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By: **Washington County Delegation**

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Assigned to: Rules and Executive Nominations

Re-referred to: Ways and Means, March 12, 2003

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2003

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CHAPTER 468

1 AN ACT concerning

2 **Washington County Growth Management Act of 2003**

3 FOR the purpose of authorizing the County Commissioners of Washington County to  
4 fix and impose, by ordinance, a building excise tax on all types of building  
5 construction; requiring the County Commissioners to specify in the ordinance  
6 the types of building construction subject to the building excise tax and the tax  
7 rates; authorizing the County Commissioners to impose different tax rates of the  
8 building excise tax based on the square footage of certain construction, housing  
9 or building type, and certain zoning classifications; limiting the rate of the  
10 building excise tax for a certain period of time; requiring the revenues from the  
11 building excise tax to be deposited in a special fund; providing that the revenues  
12 from the building excise tax may only be used for certain purposes; providing an  
13 exemption from the building excise tax for certain construction intended for  
14 agricultural or farm use under certain circumstances; authorizing the County  
15 Commissioners to provide for certain exemptions to the building excise tax;  
16 requiring municipal corporations in Washington County to assist the county in  
17 the collection of the building excise tax within the municipal corporations;  
18 authorizing the County Commissioners to fix and impose, by ordinance, a  
19 transfer tax on certain instruments of writing; providing that the transfer tax  
20 rate may not exceed a certain amount for certain fiscal years; requiring the  
21 revenues from the transfer tax to be deposited in a special fund; requiring  
22 certain transfer tax revenues to be used for certain agricultural land  
23 preservation; providing that the revenues from the transfer tax may only be  
24 used for certain purposes; providing certain exemptions from the transfer tax;  
25 authorizing the County Commissioners to provide for certain exemptions to the  
26 transfer tax; authorizing the governing body of Washington County to grant a  
27 property tax credit against the county property tax imposed on renovated or

1 rehabilitated business real property located in a priority funding area, as  
2 designated under certain provisions of law; authorizing the governing body of  
3 Washington County to provide for certain conditions relating to the credit;  
4 limiting the amount and duration of the credit; providing that the Clerk of the  
5 Circuit Court for Washington County is not entitled to collect a certain fee for  
6 collecting certain county transfer taxes under certain circumstances; repealing  
7 certain authority for the County Commissioners of Washington County to  
8 impose development impact fees; defining certain terms; providing for the  
9 application of this Act; and generally relating to authorizing the County  
10 Commissioners of Washington County to impose certain taxes.

11 BY repealing

12 Article 25 - County Commissioners  
13 Section 9K  
14 Annotated Code of Maryland  
15 (2001 Replacement Volume and 2002 Supplement)

16 BY adding to

17 The Public Local Laws of Washington County  
18 Section 2-701 and 2-702 to be under the new subtitle "Subtitle 7. Taxes"  
19 Article 22 - Public Local Laws of Maryland  
20 (1991 Edition and December 1997 Supplement, as amended)

21 BY repealing and reenacting, without amendments,

22 Article - Courts and Judicial Proceedings  
23 Section 2-213(a)  
24 Annotated Code of Maryland  
25 (2002 Replacement Volume)

26 BY adding to

27 Article - Courts and Judicial Proceedings  
28 Section 2-213(i)  
29 Annotated Code of Maryland  
30 (2002 Replacement Volume)

31 BY adding to

32 Article - Tax - Property  
33 Section 9-323(e)  
34 Annotated Code of Maryland  
35 (2001 Replacement Volume and 2002 Supplement)

1 Preamble

2 WHEREAS, The citizens of Washington County seek to: (1) obtain the highest  
3 quality in their schools, (2) have dependable access to public safety, and (3) protect  
4 and preserve the rural quality of the county; and

5 WHEREAS, A recent facilities assessment of the Washington County schools  
6 indicated 12 schools are suffering from inferior structural deficiencies -- 11 of which  
7 are elementary schools -- and in drastic need of costly renovations; and

8 WHEREAS, The technology utilized for public safety is vastly outdated in  
9 Washington County and the Sheriff's department is currently understaffed; and

10 WHEREAS, The citizens of Washington County envision a reasonable, planned  
11 rate of growth for their county to ensure that future growth will not become  
12 burdensome to the taxpayers of Washington County; and

13 WHEREAS, The importance of redevelopment throughout the urban areas of  
14 Washington County is recognized as vital for economic development in Washington  
15 County; and

16 WHEREAS, Washington County's agricultural heritage enhances the quality of  
17 life and enriches the lives of all of its citizens; and

18 WHEREAS, The business of agriculture in Washington County provides  
19 significant benefit to the community, and by preserving and nurturing its farmland,  
20 Washington County achieves greater economic development in its urban areas by  
21 containing sprawl throughout the rural parts of the county; now, therefore,

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

24 **Article 25 - County Commissioners**

25 [9K.

26 (a) In accordance with this section, the County Commissioners of Washington  
27 County, by ordinance or resolution, may fix, impose, and collect development impact  
28 fees for financing, in whole or in part, the capital costs of additional or expanded  
29 public works, improvements, and facilities required to accommodate new construction  
30 or development.

31 (b) Before the County Commissioners of Washington County may exercise the  
32 authority provided under subsection (a) of this section, the County Commissioners  
33 shall:

34 (1) Establish a department or division of public works for the County;

35 (2) Approve, at a formal meeting of the Board, an adequate facilities plan  
36 for the County; and

1 (3) Approve and adopt a plan for periodic review and modification of the  
2 county comprehensive plan and adequate facilities plan.

3 (c) (1) Prior to the adoption of the impact fee ordinance or resolution under  
4 subsection (a) of this section, the County Commissioners shall hold a public hearing  
5 on the proposal.

6 (2) At the hearing, the boundaries of the area that is to be subject to the  
7 impact fee shall be fully described.

8 (d) Any impact fee imposed by the County Commissioners under this section  
9 shall:

10 (1) Be levied only upon the property located within the district described  
11 in the ordinance or resolution;

12 (2) Be used only for additional or expanded public works, improvements,  
13 and facilities within that district; and

14 (3) Be returned pro rata, with interest, to the persons from whom the fee  
15 was collected (or the successors or assigns of such persons), if the money is not spent  
16 for the designated public works, improvements, and facilities within the district  
17 within 5 years from the date the fee is collected.]

18 **Article 22 - Washington County**

19 **SUBTITLE 7. TAXES.**

20 2-701.

21 (A) THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY, BY ORDINANCE,  
22 MAY FIX, IMPOSE, AND COLLECT A BUILDING EXCISE TAX ON ANY BUILDING  
23 CONSTRUCTION WITHIN WASHINGTON COUNTY.

24 (B) (1) THE COUNTY COMMISSIONERS SHALL SPECIFY IN THE ORDINANCE  
25 THE:

26 (I) TYPES OF BUILDING CONSTRUCTION SUBJECT TO THE  
27 BUILDING EXCISE TAX; AND

28 (II) TAX RATES.

29 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE  
30 COUNTY COMMISSIONERS MAY IMPOSE DIFFERENT RATES OF THE BUILDING EXCISE  
31 TAX BASED ON:

32 (I) THE SQUARE FOOTAGE OF THE BUILDING;

33 (II) THE HOUSING OR BUILDING TYPE; AND

1 (III) ZONING CLASSIFICATIONS CONSISTENT WITH GOALS OF THE  
2 COMPREHENSIVE PLAN OF WASHINGTON COUNTY.

3 (3) (I) FOR A FISCAL YEAR BEGINNING AFTER JUNE 30, 2003, BUT  
4 BEFORE JULY 1, 2008, THE COUNTY COMMISSIONERS MAY IMPOSE A BUILDING  
5 EXCISE TAX RATE NOT TO EXCEED \$1 PER SQUARE FOOT.

6 (II) FOR ~~ALL FISCAL YEARS~~ ANY FISCAL YEAR BEGINNING AFTER  
7 JUNE 30, 2008, THE COUNTY COMMISSIONERS MAY SET THE BUILDING EXCISE TAX  
8 RATE.

9 (C) (1) THE COUNTY DIRECTOR OF FINANCE SHALL DEPOSIT THE  
10 REVENUES FROM THE BUILDING EXCISE TAX INTO A SPECIAL FUND.

11 (2) THE REVENUES FROM THE ~~BUILDING EXCISE TAX~~ SPECIAL FUND  
12 MAY ONLY BE USED FOR:

13 (I) SCHOOL RENOVATION AND CONSTRUCTION;

14 (II) PUBLIC SAFETY CAPITAL EXPENDITURES;

15 (III) PUBLIC INFRASTRUCTURE PROJECTS; AND

16 (IV) DEBT REDUCTION.

17 (D) (1) THE BUILDING EXCISE TAX DOES NOT APPLY TO CONSTRUCTION  
18 INTENDED TO BE ACTIVELY USED FOR FARM OR AGRICULTURAL USE SO LONG AS  
19 THE CONSTRUCTION CONTINUES TO BE ACTIVELY USED FOR FARM OR  
20 AGRICULTURAL USE.

21 (2) THE COUNTY COMMISSIONERS MAY PROVIDE FOR ADDITIONAL  
22 EXEMPTIONS TO THE BUILDING EXCISE TAX.

23 (E) A MUNICIPAL CORPORATION WITHIN WASHINGTON COUNTY SHALL  
24 ASSIST THE COUNTY COMMISSIONERS IN THE COLLECTION OF THE BUILDING  
25 EXCISE TAX WITHIN THE MUNICIPAL CORPORATION BY:

26 (1) COLLECTING AND REMITTING THE TAX TO THE COUNTY; OR

27 (2) REQUIRING THE TAX TO BE PAID TO THE COUNTY COMMISSIONERS  
28 IN ACCORDANCE WITH THE TERMS OF THE COUNTY ORDINANCE.

29 2-702.

30 (A) (1) IN THIS SECTION "INSTRUMENT OF WRITING" MEANS A WRITTEN  
31 INSTRUMENT THAT CONVEYS TITLE TO, OR A LEASEHOLD INTEREST IN, REAL  
32 PROPERTY.

33 (2) "INSTRUMENT OF WRITING" INCLUDES:

34 (I) A DEED OR CONTRACT;

- 1 (II) A LEASE;
- 2 (III) AN ASSIGNMENT OF A LESSEE'S INTEREST;
- 3 (IV) ARTICLES OF TRANSFER;
- 4 (V) ARTICLES OF MERGER OR OTHER DOCUMENT WHICH  
5 EVIDENCES A MERGER OF FOREIGN CORPORATIONS OR FOREIGN LIMITED  
6 PARTNERSHIPS; AND
- 7 (VI) ARTICLES OF CONSOLIDATION OR OTHER DOCUMENT WHICH  
8 EVIDENCES A CONSOLIDATION OF FOREIGN CORPORATIONS.
- 9 (3) "INSTRUMENT OF WRITING" DOES NOT INCLUDE:
- 10 (I) A MORTGAGE, DEED OF TRUST, OR OTHER CONTRACT THAT  
11 CREATES AN ENCUMBRANCE ON REAL PROPERTY; OR
- 12 (II) A SECURITY AGREEMENT, AS DEFINED IN § 12-101(E) OF THE  
13 TAX - PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.
- 14 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY  
15 COMMISSIONERS MAY FIX AND IMPOSE, BY ORDINANCE, A TRANSFER TAX ON AN  
16 INSTRUMENT OF WRITING:
- 17 (I) RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR  
18 WASHINGTON COUNTY; OR
- 19 (II) FILED WITH THE MARYLAND DEPARTMENT OF ASSESSMENTS  
20 AND TAXATION.
- 21 (2) THE COUNTY COMMISSIONERS MAY NOT IMPOSE A TRANSFER TAX  
22 UNLESS THE COUNTY IMPOSES A BUILDING EXCISE TAX AS AUTHORIZED UNDER §  
23 2-701 OF THIS SUBTITLE.
- 24 (C) THE TRANSFER TAX RATE UNDER THIS SECTION:
- 25 (1) SHALL BE ESTABLISHED BY ORDINANCE; AND
- 26 (2) MAY NOT EXCEED:
- 27 (I) 0.5% FOR A FISCAL YEAR BEGINNING AFTER JUNE 30, 2003, BUT  
28 BEFORE JULY 1, 2008; AND
- 29 (II) 1% FOR ~~ALL FISCAL YEARS~~ ANY FISCAL YEAR BEGINNING  
30 AFTER JUNE 30, 2008.
- 31 (D) (1) THE COUNTY DIRECTOR OF FINANCE SHALL DEPOSIT THE  
32 REVENUES FROM THE TRANSFER TAX INTO A SPECIAL FUND.

1 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE  
2 REVENUES FROM THE TRANSFER TAX MAY BE USED ONLY FOR:

3 (I) SCHOOL RENOVATION AND CONSTRUCTION;

4 (II) PUBLIC SAFETY, INCLUDING GRANTS AND LOANS TO  
5 VOLUNTEER FIRE AND RESCUE COMPANIES FOR CAPITAL EXPENDITURES;

6 (III) TRANSPORTATION PROJECTS; AND

7 (IV) DEBT REDUCTION.

8 (3) FOR EACH FISCAL YEAR, AT LEAST \$400,000 OF THE REVENUES FROM  
9 THE TRANSFER TAX SHALL BE USED FOR AGRICULTURAL LAND PRESERVATION AND  
10 OTHER MEASURES TO ENHANCE THE VIABILITY OF AGRICULTURE IN WASHINGTON  
11 COUNTY.

12 (E) (1) THE TRANSFER TAX DOES NOT APPLY TO:

13 (I) AN INSTRUMENT OF WRITING EXEMPT FROM THE STATE  
14 TRANSFER TAX UNDER § 13-207 OF THE TAX - PROPERTY ARTICLE OF THE  
15 ANNOTATED CODE OF MARYLAND; OR

16 (II) A TRANSFER OF LAND SUBJECT TO THE AGRICULTURAL LAND  
17 TRANSFER TAX UNDER TITLE 13, SUBTITLE 3 OF THE TAX - PROPERTY ARTICLE OF  
18 THE ANNOTATED CODE OF MARYLAND.

19 (2) THE COUNTY COMMISSIONERS MAY PROVIDE FOR ADDITIONAL  
20 EXEMPTIONS TO THE TRANSFER TAX, INCLUDING, BUT NOT LIMITED TO,  
21 EXEMPTIONS FOR:

22 (I) FIRST-TIME HOME BUYERS;

23 (II) SENIORS WHO ARE MOVING INTO LESS EXPENSIVE HOUSING;

24 (III) PROMOTING AFFORDABLE HOUSING; AND

25 (IV) REDEVELOPMENT OF PROPERTIES INSIDE THE URBAN  
26 GROWTH AREAS OF THE COUNTY.

27 **Article - Courts and Judicial Proceedings**

28 2-213.

29 (a) Except as otherwise provided in this section, the clerk of a circuit court is  
30 entitled to 5% of all public money that the clerk receives, collects, and pays over.

31 (I) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE  
32 CLERK OF THE CIRCUIT COURT FOR WASHINGTON COUNTY IS NOT ENTITLED TO A  
33 COLLECTION FEE FOR COLLECTING THE COUNTY TRANSFER TAX UNDER § 2-702 OF  
34 THE PUBLIC LOCAL LAWS OF WASHINGTON COUNTY WHEN THE CLERK COLLECTS

1 BOTH THE RECORDATION TAX UNDER TITLE 12 OF THE TAX - PROPERTY ARTICLE  
2 AND THE COUNTY TRANSFER TAX FOR THE FILING OF A SINGLE INSTRUMENT.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
4 read as follows:

5 **Article - Tax - Property**

6 9-323.

7 (E) (1) THE GOVERNING BODY OF WASHINGTON COUNTY MAY GRANT A  
8 PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON  
9 RENOVATED OR REHABILITATED BUSINESS REAL PROPERTY LOCATED IN A PRIORITY  
10 FUNDING AREA AS DESIGNATED IN TITLE 5, SUBTITLE 7B OF THE STATE FINANCE  
11 AND PROCUREMENT ARTICLE.

12 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE  
13 GOVERNING BODY OF THE COUNTY MAY PROVIDE, BY LAW, FOR:

14 (I) THE AMOUNT OF THE CREDIT;

15 (II) THE DURATION OF THE CREDIT; AND

16 (III) ANY OTHER PROVISION NECESSARY TO ADMINISTER THE  
17 CREDIT.

18 (3) A TAX CREDIT UNDER THIS SUBSECTION MAY NOT EXCEED THE  
19 AMOUNT OF ADDITIONAL PROPERTY TAX ASSESSED AS A RESULT OF THE  
20 RENOVATION OR REHABILITATION.

21 (4) A TAX CREDIT UNDER THIS SUBSECTION IS AVAILABLE TO A  
22 QUALIFIED PROPERTY FOR NO MORE THAN 5 YEARS.

23 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
24 take effect June 1, 2003 and shall be applicable to all taxable years beginning after  
25 June 30, 2003.

26 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in  
27 Section 3 of this Act, this Act shall take effect July 1, 2003.