

SENATE BILL 699

Unofficial Copy
Q8

2004 Regular Session
4lr2641
CF 4lr2640

By: **Senator Brinkley**

Introduced and read first time: February 6, 2004

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Frederick County - Excise Tax**

3 FOR the purpose of authorizing the Board of County Commissioners of Frederick
4 County to impose, by ordinance, an excise tax on certain instruments of writing;
5 limiting the rate of the excise tax; providing for an exemption from the excise
6 tax on certain transfers of unimproved property and transfers following the
7 payment of a certain school impact fee; authorizing the County Commissioners
8 to provide for certain exemptions from the excise tax; requiring the County
9 Commissioners to allow for the payment of the excise tax over a certain period of
10 years; requiring the revenues from the excise tax to be used for certain
11 purposes; prohibiting the County Commissioners from imposing a certain
12 building excise tax if the County Commissioners impose the excise tax; defining
13 certain terms; and generally relating to authorizing the County Commissioners
14 of Frederick County to impose an excise tax on certain instruments of writing.

15 BY adding to
16 Public Local Laws of Frederick County
17 Section 2-7-132
18 Article 11 - Public Local Laws of Maryland
19 (1979 Edition and April 2002 Supplement, as amended)

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

22 **Article 11 -Frederick County**

23 2-7-132.

24 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

26 (2) "ARTICLES OF TRANSFER" HAS THE MEANING STATED IN § 1-101(C)
27 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE OF THE ANNOTATED CODE OF
28 MARYLAND.

1 (3) (I) "INSTRUMENT OF WRITING" MEANS A WRITTEN INSTRUMENT
2 THAT CONVEYS TITLE TO, OR A LEASEHOLD INTEREST IN, REAL PROPERTY.

3 (II) "INSTRUMENT OF WRITING" INCLUDES:

4 1. A DEED OR CONTRACT;

5 2. A LEASE;

6 3. AN ASSIGNMENT OF A LESSEE'S INTEREST;

7 4. ARTICLES OF TRANSFER;

8 5. ARTICLES OF MERGER OR OTHER DOCUMENT WHICH
9 EVIDENCES A MERGER OF FOREIGN CORPORATIONS, FOREIGN LIMITED LIABILITY
10 COMPANIES, FOREIGN PARTNERSHIPS, OR FOREIGN LIMITED PARTNERSHIPS; AND

11 6. ARTICLES OF CONSOLIDATION OR OTHER DOCUMENT
12 WHICH EVIDENCES A CONSOLIDATION OF FOREIGN CORPORATIONS.

13 (III) "INSTRUMENT OF WRITING" DOES NOT INCLUDE:

14 1. A MORTGAGE, DEED OF TRUST, OR OTHER CONTRACT
15 THAT CREATES AN ENCUMBRANCE ON REAL PROPERTY; OR

16 2. A SECURITY AGREEMENT, AS DEFINED IN § 12-101(E) OF
17 THE TAX - PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

18 (4) "SUCCESSOR" HAS THE MEANING STATED IN § 1-101(U) OF THE
19 CORPORATIONS AND ASSOCIATIONS ARTICLE OF THE ANNOTATED CODE OF
20 MARYLAND.

21 (5) "ARTICLES OF MERGER" MEANS A DOCUMENT FILED WITH THE
22 STATE DEPARTMENT OF ASSESSMENTS AND TAXATION UNDER § 3-107, § 4A-703, §
23 9A-903, OR § 10-208 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE OF THE
24 ANNOTATED CODE OF MARYLAND THAT EVIDENCES A MERGER INVOLVING AT LEAST
25 ONE MARYLAND CORPORATION, MARYLAND LIMITED LIABILITY COMPANY,
26 MARYLAND PARTNERSHIP, OR MARYLAND LIMITED PARTNERSHIP.

27 (6) "ARTICLES OF CONSOLIDATION" MEANS A DOCUMENT FILED WITH
28 THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION UNDER § 3-107 OF THE
29 CORPORATIONS AND ASSOCIATIONS ARTICLE OF THE ANNOTATED CODE OF
30 MARYLAND THAT EVIDENCES A CONSOLIDATION OF AT LEAST ONE MARYLAND
31 CORPORATION WITH ANOTHER CORPORATION TO FORM A NEW MARYLAND
32 CORPORATION.

33 (7) "DOCUMENTS WHICH EVIDENCE THE MERGER OR CONSOLIDATION
34 OF FOREIGN CORPORATIONS, FOREIGN PARTNERSHIPS, FOREIGN LIMITED LIABILITY
35 COMPANIES, OR FOREIGN LIMITED PARTNERSHIPS" MEANS THOSE DOCUMENTS
36 THAT ARE FILED OR RECORDED WITH:

1 (I) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION
2 UNDER § 3-117, § 4A-1012, § 9A-910, OR § 10-912 OF THE CORPORATIONS AND
3 ASSOCIATIONS ARTICLE OF THE ANNOTATED CODE OF MARYLAND; OR

4 (II) THE CLERK OF THE CIRCUIT COURT OF THE COUNTY
5 EVIDENCING THAT TITLE TO REAL PROPERTY HAS BEEN CONVEYED THROUGH A
6 MERGER OR CONSOLIDATIONS OF TWO OR MORE FOREIGN CORPORATIONS, FOREIGN
7 LIMITED LIABILITY COMPANIES, FOREIGN LIMITED COMPANIES, OR FOREIGN
8 LIMITED PARTNERSHIPS.

9 (8) "SUBSIDIARY CORPORATION" INCLUDES ANY CORPORATION THAT IS
10 A SUBSIDIARY OF EITHER A PARENT CORPORATION OR ANY OTHER SUBSIDIARY
11 CORPORATION OF THE PARENT CORPORATION.

12 (B) THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MAY
13 IMPOSE, BY ORDINANCE, AN EXCISE TAX ON AN INSTRUMENT OF WRITING:

14 (1) RECORDED WITH THE CLERK OF THE CIRCUIT COURT; OR

15 (2) FILED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND
16 TAXATION.

17 (C) THE RATE OF THE EXCISE TAX IMPOSED UNDER THIS SECTION MAY NOT
18 EXCEED 1% OF THE CONSIDERATION PAYABLE FOR THE INSTRUMENT OF WRITING.
19 THE CONSIDERATION INCLUDES THE AMOUNT OF ANY MORTGAGE OR DEED OF
20 TRUST ASSUMED BY THE GRANTEE.

21 (D) (1) AN INSTRUMENT OF WRITING IS NOT SUBJECT TO THE EXCISE TAX
22 IF THE INSTRUMENT OF WRITING:

23 (I) TRANSFERS UNIMPROVED PROPERTY; OR

24 (II) IS THE FIRST TRANSFER OF THE PROPERTY AFTER THE
25 PAYMENT OF A SCHOOL IMPACT FEE TO FREDERICK COUNTY, SO LONG AS THIS FIRST
26 TRANSFER OCCURS WITHIN 2 YEARS OF THE PAYMENT OF THE SCHOOL IMPACT FEE
27 TO FREDERICK COUNTY.

28 (2) THE BOARD OF COUNTY COMMISSIONERS MAY PROVIDE FOR
29 ADDITIONAL EXEMPTIONS FROM THE EXCISE TAX.

30 (E) THE ORDINANCE IMPOSING THE EXCISE TAX SHALL ALLOW FOR THE
31 EXCISE TAX TO BE PAID OVER A PERIOD OF 5 YEARS.

32 (F) AN EXCISE TAX IMPOSED UNDER THIS SECTION SHALL BE COLLECTED
33 AND SECURED IN THE SAME MANNER AS GENERAL AD VALOREM TAXES UNLESS
34 OTHERWISE PROVIDED IN THE ORDINANCE AND SHALL BE SUBJECT TO THE SAME
35 PENALTIES AND PROCEDURES, SALE, AND LIEN PRIORITY IN CASE OF DELINQUENCY
36 AS IS PROVIDED FOR GENERAL AD VALOREM TAXES.

37 (G) REVENUES FROM THE EXCISE TAX SHALL BE USED AS FOLLOWS:

1 (1) EXCISE TAX REVENUES RECEIVED FROM AN INSTRUMENT OF
2 WRITING TRANSFERRING RESIDENTIAL PROPERTY SHALL BE USED FOR PUBLIC
3 SCHOOL CAPITAL IMPROVEMENTS AND AFFORDABLE HOUSING PURPOSES; AND

4 (2) EXCISE TAX REVENUES FROM AN INSTRUMENT OF WRITING
5 TRANSFERRING NONRESIDENTIAL PROPERTY SHALL BE USED FOR
6 TRANSPORTATION PURPOSES.

7 (H) IF THE COUNTY COMMISSIONERS IMPOSE AN EXCISE TAX UNDER THIS
8 SECTION, THE COUNTY COMMISSIONERS MAY NOT IMPOSE A BUILDING EXCISE TAX
9 AUTHORIZED UNDER § 2-7-131 OF THIS CHAPTER.

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