

SENATE BILL 53

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(PRE-FILED)

4lr0911
CF HB 29

By: **Senator Kelly**

Requested: October 10, 2023

Introduced and read first time: January 10, 2024

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

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

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; and generally relating to the
6 transfer of real property from the estate of a decedent to the heir of a decedent.

7 BY repealing and reenacting, without amendments,
8 Article – Real Property
9 Section 3–104(a) and (b)
10 Annotated Code of Maryland
11 (2023 Replacement Volume)

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 3–104(c)
15 Annotated Code of Maryland
16 (2023 Replacement Volume)

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

19 **Article – Real Property**

20 3–104.

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

23 (i) Endorsed with the certificate of the collector of taxes of the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 county in which the property is assessed, required under subsection (b) of this section;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.