomery County and except as provided in subsection (b)(1) of this section for a certified county, each county collector shall remit from a special account to the Comptroller, as the Comptroller specifies:

(i) the revenue from:

1. the agricultural transfer tax that is attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland; **AND**

2. **THE SURCHARGE IMPOSED UNDER § 13-303(D) OF THIS SUBTITLE;** and

(ii) two-thirds of the balance of revenue from the agricultural land transfer tax that remains after the remittance under item (i) of this paragraph.

(2) In Montgomery County, if § 52-21(d) (1979) of the Montgomery County Code is in effect or a transfer tax substantially similar to that provision is in effect, the collector for Montgomery County shall remit to the Comptroller:

(i) the revenue from:

1. the agricultural transfer tax that is attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland; **AND**

2. **THE SURCHARGE IMPOSED UNDER § 13-303(D) OF THIS SUBTITLE;** and

(ii) one-third of the balance of revenue from the agricultural transfer tax that remains after the remittance under item (i) of this paragraph.

(3) The Comptroller shall deposit:

(i) up to \$200,000 annually of the revenue remitted under paragraphs (1)(i) and (2)(i) of this subsection or subsection (b) of this section into the

Woodland Incentives Fund established in § 5-307 of the Natural Resources Article; and

(ii) OF the revenue in excess of \$200,000 annually remitted under paragraphs (1)(i) and (2)(i) of this subsection or subsection (b)(1) of this section and the revenue remitted under paragraphs (1)(ii) and (2)(ii) of this subsection or subsection (b)(2) of this section:

1. SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, FOR FISCAL YEAR ~~2010~~ 2009 AND EACH FISCAL YEAR THEREAFTER, \$2,500,000 into the Maryland Agricultural Land Preservation Fund to be used for the purposes stated in § 2-505 of the Agriculture Article;

2. AFTER THE DISTRIBUTION MADE UNDER ITEM 1 OF THIS ITEM, ~~\$4,000,000~~ 37.5% OF THE AGRICULTURAL LAND TRANSFER TAX REVENUE REMITTED TO THE COMPTROLLER, UP TO A MAXIMUM OF \$4,000,000 ANNUALLY, INTO A SPECIAL FUND TO BE USED BY THE MARYLAND AGRICULTURAL AND RESOURCE-BASED INDUSTRY DEVELOPMENT CORPORATION FOR AN ~~INSTALLMENT PURCHASE AGREEMENT PROGRAM FOR PRESERVATION EASEMENT ACQUISITION;~~

~~**3. AFTER THE DISTRIBUTIONS MADE UNDER ITEMS 1 AND 2 OF THIS ITEM, \$4,000,000 INTO A SPECIAL FUND TO BE USED BY THE MARYLAND AGRICULTURAL AND RESOURCE-BASED INDUSTRY DEVELOPMENT CORPORATION FOR THE NEXT GENERATION FARMLAND ACQUISITION PROGRAM;**~~

3. AFTER THE DISTRIBUTIONS MADE UNDER ITEMS 1 AND 2 OF THIS ITEM, \$4,000,000 INTO A SPECIAL FUND TO BE USED BY THE MARYLAND AGRICULTURAL AND RESOURCE-BASED INDUSTRY DEVELOPMENT CORPORATION FOR A PROGRAM OF FACILITATING PRESERVATION EASEMENT ACQUISITION THROUGH THE USE OF INSTALLMENT PURCHASE AGREEMENTS FOR EASEMENT PURCHASES THAT HAVE BEEN APPROVED BY THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION; AND

~~**4. AFTER THE DISTRIBUTIONS MADE UNDER ITEMS 1 THROUGH 3 OF THIS ITEM, \$4,000,000 INTO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND TO BE USED FOR THE CRITICAL FARMS PROGRAM UNTIL A TOTAL OF \$16,000,000 HAS ACCUMULATED IN THE CRITICAL FARMS FUND; AND**~~

5. 4. AFTER THE DISTRIBUTIONS MADE UNDER ITEMS 1 THROUGH 4 3 OF THIS ITEM, THE REMAINDER INTO THE MARYLAND

AGRICULTURAL LAND PRESERVATION FUND TO BE USED FOR THE PURPOSES STATED IN § 2-505 OF THE AGRICULTURE ARTICLE.

(4) (I) NOTWITHSTANDING § 13-209 OF THIS TITLE, IF SUFFICIENT REVENUES ARE NOT COLLECTED IN ANY FISCAL YEAR TO PROVIDE A TOTAL OF \$4,000,000 INTO THE SPECIAL FUND ESTABLISHED UNDER PARAGRAPH ~~(3)(I)2~~ (3)(II)3 OF THIS SUBSECTION, ANY DEFICIENCY SHALL BE MADE UP BY REVENUES ~~COLLECTED~~ OTHERWISE REQUIRED TO BE DISTRIBUTED TO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND FROM THE TRANSFER TAX IMPOSED UNDER SUBTITLE 2 OF THIS TITLE.

(II) THE DISTRIBUTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE MADE PRIOR TO ANY DISTRIBUTION PROVIDED IN ~~§ 13-209 (D)(2)~~ § 13-209(C) AND (D)(2) OF THIS TITLE.

(5) FOR EACH FISCAL YEAR AFTER ~~2010~~ 2009, THE AMOUNT DISTRIBUTED INTO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND UNDER PARAGRAPH (3)(II)1 OF THIS SUBSECTION SHALL BE INCREASED BY 5% OVER THE AMOUNT DISTRIBUTED FOR THE PRECEDING FISCAL YEAR.

(6) THE REVENUES REQUIRED TO BE DISTRIBUTED TO THE MARYLAND AGRICULTURAL AND RESOURCE-BASED INDUSTRY DEVELOPMENT CORPORATION UNDER PARAGRAPHS (3) AND (4) OF THIS SUBSECTION SHALL BE DISTRIBUTED ON A QUARTERLY BASIS ON OR ABOUT THE FIRST DAY OF THE MONTH IN JULY, OCTOBER, JANUARY, AND APRIL.

(b) If a county is certified by the Department of Planning and the Maryland Agricultural Land Preservation Foundation under § 5-408 of the State Finance and Procurement Article as having established an effective county agricultural land preservation program, the collector for the county shall remit to the Comptroller:

(1) the revenue from:

(I) the agricultural land transfer tax that is attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland; AND

(II) THE SURCHARGE IMPOSED UNDER § 13-303(D) OF THIS SUBTITLE; and

(2) 25% of the balance of revenue from the agricultural land transfer tax that remains after the remittance under item (1) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 41 – Governor – Executive and Administrative Departments

13–513.

(c) (1) The Corporation may receive annual funding through an appropriation in the State budget.

(2) The Corporation may also receive funds for projects included in the budgets of State units.

(3) All unexpended and unencumbered funds appropriated to the Corporation shall remain with the Corporation for future uses.

(4) The Corporation shall conduct its financial affairs in such a manner that, by the year 2020, it shall be self-sufficient and in no further need of general operating support by the State.

(5) (i) In order to assist the Corporation in meeting the requirement specified in paragraph (4) of this subsection, the Governor shall include each year in the budget bill an appropriation to the Corporation for rural business development and assistance as follows:

1. For fiscal year 2008, \$3,000,000;
2. For fiscal year 2009, \$3,500,000; and
3. For each of fiscal years 2010 through 2020, \$4,000,000.

(ii) In addition to any funds provided under subparagraph (i) of this paragraph, the Governor may include each year in the budget bill an appropriation to the Corporation in an amount up to \$5,000,000 for rural land acquisition and easement programs, including programs to assist young and beginning farmers.

(6) (I) THE CORPORATION MAY USE UP TO 3% OF THE FUNDS RECEIVED UNDER ~~§ 13-306(A)(3)(II)2~~ § 13-306(A)(3)(II)3 OF THE TAX – GENERAL PROPERTY ARTICLE FOR ADMINISTRATIVE COSTS ASSOCIATED WITH AN INSTALLMENT PURCHASE AGREEMENT PROGRAM.

(II) THE CORPORATION MAY USE UP TO 3% OF THE FUNDS RECEIVED UNDER ~~§ 13-306(A)(3)(II)3~~ § 13-306(A)(3)(II)2 OF THE TAX –

GENERAL PROPERTY ARTICLE FOR ADMINISTRATIVE COSTS ASSOCIATED WITH THE NEXT GENERATION FARMLAND ACQUISITION PROGRAM.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Economic Development

10-523.

(a) (1) The Corporation may receive annual funding through an appropriation in the State budget.

(2) The Corporation may also receive money for projects included in the budgets of State units.

(3) (i) To assist the Corporation in complying with subsection (c) of this section, the Governor shall include each year in the State budget bill an appropriation to the Corporation for rural business development and assistance for each of fiscal years 2010 through 2020 in the amount of \$4,000,000.

(ii) In addition to any money provided under subparagraph (i) of this paragraph, the Governor may include each year in the State budget bill an appropriation to the Corporation in an amount not exceeding \$5,000,000 for rural land acquisition and easement programs, including programs to assist young and beginning farmers.

(b) All unexpended and unencumbered money appropriated to the Corporation shall remain with the Corporation for future use.

(c) The Corporation shall conduct its financial affairs so that, by the year 2020, it is self-sufficient and in no further need of general operating support by the State.

(D) (1) THE CORPORATION MAY USE UP TO 3% OF THE MONEY RECEIVED UNDER § 13-306(A)(3)(II)2 OF THE TAX – PROPERTY ARTICLE FOR ADMINISTRATIVE COSTS ASSOCIATED WITH THE NEXT GENERATION FARMLAND ACQUISITION PROGRAM.

(2) THE CORPORATION MAY USE UP TO 3% OF THE MONEY RECEIVED UNDER § 13-306(A)(3)(II)3 OF THE TAX – PROPERTY ARTICLE FOR ADMINISTRATIVE COSTS ASSOCIATED WITH AN INSTALLMENT PURCHASE AGREEMENT PROGRAM.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) counties be encouraged to establish Priority Preservation Areas for agricultural land preservation as authorized under Chapter 289 of the Acts of the General Assembly of 2006 (the Agricultural Stewardship Act); and

(2) subject to § 13-306 of the Tax – Property Article and § 5-408 of the State Finance and Procurement Article, new funds that may be provided to the Maryland Agricultural Land Preservation Foundation for preservation easement acquisition ~~under a Critical Farm Program~~ shall be used only in Priority Preservation Areas on or after July 1, 2010.

SECTION 5. AND BE IT FURTHER ENACTED, That, if used within a period of 2 years beginning on or after July 1, 2008, funds dedicated to the Installment Purchase Agreements program under § 13-306(a)(3)(ii)3 of the Tax – Property Article as enacted by this Act may be used for lump-sum easement purchase payments approved by the Maryland Agricultural Land Preservation Foundation.

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect on the taking effect of Chapter ____ (H.B. 1050) of the Acts of the General Assembly of 2008. If Section 3 of this Act takes effect, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2~~ ~~3~~ ~~6~~ 7. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section ~~5~~ 6 of this Act, this Act shall take effect July 1, 2008.

Approved by the Governor, May 22, 2008.