



House Bill 363

Recordation and Transfer Taxes – Exemptions – Property Conveyed From Sole Proprietorship to Limited Liability Company

MACo Position: **SUPPORT**

To: Budget and Taxation Committee

Date: March 21, 2017

From: Barbara Zektick

The Maryland Association of Counties (MACo) **SUPPORTS** HB 363. This bill would create a new exemption from the transfer and recordation tax for the transfer of property from a sole proprietorship to a limited liability company (LLC) if the sole member of the limited liability company is identical to the converting sole proprietor.

Current law offers a variety of exemptions for transfers accomplishing a corporate restructuring. Small business owners who operate as sole proprietors are not able to benefit from these exemptions. HB 363 could benefit small business in the state by extending these same exemptions to the transfer of property from a sole proprietorship to an LLC if the owner of the business is the same as the member of the newly formed LLC.

The bill also provides a reasonable assurance that the new tax-free conversion will not trigger a new avenue for unfair tax avoidance. An LLC that is formed using this tax exemption would not be eligible to make further transfers of controlling interest without triggering suitable taxation under existing Maryland law. While this potentiality is not the intent of the bill, without this extra provision regarding subsequent property sales, a new avenue for tax avoidance could be opened, depriving land preservation and other programs their appropriate revenues.

Accordingly, MACo **SUPPORTS** HB 363 as a reasonable solution to provide flexibility for sole proprietorships, without unduly opening a new tax avoidance loophole.