

**MEMORANDUM**

TO: County Council

FROM: *MR* Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Bill 39-11, Taxation – Development Impact Tax - Exemptions

Bill 39-11, Taxation – Development Impact Tax - Exemptions, sponsored by Councilmember Floreen, is scheduled to be introduced on December 6, 2011. A public hearing is tentatively scheduled for January 24, 2012 at 1:30 p.m.

Bill 39-11 would exempt the market-rate dwelling units in any development which consists of at least 25% affordable housing units from the transportation and school development impact taxes.

This packet contains:	<u>Circle #</u>
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Bill No. 39-11  
Concerning: Taxation - Development  
Impact Tax - Exemptions  
Revised: 12-6-11 Draft No. 3  
Introduced: December 6, 2011  
Expires: June 6, 2013  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: Councilmembers Floreen, Rice and Council Vice President Navarro

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**AN ACT** to:

- (1) exempt certain market-rate dwelling units from certain development impact taxes; and
- (2) generally amend the law governing development impact taxes.

By amending

Montgomery County Code  
Chapter 52, Taxation  
Sections 52-49 and 52-89

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Section 1. Sections 52-49 and 52-89 are amended as follows:**

**52-49. Imposition and applicability of development impact taxes.**

\* \* \*

(g) A development impact tax must not be imposed on:

- (1) any Moderately Priced Dwelling Unit built under Chapter 25A or any similar program enacted by either Gaithersburg or Rockville,
- (2) any other dwelling unit built under a government regulation or binding agreement that limits for at least 15 years the price or rent charged for the unit in order to make the unit affordable to households earning less than 60% of the area median income, adjusted for family size;
- (3) any Personal Living Quarters unit built under Sec. 59-A-6.15, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;
- (4) any dwelling unit in an Opportunity Housing Project built under Sections 56-28 through 56-32, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;
- (5) any non-exempt rental dwelling unit in a development in which at least 25% of the dwelling units are exempt under paragraph (1), (2), (3), or (4), or any combination of them; and
- ~~(5)~~ (6) any development located in an enterprise zone designated by the State or in an area previously designated as an enterprise zone.

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**52-89. Imposition and applicability of tax.**

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- (c) The tax under this Article must not be imposed on:
- (1) any Moderately Priced Dwelling Unit built under Chapter 25A or any similar program enacted by either Gaithersburg or Rockville,
  - (2) any other dwelling unit built under a government regulation or binding agreement that limits for at least 15 years the price or rent charged for the unit in order to make the unit affordable to households earning less than 60% of the area median income, adjusted for family size;
  - (3) any Personal Living Quarters unit built under Sec. 59-A-6.15, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;
  - (4) any dwelling unit in an Opportunity Housing Project built under Sections 56-28 through 56-32, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;
  - (5) any non-exempt rental dwelling unit in a development in which at least 25% of the dwelling units are exempt under paragraph (1), (2), (3), or (4), or any combination of them; and
  - ~~[(5)]~~ (6) any development located in an enterprise zone designated by the State or in an area previously designated as an enterprise zone.

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*Approved:*

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Valerie Ervin, President, County Council Date

53 *Approved:*

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Isiah Leggett, County Executive Date

55 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Bill 39-11

*Taxation – Development Impact Tax - Exemptions*

<b>DESCRIPTION:</b>	Exempts the market-rate dwelling units in any development which consists of at least 25% affordable housing units from the transportation and school development impact taxes.
<b>PROBLEM:</b>	Need to encourage provision of affordable housing.
<b>GOALS AND OBJECTIVES:</b>	To create further incentives to increase the share of low- and moderate-income housing in new developments
<b>COORDINATION:</b>	Department of Permitting Services, Department of Housing and Community Affairs, Planning Board
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Michael Faden, Senior Legislative Attorney, 240-777-7905
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	To be researched.
<b>PENALTIES:</b>	Not applicable.

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