

By: **Howard County Delegation**

Introduced and read first time: February 25, 2004

Assigned to: Rules and Executive Nominations

Re-referred to: Environmental Matters, March 11, 2004

Committee Report: Favorable

House action: Adopted

Read second time: March 26, 2004

CHAPTER _____

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:

1 **Article 14 - Howard County**

2 PART VI. PUBLIC SCHOOL FACILITIES SURCHARGE

3 20.142.

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (2) "APPLICANT" MEANS THE INDIVIDUAL, PARTNERSHIP,
7 CORPORATION, OR OTHER LEGAL ENTITY WHOSE SIGNATURE APPEARS ON THE
8 BUILDING PERMIT APPLICATION.9 (3) (I) "BUILDING" MEANS A STRUCTURE WITH EXTERIOR WALLS
10 WHICH COMBINE TO FORM AN OCCUPIABLE STRUCTURE.11 (II) "BUILDING" DOES NOT INCLUDE A TEMPORARY STRUCTURE, AS
12 DEFINED IN THE HOWARD COUNTY BUILDING CODE.13 (4) (I) "NEW CONSTRUCTION" MEANS CONSTRUCTION OF A BUILDING
14 WHICH REQUIRES A HOWARD COUNTY BUILDING PERMIT.15 (II) "NEW CONSTRUCTION" DOES NOT INCLUDE, IF THE BUILDING
16 REPLACES AN EXISTING BUILDING, REPLACEMENT OF A BUILDING DUE TO
17 CASUALTY OR LOSS WITHIN 3 YEARS OF THAT CASUALTY OR LOSS, OR REPLACEMENT
18 OF A MOBILE HOME ON A SITE, EXCEPT TO THE EXTENT THE GROSS SQUARE
19 FOOTAGE OF THE REPLACEMENT BUILDING OR REPLACEMENT MOBILE HOME
20 EXCEEDS THE GROSS SQUARE FOOTAGE OF THE BUILDING OR MOBILE HOME BEING
21 REPLACED.

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

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

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

26 (6) (I) "RESIDENTIAL" MEANS A BUILDING THAT CONTAINS ONE OR
27 MORE DWELLING UNITS AND INCLUDES A BOARDING HOUSE.28 (II) "RESIDENTIAL" INCLUDES ALL AREAS THAT ARE CONTAINED
29 WITHIN A RESIDENTIAL BUILDING, INCLUDING AN ATTACHED GARAGE OR AREA FOR
30 HOME OCCUPATIONS.

31 (III) "RESIDENTIAL" DOES NOT INCLUDE:

32 1. TRANSIENT ACCOMMODATIONS, INCLUDING A HOTEL,
33 COUNTRY INN, OR BED AND BREAKFAST INN;

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

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

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

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

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

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

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

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

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

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

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

1 (F) PAYMENT OF THE SCHOOL FACILITIES SURCHARGE DOES NOT ELIMINATE
2 ANY AUTHORITY TO APPLY ANY TEST CONCERNING THE ADEQUACY OF SCHOOL
3 FACILITIES UNDER THE COUNTY'S ADEQUATE PUBLIC SCHOOL FACILITY
4 ORDINANCE.

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

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

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

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

15 (I) THE COUNTY EXECUTIVE OF HOWARD COUNTY SHALL PREPARE AN
16 ANNUAL REPORT ON THE SCHOOL FACILITIES SURCHARGE ON OR BEFORE AUGUST
17 31 OF EACH YEAR FOR THE COUNTY COUNCIL OF HOWARD COUNTY, THE HOWARD
18 COUNTY SENATE DELEGATION, AND THE HOWARD COUNTY HOUSE DELEGATION, TO
19 INCLUDE:

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

21 (2) THE AMOUNT OF FEES COLLECTED.

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