
By: **Delegate Brinkley**

Introduced and read first time: February 15, 2002

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Frederick County - Public Easement Roads**

3 FOR the purpose of requiring the Board of County Commissioners for Frederick
4 County to accept an easement granted by certain associations if certain
5 requirements are satisfied; requiring the Board of County Commissioners to
6 disburse certain highway user revenues to certain associations under certain
7 circumstances; providing for the administration and disbursement of certain
8 highway user revenues; repealing certain provisions authorizing the Board of
9 County Commissioners to use certain funds for county roads or public easement
10 roads and to establish criteria for the use of certain funds; defining certain
11 terms; and generally relating to public easement roads in Frederick County.

12 BY repealing

13 The Public Local Laws of Frederick County

14 Section 2-11-8

15 Article 11 - Public Local Laws of Maryland

16 (1979 Edition and March 2001 Supplement, as amended)

17 (As enacted by Chapter 250 of the Acts of the General Assembly of 2001)

18 BY adding to

19 The Public Local Laws of Frederick County

20 Section 2-11-8

21 Article 11 - Public Local Laws of Maryland

22 (1979 Edition and March 2001 Supplement, as amended)

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

25 **Article 11 - Frederick County**

26 [2-11-8.

27 (a) As used in this section, "Public easement road" means any road:

- 1 (1) Located in Frederick County;
- 2 (2) Owned or maintained by a homeowner's association or an
3 incorporated nonprofit community organization; and
- 4 (3) Over which the Board of County Commissioners has been granted,
5 and the Board of County Commissioners has accepted, an easement for public use.

6 (b) The Board of County Commissioners may use funds designated for county
7 road purposes by the federal or State government for county road purposes or a public
8 easement road.

9 (c) The Board of County Commissioners may establish criteria for the use of
10 funds designated for county road purposes and for the qualifications for a public
11 easement road.]

12 2-11-8.

13 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (B) "ASSOCIATION" MEANS A HOMEOWNER'S ASSOCIATION OR AN
16 INCORPORATED NONPROFIT COMMUNITY ORGANIZATION THAT OWNS OR
17 MAINTAINS PUBLIC EASEMENT ROADS.

18 (C) "BOARD" MEANS THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK
19 COUNTY.

20 (D) (1) "EASEMENT" MEANS AN EASEMENT FOR PUBLIC USE.

21 (2) "EASEMENT" DOES NOT INCLUDE AN EASEMENT FOR A UTILITY
22 COMPANY.

23 (E) "HIGHWAY USER REVENUES" MEANS THE HIGHWAY USER REVENUES AS
24 DEFINED IN AND ADMINISTERED IN ACCORDANCE WITH §§ 8-401 THROUGH 8-413 OF
25 THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

26 (F) "PUBLIC EASEMENT ROAD" MEANS A ROAD:

- 27 (1) LOCATED IN FREDERICK COUNTY;
- 28 (2) OWNED AND MAINTAINED BY AN ASSOCIATION;
- 29 (3) OVER WHICH THE BOARD HAS BEEN GRANTED AN EASEMENT; AND
- 30 (4) WHICH HAS A MINIMUM:
- 31 (I) RIGHT-OF-WAY WIDTH OF 30 FEET;
- 32 (II) LENGTH OF 0.02 MILES; AND

- 1 (III) ROAD SURFACE STONE OR PAVED MINIMUM WIDTH OF 12 FEET.
- 2 (G) THE BOARD SHALL ACCEPT THE EASEMENT GRANTED BY AN
3 ASSOCIATION IF THE REQUIREMENTS OF SUBSECTION (I) OF THIS SECTION ARE MET.
- 4 (H) (1) THE BOARD SHALL DISBURSE TO AN ASSOCIATION THE PRORATED
5 SHARE OF THE HIGHWAY USER REVENUES THAT CORRESPONDS TO THE MILEAGE OF
6 THE PUBLIC EASEMENT ROADS THAT IS SUBMITTED BY THE ASSOCIATION TO THE
7 BOARD UNDER PARAGRAPH (I)(4) OF THIS SECTION AND ACCEPTED BY THE
8 MARYLAND STATE HIGHWAY ADMINISTRATION LESS NECESSARY REASONABLE
9 EXPENSES CONNECTED WITH THE ADMINISTRATION OF AND DISBURSEMENTS FROM
10 THE HIGHWAY USER REVENUES OF THE BOARD PAID TO THIRD PARTIES.
- 11 (2) THE BOARD SHALL REVISE ITS FORMULA OR METHOD OF
12 DISBURSEMENT OF HIGHWAY USER REVENUES TO CORRESPOND TO ANY CHANGES
13 THE STATE MAY MAKE TO ITS FORMULA OR METHOD FOR HIGHWAY USER
14 DISBURSEMENTS.
- 15 (I) (1) THE HIGHWAY USER REVENUES ALLOCATED FOR THE PUBLIC
16 EASEMENT ROADS SHALL BE DISBURSED AND ADMINISTERED AS INDICATED IN THIS
17 SUBSECTION.
- 18 (2) EACH ASSOCIATION SHALL SUBMIT A LEGAL OPINION TO THE BOARD
19 VERIFYING THAT ASSOCIATION'S AUTHORITY TO GRANT THE EASEMENT TO THE
20 BOARD.
- 21 (3) EACH ASSOCIATION SHALL INDEMNIFY AND HOLD THE BOARD
22 HARMLESS FROM ALL LIABILITY ASSOCIATED WITH THE USE OF PUBLIC EASEMENT
23 ROADS AND THE EXPENDITURE OF THE HIGHWAY USER REVENUES FOR THAT
24 ASSOCIATION'S PUBLIC EASEMENT ROADS.
- 25 (4) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH ASSOCIATION
26 SHALL SUBMIT TO THE BOARD INFORMATION ON THAT ASSOCIATION'S PUBLIC
27 EASEMENT ROADS IN THE FORMAT SPECIFIED BY THE MARYLAND STATE HIGHWAY
28 ADMINISTRATION AND A LIST OF:
- 29 (I) NEW PUBLIC EASEMENT ROADS;
- 30 (II) THE DEEDS OF EASEMENT FOR PUBLIC EASEMENT ROADS;
- 31 (III) RECORDED PLAT REFERENCES; OR
- 32 (IV) ANOTHER LEGAL DESCRIPTION OF THE PUBLIC EASEMENT
33 ROADS ACCEPTABLE TO THE BOARD.
- 34 (5) (I) AN ASSOCIATION MAY REQUEST A RELEASE OF THE EASEMENT
35 OVER ALL OR PART OF ITS PUBLIC EASEMENT ROADS BY A WRITTEN NOTICE TO THE
36 BOARD SETTING FORTH THE REASONS FOR THE REQUEST.

1 (II) THE BOARD SHALL PROPORTIONATELY REDUCE THE HIGHWAY
2 USER REVENUES ALLOCATED TO THE ASSOCIATION.

3 (6) ON OR BEFORE AUGUST 15 OF EACH YEAR, EACH ASSOCIATION
4 SHALL PROVIDE A CERTIFICATION LETTER TO FREDERICK COUNTY'S DIRECTOR OF
5 FINANCE SETTING FORTH HOW THE HIGHWAY USER REVENUES WERE USED BY
6 THAT ASSOCIATION DURING THAT ASSOCIATION'S PREVIOUS FISCAL YEAR.

7 (7) EMPLOYEES OF EACH ASSOCIATION SHALL BE BONDED OR INSURED
8 FOR FRAUD AND DISHONESTY COVERAGE FOR AN AMOUNT NOT LESS THAN \$50,000.

9 (8) HIGHWAY USER REVENUES PROVIDED TO AN ASSOCIATION MAY NOT
10 BE SUBSTITUTED FOR ANY EXISTING CONTRACTUAL OR COVENANTED OBLIGATIONS
11 OF THE ASSOCIATION TO FUND ROADWAY MAINTENANCE AS IS DEFINED IN THE
12 ASSOCIATION'S COVENANTS.

13 (9) THE BOARD MAY AUDIT THE BOOKS AND RECORDS OF AN
14 ASSOCIATION WITH RESPECT TO THE ASSOCIATION'S USE OF ANY HIGHWAY USER
15 REVENUES.

16 (10) (I) HIGHWAY USER REVENUES SHALL BE USED BY AN
17 ASSOCIATION ONLY FOR THE CONSTRUCTION, MAINTENANCE, OPERATION, AND
18 IMPROVEMENT OF THE PUBLIC EASEMENT ROADS AND THE ADMINISTRATIVE
19 EXPENSES DIRECTLY ASSOCIATED WITH THE ASSOCIATION'S USE OF THE HIGHWAY
20 USER REVENUES.

21 (II) THE ASSOCIATION SHALL COMPLY WITH ALL APPLICABLE
22 FEDERAL AND STATE REQUIREMENTS REGARDING THE USE OF HIGHWAY USER
23 REVENUES.

24 (11) HIGHWAY USER REVENUES MAY NOT BE USED FOR CONSTRUCTION
25 OR RECONSTRUCTION OF A PUBLIC EASEMENT ROAD UNLESS THE MARYLAND STATE
26 HIGHWAY ADMINISTRATION HAS APPROVED THE PLANS FOR THE ROAD PRIOR TO
27 THE CONSTRUCTION.

28 (12) IF AN ASSOCIATION CONVEYS ANY PUBLIC EASEMENT ROAD TO THE
29 BOARD, THE BOARD SHALL PROPORTIONATELY REDUCE THE HIGHWAY USER
30 REVENUES ALLOCATED TO THE ASSOCIATION.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 June 1, 2002.