

residential facility is held by a corporation, the shareholders or members of which, by virtue of such ownership or membership, are entitled to enter into an occupancy agreement for a particular residential unit. This tax shall not be applicable to transfers made pursuant to the purchase of a building by or on behalf of a bona fide tenants association. The tax shall be paid by the initial transferor of the residential unit and shall be in addition to the tax provided in paragraph (5) of this subsection[.]; OR

(5) One [(1)] percent of the value of the consideration for any other transfer INCLUDING ANY NONRESIDENTIAL LEASEHOLD INTEREST AND FEE INTEREST UNDER SUBSECTION (A)(IV) ABOVE BASED ON THE:

(I) AVERAGE ANNUAL RENT OVER THE TERM OF THE LEASE, INCLUDING RENEWALS, CAPITALIZED AT 10 PERCENT PLUS ANY ADDITIONAL CONSIDERATION PAYABLE, OTHER THAN RENT; OR

(II) IF THE AVERAGE ANNUAL RENT CAN NOT BE DETERMINED, THE GREATER OF:

1. 105 PERCENT OF THE MINIMUM AVERAGE ANNUAL RENT, AS DETERMINED BY THE LEASE, CAPITALIZED AT 10 PERCENT, PLUS ANY ADDITIONAL CONSIDERATION PAYABLE, OTHER THAN RENT; OR

2. 150 PERCENT OF THE ASSESSMENT OF THE REAL PROPERTY SUBJECT TO LEASE.

[(b)] (C) No transfer of any interest in such property shall be taxed hereunder where the transfer is to any nonprofit hospital or nonprofit religious or charitable organization, association or corporation, nor to any municipal, county or State government, or instrumentalities, agencies or political subdivisions thereof; provided, that no exemption shall be granted hereunder to a transfer under paragraph (a)(1) of this section unless the transferor is a nonprofit hospital or nonprofit religious or charitable organization, association or corporation, or a municipal, county or State government, or instrumentality, agency or political subdivision thereof. The county council may provide for any additional exemptions from the provisions of this section.

[(c)] (D) No tax levied pursuant to this section shall apply to transfers pursuant to contracts or agreements entered into prior to the effective date of such tax.

[(d)] (E) The county council is further empowered and authorized to fix a penalty not in excess of one thousand dollars [(\$1,000.00)] or imprisonment not exceeding six [(6)] months, or both such fine and imprisonment, for violation of the provisions