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By: **Howard County Delegation**

Introduced and read first time: February 25, 2004

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Howard County - Public School Facilities Surcharge**  
3 **Ho. Co. 7-04**

4 FOR the purpose of requiring the County Council for Howard County to impose a  
5 certain public school facilities surcharge on certain residential construction;  
6 providing that the school facilities surcharge must be adjusted for inflation  
7 under certain circumstances; requiring a certain applicant to pay the school  
8 facilities surcharge at a certain time; prohibiting the school facilities surcharge  
9 from being construed to be a settlement cost; requiring revenue collected from  
10 the school facilities surcharge to be used to pay certain expenses; providing for  
11 the rebate of the school facilities surcharge under certain circumstances;  
12 providing for an annual adjustment for inflation of a certain exemption amount;  
13 requiring the County Executive to prepare a certain report; requiring the  
14 Howard County Office of Finance to make a certain calculation and cause a  
15 certain notice to be published each year; defining certain terms; and generally  
16 relating to a public school facilities surcharge in Howard County.

17 BY adding to  
18 The Public Local Laws of Howard County  
19 Section 20.142 to be under the new part "Part VI. Public School Facilities  
20 Surcharge"  
21 Article 14 - Public Local Laws of Maryland  
22 (1995 Edition and November 2003 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 14 - Howard County**

26 **PART VI. PUBLIC SCHOOL FACILITIES SURCHARGE**

27 20.142.

28 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
29 INDICATED.

1           (2)     "APPLICANT" MEANS THE INDIVIDUAL, PARTNERSHIP,  
2 CORPORATION, OR OTHER LEGAL ENTITY WHOSE SIGNATURE APPEARS ON THE  
3 BUILDING PERMIT APPLICATION.

4           (3)     (I)     "BUILDING" MEANS A STRUCTURE WITH EXTERIOR WALLS  
5 WHICH COMBINE TO FORM AN OCCUPIABLE STRUCTURE.

6                   (II)    "BUILDING" DOES NOT INCLUDE A TEMPORARY STRUCTURE, AS  
7 DEFINED IN THE HOWARD COUNTY BUILDING CODE.

8           (4)     (I)     "NEW CONSTRUCTION" MEANS CONSTRUCTION OF A BUILDING  
9 WHICH REQUIRES A HOWARD COUNTY BUILDING PERMIT.

10                   (II)    "NEW CONSTRUCTION" DOES NOT INCLUDE, IF THE BUILDING  
11 REPLACES AN EXISTING BUILDING, REPLACEMENT OF A BUILDING DUE TO  
12 CASUALTY OR LOSS WITHIN 3 YEARS OF THAT CASUALTY OR LOSS, OR REPLACEMENT  
13 OF A MOBILE HOME ON A SITE, EXCEPT TO THE EXTENT THE GROSS SQUARE  
14 FOOTAGE OF THE REPLACEMENT BUILDING OR REPLACEMENT MOBILE HOME  
15 EXCEEDS THE GROSS SQUARE FOOTAGE OF THE BUILDING OR MOBILE HOME BEING  
16 REPLACED.

17           (5)     "OCCUPIABLE" MEANS SPACE THAT IS:

18                   (I)     DESIGNED FOR HUMAN OCCUPANCY IN WHICH INDIVIDUALS  
19 MAY LIVE, WORK, OR CONGREGATE FOR AMUSEMENT; AND

20                   (II)    EQUIPPED WITH MEANS OF EGRESS, LIGHT, AND VENTILATION.

21           (6)     (I)     "RESIDENTIAL" MEANS A BUILDING THAT CONTAINS ONE OR  
22 MORE DWELLING UNITS AND INCLUDES A BOARDING HOUSE.

23                   (II)    "RESIDENTIAL" INCLUDES ALL AREAS THAT ARE CONTAINED  
24 WITHIN A RESIDENTIAL BUILDING, INCLUDING AN ATTACHED GARAGE OR AREA FOR  
25 HOME OCCUPATIONS.

26                   (III)   "RESIDENTIAL" DOES NOT INCLUDE:

27                           1.     TRANSIENT ACCOMMODATIONS, INCLUDING A HOTEL,  
28 COUNTRY INN, OR BED AND BREAKFAST INN;

29                           2.     NONRESIDENTIAL USES IN A MIXED-USE STRUCTURE; OR

30                           3.     DETACHED ACCESSORY BUILDINGS, INCLUDING A  
31 DETACHED GARAGE OR SHED THAT DOES NOT CONTAIN LIVING QUARTERS.

32     (B)     THE COUNTY COUNCIL BY ORDINANCE SHALL IMPOSE A SCHOOL  
33 FACILITIES SURCHARGE ON RESIDENTIAL NEW CONSTRUCTION FOR WHICH A  
34 BUILDING PERMIT IS ISSUED ON OR AFTER JULY 1, 2004.

1 (C) (1) FOR FISCAL YEAR 2005, A SCHOOL FACILITIES SURCHARGE IMPOSED  
2 ON RESIDENTIAL NEW CONSTRUCTION SHALL BE IN THE AMOUNT OF \$1.00 PER  
3 SQUARE FOOT OF OCCUPIABLE AREA IN THE RESIDENTIAL NEW CONSTRUCTION.

4 (2) FOR FISCAL YEAR 2006 AND EACH SUCCEEDING FISCAL YEAR, THE  
5 FACILITIES SURCHARGE ESTABLISHED IN PARAGRAPH (1) OF THIS SUBSECTION  
6 SHALL BE ADJUSTED FOR INFLATION IN ACCORDANCE WITH THE CONSUMER PRICE  
7 INDEX FOR ALL URBAN CONSUMERS PUBLISHED BY THE UNITED STATES  
8 DEPARTMENT OF LABOR, FOR THE FISCAL YEAR PRECEDING THE YEAR FOR WHICH  
9 THE AMOUNT IS BEING CALCULATED.

10 (D) (1) THE SCHOOL FACILITIES SURCHARGE SHALL BE PAID BY THE  
11 APPLICANT AT THE TIME A BUILDING PERMIT IS ISSUED FOR THE RESIDENTIAL NEW  
12 CONSTRUCTION.

13 (2) THE SCHOOL FACILITIES SURCHARGE MAY NOT BE CONSTRUED TO  
14 BE A SETTLEMENT COST.

15 (E) (1) THE COUNTY SHALL REBATE TO THE APPLICANT THE SCHOOL  
16 FACILITIES SURCHARGE IMPOSED ON RESIDENTIAL NEW CONSTRUCTION UNDER  
17 THIS SECTION IF, ON THE INITIAL SALE OF THE PROPERTY, THE PROPERTY IS SOLD  
18 FOR A FAIR MARKET VALUE THAT IS LESS THAN \$200,000.

19 (2) IF, ON COMPLETION, THE RESIDENTIAL NEW CONSTRUCTION IS NOT  
20 SOLD BUT THE PROPERTY IS OCCUPIED BY THE APPLICANT OR THE IMMEDIATE  
21 FAMILY OF THE APPLICANT, THE COUNTY SHALL REBATE TO THE APPLICANT THE  
22 SCHOOL FACILITIES SURCHARGE IMPOSED UNDER THIS SECTION IF THE INITIAL  
23 ASSESSMENT VALUE ASSIGNED TO THE PROPERTY BY THE STATE DEPARTMENT OF  
24 ASSESSMENTS AND TAXATION FOR PURPOSES OF THE COUNTY REAL PROPERTY TAX  
25 EQUATES TO A MARKET VALUE THAT IS LESS THAN \$200,000.

26 (3) FOR FISCAL YEAR 2006 AND EACH SUCCEEDING FISCAL YEAR, THE  
27 VALUE OF THE PROPERTY THAT IS ENTITLED TO A REBATE UNDER THIS SUBSECTION  
28 SHALL BE ADJUSTED FOR INFLATION IN ACCORDANCE WITH THE CONSUMER PRICE  
29 INDEX FOR ALL URBAN CONSUMERS PUBLISHED BY THE UNITED STATES  
30 DEPARTMENT OF LABOR, FOR THE FISCAL YEAR PRECEDING THE YEAR FOR WHICH  
31 THE VALUE IS BEING CALCULATED.

32 (4) WITHIN 30 DAYS AFTER THE START OF EACH FISCAL YEAR, THE  
33 HOWARD COUNTY OFFICE OF FINANCE SHALL CALCULATE AND PUBLISH IN A  
34 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY THE VALUE OF THE  
35 PROPERTY THAT IS ENTITLED TO THE REBATE SPECIFIED UNDER THIS SUBSECTION.

36 (F) PAYMENT OF THE SCHOOL FACILITIES SURCHARGE DOES NOT ELIMINATE  
37 ANY AUTHORITY TO APPLY ANY TEST CONCERNING THE ADEQUACY OF SCHOOL  
38 FACILITIES UNDER THE COUNTY'S ADEQUATE PUBLIC SCHOOL FACILITY  
39 ORDINANCE.

1 (G) REVENUE COLLECTED UNDER THE SCHOOL FACILITIES SURCHARGE  
2 SHALL BE DEPOSITED IN A SEPARATE ACCOUNT AND MAY ONLY BE USED TO PAY  
3 FOR:

4 (1) ADDITIONAL OR EXPANDED PUBLIC SCHOOL FACILITIES SUCH AS  
5 RENOVATIONS TO EXISTING SCHOOL BUILDINGS OR OTHER SYSTEMIC CHANGES; OR

6 (2) DEBT SERVICE ON BONDS ISSUED FOR ADDITIONAL OR EXPANDED  
7 PUBLIC SCHOOL FACILITIES OR NEW SCHOOL CONSTRUCTION.

8 (H) REVENUE COLLECTED UNDER THE SCHOOL FACILITIES SURCHARGE IS  
9 INTENDED TO SUPPLEMENT FUNDING FOR PUBLIC SCHOOL FACILITIES AND MAY  
10 NOT SUPPLANT OTHER COUNTY OR STATE FUNDING FOR SCHOOL CONSTRUCTION.

11 (I) THE COUNTY EXECUTIVE OF HOWARD COUNTY SHALL PREPARE AN  
12 ANNUAL REPORT ON THE SCHOOL FACILITIES SURCHARGE ON OR BEFORE AUGUST  
13 31 OF EACH YEAR FOR THE COUNTY COUNCIL OF HOWARD COUNTY, THE HOWARD  
14 COUNTY SENATE DELEGATION, AND THE HOWARD COUNTY HOUSE DELEGATION, TO  
15 INCLUDE:

16 (1) A DETAILED DESCRIPTION OF HOW FEES WERE EXPENDED; AND

17 (2) THE AMOUNT OF FEES COLLECTED.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
19 effect July 1, 2004.