

SENATE BILL 441

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Q8

2004 Regular Session
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CF HB 471

By: **Senator Brinkley**
Introduced and read first time: February 5, 2004
Assigned to: Budget and Taxation

Committee Report: Favorable
Senate action: Adopted
Read second time: March 9, 2004

CHAPTER _____

1 AN ACT concerning

2 **Frederick County - Hotel Rental Tax**

3 FOR the purpose of authorizing Frederick County to impose a hotel rental tax at not
4 more than a certain rate; providing that the hotel rental tax does not apply to
5 certain bed and breakfast facilities in Frederick County; requiring a hotel
6 located in Frederick County to collect the tax and to file a certain tax return and
7 pay taxes collected on or before a certain date each month; requiring Frederick
8 County to deduct a certain amount of the hotel rental tax revenue for
9 administrative costs to be distributed to the general fund of the county;
10 requiring Frederick County to distribute the remaining balance of certain hotel
11 rental tax revenue to a certain organization with a portion of the balance
12 designated by the County Commissioners for a certain purpose; requiring the
13 internal auditor of the county to conduct a certain audit and report the findings
14 to the County Commissioners; providing that in Frederick County unpaid hotel
15 rental tax is a lien against the real and personal property of the person owing
16 the tax; defining certain terms; and generally relating to authorizing Frederick
17 County to impose a hotel rental tax.

18 BY repealing and reenacting, with amendments,
19 Article 24 - Political Subdivisions - Miscellaneous Provisions
20 Section 9-301, 9-304, 9-305, 9-310, 9-318, and 9-325
21 Annotated Code of Maryland
22 (2001 Replacement Volume and 2003 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article 24 - Political Subdivisions - Miscellaneous Provisions
25 Section 9-302, 9-303, 9-308, 9-309, 9-311, 9-314 through 9-317, 9-321

1 through 9-324, and 9-326
2 Annotated Code of Maryland
3 (2001 Replacement Volume and 2003 Supplement)

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

6 **Article 24 - Political Subdivisions - Miscellaneous Provisions**

7 9-301.

8 (a) In this subtitle the following words have the meanings indicated.

9 (b) "Authorized county" means:

- 10 (1) A code county;
11 (2) Calvert County;
12 (3) Cecil County;
13 (4) Charles County;
14 (5) Dorchester County;
15 (6) FREDERICK COUNTY;
16 [(6)] (7) Garrett County;
17 [(7)] (8) St. Mary's County;
18 [(8)] (9) Somerset County;
19 [(9)] (10) Talbot County;
20 [(10)] (11) Washington County; and
21 [(11)] (12) Wicomico County.

22 (c) "Code county":

23 (1) Means a county that has adopted home rule under Article XI-F of the
24 Maryland Constitution; and

25 (2) Includes:

- 26 (i) Allegany County;
27 (ii) Caroline County;
28 (iii) Kent County;

1 (iv) Queen Anne's County; and

2 (v) Worcester County.

3 (d) (1) "Hotel" means an establishment that offers sleeping accommodations
4 for compensation.

5 (2) "Hotel" includes:

6 (i) An apartment;

7 (ii) A cottage;

8 (iii) A hostelry;

9 (iv) An inn;

10 (v) A motel;

11 (vi) A rooming house; or

12 (vii) A tourist home.

13 (e) "Hotel rental tax" means the tax authorized under this subtitle.

14 (f) (1) Except as provided in paragraph (2) of this subsection, "transient
15 charge" means a hotel charge for sleeping accommodations for a period not exceeding
16 4 consecutive months.

17 (2) In FREDERICK COUNTY AND Washington County, "transient charge"
18 means a hotel charge for sleeping accommodations for a period not exceeding 30 days.

19 (3) "Transient charge" does not include any hotel charge for services or
20 for accommodations other than sleeping accommodations.

21 9-302.

22 This subtitle allows a hotel rental tax for an authorized county.

23 9-303.

24 (a) Except as provided in subsection (c) of this section, an authorized county
25 may impose, by resolution, a tax on a transient charge paid to a hotel located in that
26 county.

27 (b) Before Calvert County, Charles County, or St. Mary's County imposes a
28 hotel rental tax, the governing body of the county shall hold a public hearing, which:

29 (1) Shall be advertised twice by publication in a newspaper of general
30 circulation in the county at least 10 days before the hearing; and

1 (2) May not be part of the annual budget hearing.

2 (c) (1) In this subsection, "population center" means any portion of Cecil
3 County, as specified by the Board of County Commissioners, that:

4 (i) Is not larger than 10 square miles in geographic area; and

5 (ii) Has a population of at least 6,000 residents.

6 (2) Cecil County may impose the hotel rental tax only on a transient
7 charge paid to a hotel located in a population center in the county.

8 9-304.

9 (a) Subject to the limitations in subsections (b) and (c) of this section, the hotel
10 rental tax rate is the rate that the authorized county sets by resolution.

11 (b) An authorized county may not set a hotel rental tax rate that exceeds:

12 (1) 3% in a code county;

13 (2) 5% in Calvert County;

14 (3) 3% in Cecil County;

15 (4) 5% in Charles County;

16 (5) 5% in Dorchester County;

17 (6) 5% IN FREDERICK COUNTY;

18 [(6)] (7) 5% in Garrett County;

19 [(7)] (8) 5% in St. Mary's County;

20 [(8)] (9) 3% in Somerset County;

21 [(9)] (10) 3% in Talbot County; and

22 [(10)] (11) 5% in Wicomico County.

23 (c) (1) Notwithstanding subsection (b)(1) of this section, a code county, other
24 than a code county in the Western Maryland class, may set a hotel rental tax rate that
25 is greater than 3%, but not exceeding 5%, with the unanimous consent of the county
26 commissioners for the county.

27 (2) Notwithstanding subsection (b)(1), a code county in the Western
28 Maryland class may set a hotel rental tax rate that is greater than 3%, but not
29 exceeding 8%, with the unanimous consent of the county commissioners for the
30 county.

1 (d) The hotel rental tax rate in Washington County is 6%.

2 9-305.

3 (a) Calvert County and St. Mary's County may provide, by resolution, a tax
4 exemption for classes of hotels.

5 (B) IN FREDERICK COUNTY, THE HOTEL RENTAL TAX DOES NOT APPLY TO A
6 HOTEL WITH 10 OR FEWER SLEEPING ROOMS IN ITS MAIN BUILDING AND NO MORE
7 THAN 20 ADDITIONAL SLEEPING ROOMS IN AUXILIARY STRUCTURES ON THE HOTEL'S
8 PROPERTY.

9 [(b)] (C) In Washington County, the hotel rental tax does not apply to a
10 transient charge paid to a hotel by:

11 (1) The federal government;

12 (2) A state; or

13 (3) An agency or instrumentality of a state or of the federal government.

14 9-308.

15 A person shall pay the hotel rental tax to the hotel when the person pays the
16 transient charge.

17 9-309.

18 (a) A hotel shall:

19 (1) Give the person who is required to pay a transient charge a bill that
20 identifies the transient charge as a separate item from any other charge; and

21 (2) Collect the hotel rental tax from the person who pays the transient
22 charge.

23 (b) A hotel holds hotel rental tax collected in trust for the authorized county
24 that imposes the tax until the hotel pays the tax to that county as required under this
25 subtitle.

26 9-310.

27 (a) A hotel shall complete, sign, and file a hotel rental tax return with:

28 (1) A code county, on or before the 10th day of each month;

29 (2) Calvert County, on or before the 21st day of each month;

30 (3) Cecil County, on or before the 10th day of each month;

31 (4) Charles County, on or before the 21st day of each month;

- 1 (5) Dorchester County, on or before the 21st day of each month;
- 2 (6) FREDERICK COUNTY, ON OR BEFORE THE 21ST DAY OF EACH MONTH;
- 3 [(6)] (7) Garrett County, on or before the 21st day of each month;
- 4 [(7)] (8) St. Mary's County, on or before the 21st day of each month;
- 5 [(8)] (9) Somerset County, on or before the 21st day of each month;
- 6 [(9)] (10) Talbot County, on or before the 20th day of each month;
- 7 [(10)] (11) Washington County, on or before the 25th day of each month;
- 8 and
- 9 [(11)] (12) Wicomico County, on or before the 20th day of each month.

10 (b) A hotel rental tax return for an authorized county:

- 11 (1) Shall be made on the form that the county requires;
- 12 (2) Shall contain the information that the county requires, including the
- 13 amount of:
- 14 (i) Transient charges paid to the hotel during the prior calendar
- 15 month; and
- 16 (ii) The hotel rental tax required to be collected during the prior
- 17 calendar month.

18 9-311.

19 (a) A hotel shall pay to the authorized county that imposes the hotel rental tax

20 the tax collected for a calendar month with the return that covers that month.

21 (b) (1) Except as provided in paragraph (2) of this subsection, a hotel is

22 allowed, for administrative costs, a discount equal to 1.5% of the gross amount of

23 hotel rental tax collected, if, on or before the due date, the hotel:

- 24 (i) Files the hotel rental tax return; and
- 25 (ii) Pays the hotel rental tax.

26 (2) The Commissioners of Calvert County, Charles County, St. Mary's

27 County, and Washington County may determine whether a hotel is eligible to receive

28 a discount.

29 9-314.

30 An authorized county shall administer the hotel rental tax for that county.

1 9-315.

2 To provide for orderly, systematic, and thorough administration of the hotel
3 rental tax, an authorized county may adopt regulations that:

4 (1) Are consistent with this subtitle; and

5 (2) Conform to the applicable provisions and regulations for the sales
6 and use tax under Title 11 of the Tax - General Article.

7 9-316.

8 (a) The Comptroller shall provide an authorized county with information to
9 help the county to verify hotel rental tax liability.

10 (b) (1) The Comptroller may charge an authorized county a reasonable fee
11 for the cost of providing information.

12 (2) The county shall treat the fee as a hotel rental tax administrative
13 cost.

14 9-317.

15 (a) To cover the revenue that a treasurer collects under this subtitle, an
16 authorized county may increase the surety bond that the county requires for its
17 treasurer.

18 (b) The county shall treat any additional premium due to a surety bond
19 increase allowed under subsection (a) of this section as a hotel rental tax
20 administrative cost.

21 9-318.

22 (a) Except for Talbot County, Washington County, [and] Dorchester County,
23 AND FREDERICK COUNTY an authorized county shall distribute the hotel rental tax
24 revenue as follows:

25 (1) From the total revenue, a reasonable sum for hotel rental tax
26 administrative costs to the general fund of the county;

27 (2) In a code county and Calvert, Cecil, Garrett, and St. Mary's counties,
28 after the distribution in item (1) of this subsection, the revenue attributable to a hotel
29 located in a municipal corporation to the municipal corporation; and

30 (3) The remaining balance to the general fund of the county.

31 (b) (1) Cecil County may not deduct more than 5% of the revenue for
32 administrative costs under subsection (a)(1) of this section.

33 (2) Garrett County shall designate a part of the balance under
34 subsection (a)(3) of this section for the promotion of the county.

1 (3) (i) Wicomico County may not deduct more than 5% of the revenue
2 for administrative costs under subsection (a)(1) of this section.

3 (ii) If Wicomico County authorizes a hotel rental tax rate of 5%, the
4 county shall distribute:

5 1. 20% of the revenue to the Salisbury Zoological Park; and

6 2. 20% of the revenue to the Tourism Center for Wicomico
7 County to be used for its operation and maintenance.

8 (iii) Wicomico County shall deposit all remaining revenues, after the
9 distributions under subsection (a)(1) of this section and subparagraphs (ii) and (iii) of
10 this paragraph in the general funds of Wicomico County to underwrite the Wicomico
11 County Convention and Visitors Bureau.

12 (4) (i) For purposes of this paragraph, actual administrative costs
13 mean costs incurred for wages, postage, and supplies.

14 (ii) Washington County:

15 1. Shall distribute 45% of the total hotel rental tax revenue
16 collected in the county to the general fund of Washington County to be used to fund
17 the Hagerstown/Washington County Convention and Visitors Bureau; and

18 2. Shall distribute the remaining balance after the
19 distribution under item 1 of this subparagraph to a special fund, to be used only to
20 cover actual administrative costs and legal fees incurred in administering the hotel
21 rental tax, develop tourism attractions, enhance economic development, and support
22 cultural and recreational projects in Washington County.

23 (iii) A municipal corporation in Washington County may apply to
24 the Board of County Commissioners of Washington County for funding from the
25 special fund established under subparagraph (ii)2 of this paragraph for an eligible
26 project within the municipal corporation.

27 (iv) Each year before adoption of its annual budget, the
28 Hagerstown/Washington County Convention and Visitors Bureau shall hold a public
29 hearing on the proposed annual budget.

30 (v) On or before September 1 of each year beginning in 2001:

31 1. The Board of County Commissioners of Washington
32 County shall report to the Washington County Senate and House Delegations of the
33 General Assembly on the hotel rental tax revenue collected and the use of the hotel
34 rental tax revenue for the preceding fiscal year; and

35 2. The Hagerstown/Washington County Convention and
36 Visitors Bureau shall report to the Washington County Senate and House Delegations

1 of the General Assembly on its use of the hotel rental tax revenue for the preceding
2 fiscal year.

3 (5) (I) FREDERICK COUNTY SHALL DISTRIBUTE THE HOTEL RENTAL
4 TAX REVENUE AS FOLLOWS:

5 1. FROM THE TOTAL REVENUE, A REASONABLE SUM FOR
6 HOTEL RENTAL TAX ADMINISTRATIVE COSTS TO THE GENERAL FUND OF THE
7 COUNTY; AND

8 2. THE REMAINING BALANCE TO THE TOURISM COUNCIL OF
9 FREDERICK COUNTY, INC., WITH A PORTION OF THE BALANCE DESIGNATED BY THE
10 COUNTY COMMISSIONERS TO BE USED FOR A TOURISM FACILITY.

11 (II) THE INTERNAL AUDITOR OF THE COUNTY SHALL CONDUCT AN
12 AUDIT OF THE FINANCIAL RECORDS OF THE TOURISM COUNCIL AND REPORT THE
13 FINDINGS TO THE COUNTY COMMISSIONERS.

14 (6) Dorchester County shall distribute:

15 (i) 80% of the revenues attributable to a hotel located in a
16 municipal corporation to that municipal corporation; and

17 (ii) The remaining revenues to the general fund of the county.

18 (7) Notwithstanding subsection (a)(2) of this section, if a code county in
19 the Western Maryland class imposes a tax rate greater than 5%, the revenue
20 attributable to the rate greater than 5% and attributable to a hotel located in a
21 municipal corporation shall be distributed to the general fund of the county instead of
22 to the municipal corporation.

23 (c) An authorized county shall make the distributions required under this
24 section between the 15th day and the 30th day of each calendar month.

25 9-321.

26 (a) If a hotel fails to pay the hotel rental tax as required by this subtitle, the
27 hotel shall pay interest on the unpaid tax from the date on which the hotel is required
28 to pay the tax to the date that the tax is paid.

29 (b) The interest rate for each month or fraction of a month is:

30 (1) For Cecil County, Talbot County, Washington County, Wicomico
31 County, and Dorchester County, 1%; and

32 (2) For any other authorized county, 0.5%.

1 9-322.

2 (a) If a hotel fails to pay the hotel rental tax to an authorized county, except
3 Talbot County or Wicomico County, within 1 month after the payment is due under §
4 9-311 of this subtitle, the hotel shall pay a tax penalty of 10% of the unpaid tax.

5 (b) If a hotel fails to pay the hotel rental tax to Talbot County or Wicomico
6 County within 120 days after the payment is due under § 9-311 of this subtitle, the
7 hotel shall pay a tax penalty of 10% of the unpaid tax.

8 9-323.

9 An authorized county may file a civil action to collect unpaid hotel rental tax.

10 9-324.

11 An authorized county may collect unpaid hotel rental tax by distraint.

12 9-325.

13 Unpaid hotel rental tax in a code county, Cecil County, Charles County,
14 Dorchester County, FREDERICK COUNTY, Somerset County, Talbot County,
15 Washington County, and Wicomico County is a lien against the real and personal
16 property of the person owing the tax and is collectible in the same manner as the
17 property tax may be collected under the Tax - Property Article.

18 9-326.

19 (a) (1) To protect hotel rental tax revenue, an authorized county may require
20 a hotel to file security with that county in an amount that the county determines.

21 (2) Cecil, Talbot, and Wicomico counties may require security under this
22 section only if a hotel has been in default.

23 (b) Security under this section shall be:

24 (1) A bond issued by a surety company that is:

25 (i) Authorized to do business in the State; and

26 (ii) Approved by the Insurance Commissioner as to solvency and
27 responsibility;

28 (2) Cash; or

29 (3) Securities approved by the county.

30 (c) If security is required under this section, the county shall give the hotel
31 notice of the amount of security.

1 (d) Within 5 days after a hotel receives notice that security is required, the
2 hotel shall:

3 (1) File the security; or

4 (2) Submit a written request for a hearing on the security requirement.

5 (e) (1) If a hearing is requested, the county shall hold a hearing to
6 determine the necessity, propriety, and amount of the security.

7 (2) The determination at the hearing is final, and the hotel shall comply
8 within 15 days after the hotel receives notice of the determination.

9 (f) Without notice to the hotel that files security under subsection (b)(2) or (3)
10 of this section, the county at any time may:

11 (1) Apply the cash to the hotel rental tax due; or

12 (2) Sell the security and apply the proceeds of the sale to the hotel rental
13 tax due.

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