

10/15/18

AMENDMENTS TO TAXATION COMMITTEE'S AMENDMENTS TO  
COUNCIL BILL 18-221  
(1<sup>st</sup> Reader Copy)

By: Councilmember Middleton  
{To be offered on the Council Floor}

**ADOPTED**

**Amendment No. 1**

On page 2 of the Taxation Committee's Amendments, in the first line of § 17.1-1(b)(1)(i), after "DEED OF TRUST", insert "RECORDED WITHIN 6 MONTHS OF THE EFFECTIVE DATE OF THIS SUBTITLE AND".

**Amendment No. 2**

On page 1 of the Taxation Committee's Amendments, in the last grouping of instructions, strike "and, in line 8, after the semi-colon, insert "providing for the automatic termination of this Ordinance:""; and, on page 5 of the Taxation Committee's Amendments, strike Amendment No. 3, in its entirety.

ADOPED

10/10/18

AMENDMENTS TO COUNCIL BILL 18-221  
(1<sup>st</sup> Reader Copy)

By: Taxation, Finance, and Economic Development Committee

**ADOPTED**

Amendment No. 1

{DLR NOTE: IN THIS AMENDMENT NO. 1, DLR PROPOSES REVISIONS TO THE BILL'S TITLE TO INCORPORATE CHARTER-REQUIRED DESCRIPTIONS OF THE NEW, SUBSTANTIVE PROVISIONS ADDED TO THE BILL BY THE COMMITTEE'S ADOPTED AMENDMENTS (SEE AMENDMENT NOS. 2 AND 3) BELOW.}

On page 1, strike lines 2 and 3, in their entireties, and substitute:

“Recordation and Transfer Taxes, Surtaxes, and “Yield” Excise Tax –  
Dedicating Proceeds to Affordable Housing Trust Fund”;

and, on the same page, in line 6, after the semi-colon insert:

“imposing an excise tax based on the tax yield from any transaction for which recordation and transfer taxes are due; providing for certain exemptions from this excise tax; providing for the administration of this excise tax; imposing certain penalties for failure to comply with requirements governing this excise tax.”;

and, in the same line, after “dedicating”, strike “the”; and, in the same line, after “these surtaxes”, insert “and the excise tax”; and, in line 8, after the semi-colon, insert “providing for the automatic termination of this Ordinance:”; and, in line 9, after “taxes”, insert “, surtaxes, and yield excise tax”; and, after line 19, insert:

“By adding

Article 28 - Taxes

Sections 17.1-1 through 17.1-7, to be under the new subtitle designation,

“Subtitle 17.1. Recordation and Transfer Taxes – Yield Excise Tax”

Baltimore City Code

(Edition 2000)”.

Amendment No. 2

{DLR NOTE: AMENDMENT NOS. 2 AND 3 ARE NON-SUBSTANTIVE REFORMATTINGS OF THE NON-DLR DRAFT AMENDMENTS ADOPTED BY THE COMMITTEE.}

On page 4, after line 7, insert:

Subtitle 17.1-1. Recordation and Transfer Taxes – Yield Excise Tax  
§ 17.1-1. TAX IMPOSED.

(A) IN GENERAL.

AN EXCISE TAX, TO BE KNOWN AS THE YIELD TAX, SHALL BE LEVIED AND COLLECTED BASED UPON THE TAX YIELD FROM ANY TRANSACTION FOR WHICH RECORDATION TAXES AND TRANSFER TAXES ARE DUE PURSUANT TO SUBTITLES 16 AND 17 OF THIS ARTICLE.

(B) EXEMPTIONS.

(1) THE YIELD TAX DOES NOT APPLY TO:

(i) ANY MORTGAGE OR DEED OF TRUST SECURING A LOAN THE PROCEEDS OF WHICH WILL PROVIDE FUNDING FOR THE CONSTRUCTION AND COMPLETION TO THE ISSUANCE OF A CERTIFICATE OF USE AND OCCUPANCY OF A PROJECT AND FOR WHICH A FULL BUT NOT A PARTIAL BUILDING PERMIT HAS BEEN ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS SUBTITLE; OR

(ii) ANY DEED AND ANY PURCHASE MONEY MORTGAGE OR DEED OF TRUST RELATED THERETO FOR THE CONVEYANCE OF A RESIDENTIAL PROPERTY TO BE OCCUPIED BY THE GRANTEE OF SUCH DEED AND WHICH DEED IS DELIVERED PURSUANT TO A BONA FIDE CONTRACT OF SALE THAT HAS BEEN ENTERED INTO BETWEEN THE GRANTOR AND GRANTEE OF SUCH DEED WITHIN 2 YEARS OF THE EFFECTIVE DATE OF THIS SUBTITLE.

(2) THE FACTS TO SUBSTANTIATE THE FOREGOING EXEMPTIONS SHALL BE SET FORTH IN AN AFFIDAVIT MADE ON PERSONAL KNOWLEDGE OF THE AFFIANT AND UNDER PENALTIES OF PERJURY ON FORMS TO BE FURNISHED BY THE DIRECTOR OF FINANCE AND INCLUDING SUPPORTING DOCUMENTS THAT VERIFY COMPLIANCE WITH THE REQUIREMENT FOR THE EXEMPTION.

§ 17.1-2. YIELD TAX.

(A) TRANSACTIONS ASSESSED.

THE YIELD TAX SHALL BE ASSESSED ON THOSE TRANSACTIONS WHOSE VALUE EXCEEDS \$1 MILLION, AS DETERMINED BY SUBTITLES 16 AND 17 OF THIS ARTICLE FOR THE PURPOSES OF CALCULATING THE RECORDATION AND TRANSFER TAXES RESPECTIVELY.

(B) TAX RATE.

THE RATE OF TAX SHALL BE AS FOLLOWS:

(1) 0.15% ON THE AMOUNT COLLECTED UNDER SUBTITLE 16 OF THIS ARTICLE;  
AND

(2) 0.6% ON THE AMOUNT COLLECTED UNDER SUBTITLE 17 OF THIS ARTICLE.

§ 17.1-3. DEDICATION OF TAX PROCEEDS.

PROCEEDS FROM THE TAX IMPOSED BY THIS SUBTITLE UP TO \$16 MILLION, AND ONE-HALF OF THE PROCEEDS IN EXCESS OF \$16 MILLION, IF ANY, SHALL BE DEPOSITED IN THE CONTINUING, NONLAPSING FUND CREATED BY CITY CHARTER, ARTICLE I, § 14 {"AFFORDABLE HOUSING TRUST FUND"}, TO BE USED EXCLUSIVELY FOR THE PURPOSES SPECIFIED IN THAT SECTION, SUBJECT TO APPROPRIATION PURSUANT TO THE ANNUAL ORDINANCE OF ESTIMATES.

§ 17.1-4. INTEREST AND CIVIL PENALTIES.

IN THE EVENT THAT THE TAX LEVIED AND IMPOSED UNDER THIS SUBTITLE IS NOT PAID AS REQUIRED BY THIS SUBTITLE, THE PERSON AND/OR OTHER LEGAL ENTITY LIABLE FOR THE PAYMENT OF THAT TAX SHALL BE ASSESSED BY THE DIRECTOR OF FINANCE FOR:

(1) THE AMOUNT OF THE TAX DUE;

(2) INTEREST AT THE RATE OF ½% FOR EACH MONTH OR FRACTION OF A MONTH, ACCOUNTING FROM THE DATE WHEN SUCH WRITTEN INSTRUMENT WAS RECEIVED FOR RECORDATION; AND

(3) A PENALTY OF 10% OF THE TAX DUE.

§ 17.1-5. LIABILITY OF TRANSFERORS AND TRANSFEREES.

THE TAX LEVIED AND IMPOSED BY THIS SUBTITLE, AND ALL INCREASES, INTEREST, AND PENALTIES THEREON, SHALL BE AND BECOME, FROM THE TIME DUE AND PAYABLE, THE DEBT OF THE LEGAL AND EQUITABLE TRANSFERORS AND TRANSFEREES, JOINTLY AND SEVERALLY, OF THE PROPERTY SUBJECT TO THE RECORDATION AND TRANSFER TAXES UPON WHICH THE YIELD TAX IS CALCULATED.

§ 17.1-6. ADMINISTRATION OF SUBTITLE.

(A) IN GENERAL.

IN ORDER TO PROPERLY CARRY OUT AND ENFORCE THE PROVISIONS OF THIS SUBTITLE AND TO COLLECT THE TAX LEVIED AND IMPOSED BY THIS SUBTITLE, THE DIRECTOR OF FINANCE IS HEREBY AUTHORIZED AND EMPOWERED:

(1) TO MAKE, ADOPT, PROMULGATE, AND AMEND, FROM TIME TO TIME, SUCH RULES AND REGULATIONS AS HE MAY DEEM NECESSARY OR PROPER:

(i) TO CARRY OUT AND ENFORCE THE PROVISIONS OF THIS SUBTITLE;

(ii) TO FULLY COLLECT THE TAX IMPOSED BY THIS SUBTITLE; AND

(iii) TO DEFINE OR CONSTRUCE ANY OF THE TERMS AND PROVISIONS USED IN THIS SUBTITLE IN CONNECTION WITH THE IMPOSITION OR COLLECTION OF THAT TAX;

(2) WITH THE APPROVAL OF THE CITY SOLICITOR:

(i) TO COMPROMISE DISPUTED CLAIMS IN CONNECTION WITH THE TAX LEVIED AND IMPOSED BY THIS SUBTITLE; AND

(ii) FOR GOOD AND SUFFICIENT CAUSES SHOWN, TO ABATE OR REMIT INTEREST AND PENALTIES AND TO REBATE AND REFUND ANY TAXES ERRONEOUSLY OR IMPROPERLY PAID; AND

(3) TO DELEGATE ANY OF HIS POWERS, DUTIES, AND FUNCTIONS UNDER THE PROVISIONS OF THIS SUBTITLE TO THE CITY COLLECTOR.

(B) RULES AND REGULATIONS TO BE FILED WITH DLR.

COPIES OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL BE FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE.

§ 17.1-7. CRIMINAL PENALTIES.

ANY PERSON WHO PARTICIPATES OR AIDS IN ANY MANNER IN THE EVASION OF THE TAX LEVIED AND IMPOSED BY THIS SUBTITLE OR WHO WILLFULLY VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF THE RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$500 FOR EACH OFFENSE.

**Amendment No. 3**

On page 4, after line 12, insert:

“SECTION 4. AND BE IT FURTHER ORDAINED, That this Ordinance will remain in effect for 7 years, at the end of which period, with no further action by the Mayor and City Council, this Ordinance will be abrogated and of no further effect. After the 5<sup>th</sup> year from the enactment of this Ordinance, however, the Mayor and City Council may, by subsequent Ordinance, modify, postpone, or repeal outright the automatic termination imposed by this Section 4.”

