
By: ~~Delegate Brinkley~~ Delegates Brinkley, Bartlett, Elliott, Snodgrass, and Stull

Introduced and read first time: February 15, 2002
Assigned to: Rules and Executive Nominations
Re-referred to: Commerce and Government Matters, February 25, 2002

Committee Report: Favorable with amendments
House action: Adopted
Read second time: April 3, 2002

CHAPTER _____

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 located in certain
5 election districts if certain requirements are satisfied; prohibiting the Board of
6 County Commissioners from providing the required acceptance of an easement
7 subject to any other conditions; requiring the Board of County Commissioners to
8 disburse certain highway user revenues to certain associations located in certain
9 election districts under certain circumstances; providing for the administration
10 and disbursement of certain highway user revenues; ~~repealing certain~~
11 ~~provisions authorizing the Board of County Commissioners to use certain funds~~
12 ~~for county roads or public easement roads and to establish criteria for the use of~~
13 ~~certain funds~~ creating a certain exception to the authority of the Board of
14 County Commissioners to establish criteria for the use of certain county road
15 funds; providing for the application of this Act; defining certain terms; and
16 generally relating to public easement roads in Frederick County.

17 BY repealing and reenacting, with amendments,
18 The Public Local Laws of Frederick County
19 Section 2-11-8
20 Article 11 - Public Local Laws of Maryland
21 (1979 Edition and March 2001 Supplement, as amended)
22 (As enacted by Chapter 250 of the Acts of the General Assembly of 2001)

23 BY adding to

1 The Public Local Laws of Frederick County
 2 Section ~~2-11-8~~ 2-11-8.1
 3 Article 11 - Public Local Laws of Maryland
 4 (1979 Edition and March 2001 Supplement, as amended)

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

7 **Article 11 - Frederick County**

8 ~~§~~2-11-8.

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

10 (1) Located in Frederick County;

11 (2) Owned or maintained by a homeowner's association or an
 12 incorporated nonprofit community organization; and

13 (3) Over which the Board of County Commissioners has been granted,
 14 and the Board of County Commissioners has accepted, an easement for public use.

15 (b) ~~The~~ SUBJECT TO § 2-11-8.1 OF THIS CHAPTER, THE Board of County
 16 Commissioners may use funds designated for county road purposes by the federal or
 17 State government for county road purposes or a public easement road.

18 (c) ~~The~~ EXCEPT AS PROVIDED IN § 2-11-8.1 OF THIS CHAPTER, THE Board of
 19 County Commissioners may establish criteria for the use of funds designated for
 20 county road purposes and for the qualifications for a public easement road.}

21 ~~2-11-8;~~ 2-11-8.1.

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 23 INDICATED.

24 ~~(B)~~ (2) "ASSOCIATION" MEANS A HOMEOWNER'S ASSOCIATION OR AN
 25 INCORPORATED NONPROFIT COMMUNITY ORGANIZATION THAT OWNS OR
 26 MAINTAINS ~~PUBLIC EASEMENT ROADS~~ A PUBLIC EASEMENT ROAD.

27 ~~(C)~~ (3) "BOARD" MEANS THE BOARD OF COUNTY COMMISSIONERS OF
 28 FREDERICK COUNTY.

29 ~~(D)~~ (4) (I) "EASEMENT" MEANS AN EASEMENT FOR PUBLIC USE.

30 ~~(E)~~ (II) "EASEMENT" DOES NOT INCLUDE AN EASEMENT FOR A UTILITY
 31 COMPANY.

32 ~~(F)~~ (5) "HIGHWAY USER REVENUES" MEANS THE HIGHWAY USER
 33 REVENUES AS DEFINED IN AND ADMINISTERED IN ACCORDANCE WITH §§ 8-401

1 THROUGH 8-413 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF
2 MARYLAND.

3 ~~(F)~~ (6) "PUBLIC EASEMENT ROAD" MEANS A ROAD:

4 ~~(+)~~ (I) LOCATED IN FREDERICK COUNTY;

5 ~~(=)~~ (II) OWNED AND MAINTAINED BY AN ASSOCIATION;

6 ~~(3)~~ (III) OVER WHICH THE BOARD HAS BEEN GRANTED AN EASEMENT;
7 AND

8 ~~(+)~~ (IV) WHICH HAS A MINIMUM:

9 ~~(+)~~ 1. RIGHT-OF-WAY WIDTH OF 30 FEET;

10 ~~(+)~~ 2. LENGTH OF 0.02 MILES; AND

11 ~~(+)~~ 3. ROAD SURFACE STONE OR PAVED MINIMUM WIDTH OF 12
12 FEET.

13 (B) THIS SECTION APPLIES ONLY IN COUNTY ELECTION DISTRICTS 9 AND 13.

14 ~~(G)~~ (C) (1) THE BOARD SHALL ACCEPT THE EASEMENT GRANTED BY AN
15 ASSOCIATION LOCATED IN ELECTION DISTRICTS 9 AND 13 IF THE REQUIREMENTS OF
16 SUBSECTION ~~(+)~~ (E) OF THIS SECTION ARE MET.

17 (2) THE BOARD MAY NOT GIVE THE REQUIRED ACCEPTANCE UNDER
18 PARAGRAPH (1) OF THIS SUBSECTION SUBJECT TO ANY OTHER CONTINGENCY.

19 ~~(+)~~ (D) (1) THE BOARD SHALL DISBURSE TO AN ASSOCIATION THE
20 PRORATED SHARE OF THE HIGHWAY USER REVENUES THAT CORRESPONDS TO THE
21 MILEAGE OF THE PUBLIC EASEMENT ROADS THAT IS SUBMITTED BY THE
22 ASSOCIATION TO THE BOARD UNDER PARAGRAPH ~~(+)(4)~~ (E)(4) OF THIS SECTION AND
23 ACCEPTED BY THE ~~MARYLAND~~ STATE HIGHWAY ADMINISTRATION LESS NECESSARY
24 REASONABLE EXPENSES CONNECTED WITH THE ADMINISTRATION OF AND
25 DISBURSEMENTS FROM THE HIGHWAY USER REVENUES OF THE BOARD PAID TO
26 THIRD PARTIES.

27 (2) THE BOARD SHALL REVISE ITS FORMULA OR METHOD OF
28 DISBURSEMENT OF HIGHWAY USER REVENUES TO CORRESPOND TO ANY CHANGES
29 THE STATE MAY MAKE TO ITS FORMULA OR METHOD FOR HIGHWAY USER
30 DISBURSEMENTS.

31 ~~(+)~~ (E) (1) THE HIGHWAY USER REVENUES ALLOCATED FOR THE PUBLIC
32 EASEMENT ROADS SHALL BE DISBURSED AND ADMINISTERED AS INDICATED IN THIS
33 SUBSECTION.

34 (2) EACH ASSOCIATION SHALL SUBMIT A LEGAL OPINION TO THE BOARD
35 VERIFYING THAT ASSOCIATION'S AUTHORITY TO GRANT THE EASEMENT TO THE
36 BOARD.

1 (3) EACH ASSOCIATION SHALL INDEMNIFY AND HOLD THE BOARD
2 HARMLESS FROM ALL LIABILITY ASSOCIATED WITH THE USE OF PUBLIC EASEMENT
3 ROADS AND THE EXPENDITURE OF THE HIGHWAY USER REVENUES FOR THAT
4 ASSOCIATION'S PUBLIC EASEMENT ROADS.

5 (4) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH ASSOCIATION
6 SHALL SUBMIT TO THE BOARD INFORMATION ON THAT ASSOCIATION'S PUBLIC
7 EASEMENT ROADS IN THE FORMAT SPECIFIED BY THE ~~MARYLAND~~ STATE HIGHWAY
8 ADMINISTRATION AND A LIST OF:

9 (I) NEW PUBLIC EASEMENT ROADS;

10 (II) THE DEEDS OF EASEMENT FOR PUBLIC EASEMENT ROADS;

11 (III) RECORDED PLAT REFERENCES; OR

12 (IV) ANOTHER LEGAL DESCRIPTION OF THE PUBLIC EASEMENT
13 ROADS ACCEPTABLE TO THE BOARD.

14 (5) (I) AN ASSOCIATION MAY REQUEST A RELEASE OF THE EASEMENT
15 OVER ALL OR PART OF ITS PUBLIC EASEMENT ROADS BY A WRITTEN NOTICE TO THE
16 BOARD SETTING FORTH THE REASONS FOR THE REQUEST.

17 (II) THE BOARD SHALL ~~PROPORTIONATELY~~ REDUCE THE HIGHWAY
18 USER REVENUES ALLOCATED TO THE ASSOCIATION IN PROPORTION TO THE
19 MILEAGE OF THE RELEASED PUBLIC EASEMENT.

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

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

26 (8) HIGHWAY USER REVENUES PROVIDED TO AN ASSOCIATION MAY NOT
27 BE SUBSTITUTED FOR ANY EXISTING CONTRACTUAL OR COVENANTEE OBLIGATIONS
28 OF THE ASSOCIATION TO FUND ROADWAY MAINTENANCE AS IS DEFINED IN THE
29 ASSOCIATION'S COVENANTS.

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

33 (10) (I) HIGHWAY USER REVENUES SHALL BE USED BY AN
34 ASSOCIATION ONLY FOR THE CONSTRUCTION, MAINTENANCE, OPERATION, AND
35 IMPROVEMENT OF THE PUBLIC EASEMENT ROADS AND THE ADMINISTRATIVE
36 EXPENSES DIRECTLY ASSOCIATED WITH THE ASSOCIATION'S USE OF THE HIGHWAY
37 USER REVENUES.

1 (II) THE ASSOCIATION SHALL COMPLY WITH ALL APPLICABLE
2 FEDERAL AND STATE REQUIREMENTS REGARDING THE USE OF HIGHWAY USER
3 REVENUES.

4 (11) HIGHWAY USER REVENUES MAY NOT BE USED FOR CONSTRUCTION
5 OR RECONSTRUCTION OF A PUBLIC EASEMENT ROAD UNLESS THE MARYLAND STATE
6 HIGHWAY ADMINISTRATION HAS APPROVED THE PLANS FOR THE ROAD ~~PRIOR TO~~
7 BEFORE THE CONSTRUCTION.

8 (12) IF AN ASSOCIATION CONVEYS ANY PUBLIC EASEMENT ROAD TO THE
9 BOARD, THE BOARD SHALL PROPORTIONATELY REDUCE THE HIGHWAY USER
10 REVENUES ALLOCATED TO THE ASSOCIATION.

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