

SENATE BILL 699

Unofficial Copy  
Q8

2004 Regular Session  
4lr2641  
CF 4lr2640

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By: **Senator Brinkley**  
Introduced and read first time: February 6, 2004  
Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 30, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Frederick County - Excise Transfer Tax - Property Tax Assessment Cap**

3 FOR the purpose of authorizing the Board of County Commissioners of Frederick  
4 County to impose, by ordinance, ~~an excise a~~ transfer tax on certain instruments  
5 of writing; limiting the rate of the ~~excise~~ transfer tax; providing for an  
6 exemption from the excise tax on certain transfers of unimproved property and  
7 transfers following the payment of a certain school impact fee; authorizing the  
8 County Commissioners to provide for certain exemptions from the ~~excise~~  
9 transfer tax; ~~requiring~~ authorizing the County Commissioners to allow for the  
10 payment of the ~~excise~~ transfer tax over a certain period of years; requiring the  
11 revenues from the ~~excise~~ transfer tax to be used for certain purposes;  
12 ~~prohibiting the County Commissioners from imposing a certain building excise~~  
13 ~~tax if the County Commissioners impose the excise tax; providing that if the~~  
14 County Commissioners impose a certain transfer tax, the maximum amount of  
15 the homestead property tax credit percentage in Frederick County may not  
16 exceed a certain amount; defining certain terms; and generally relating to  
17 ~~authorizing the County Commissioners of Frederick County to impose an excise~~  
18 ~~tax on certain instruments of writing~~ certain taxes in Frederick County.

19 BY adding to  
20 Public Local Laws of Frederick County  
21 Section 2-7-132  
22 Article 11 - Public Local Laws of Maryland  
23 (1979 Edition and April 2002 Supplement, as amended)

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

1 **Article 11 -Frederick County**

2 2-7-132.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.5 (2) "ARTICLES OF TRANSFER" HAS THE MEANING STATED IN § 1-101(C)  
6 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE OF THE ANNOTATED CODE OF  
7 MARYLAND.8 (3) (I) "INSTRUMENT OF WRITING" MEANS A WRITTEN INSTRUMENT  
9 THAT CONVEYS TITLE TO, OR A LEASEHOLD INTEREST IN, REAL PROPERTY.

10 (II) "INSTRUMENT OF WRITING" INCLUDES:

11 1. A DEED OR CONTRACT;

12 2. A LEASE;

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

14 4. ARTICLES OF TRANSFER;

15 5. ARTICLES OF MERGER OR OTHER DOCUMENT WHICH  
16 EVIDENCES A MERGER OF FOREIGN CORPORATIONS, FOREIGN LIMITED LIABILITY  
17 COMPANIES, FOREIGN PARTNERSHIPS, OR FOREIGN LIMITED PARTNERSHIPS; AND18 6. ARTICLES OF CONSOLIDATION OR OTHER DOCUMENT  
19 WHICH EVIDENCES A CONSOLIDATION OF FOREIGN CORPORATIONS.

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

21 1. A MORTGAGE, DEED OF TRUST, OR OTHER CONTRACT  
22 THAT CREATES AN ENCUMBRANCE ON REAL PROPERTY; OR23 2. A SECURITY AGREEMENT, AS DEFINED IN § 12-101(E) OF  
24 THE TAX - PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.25 (4) "SUCCESSOR" HAS THE MEANING STATED IN § 1-101(U) OF THE  
26 CORPORATIONS AND ASSOCIATIONS ARTICLE OF THE ANNOTATED CODE OF  
27 MARYLAND.28 (5) "ARTICLES OF MERGER" MEANS A DOCUMENT FILED WITH THE  
29 STATE DEPARTMENT OF ASSESSMENTS AND TAXATION UNDER § 3-107, § 4A-703, §  
30 9A-903, OR § 10-208 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE OF THE  
31 ANNOTATED CODE OF MARYLAND THAT EVIDENCES A MERGER INVOLVING AT LEAST  
32 ONE MARYLAND CORPORATION, MARYLAND LIMITED LIABILITY COMPANY,  
33 MARYLAND PARTNERSHIP, OR MARYLAND LIMITED PARTNERSHIP.

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

7 (7) "DOCUMENTS WHICH EVIDENCE THE MERGER OR CONSOLIDATION  
8 OF FOREIGN CORPORATIONS, FOREIGN PARTNERSHIPS, FOREIGN LIMITED LIABILITY  
9 COMPANIES, OR FOREIGN LIMITED PARTNERSHIPS" MEANS THOSE DOCUMENTS  
10 THAT ARE FILED OR RECORDED WITH:

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

14 (II) THE CLERK OF THE CIRCUIT COURT OF THE COUNTY  
15 EVIDENCING THAT TITLE TO REAL PROPERTY HAS BEEN CONVEYED THROUGH A  
16 MERGER OR CONSOLIDATIONS OF TWO OR MORE FOREIGN CORPORATIONS, FOREIGN  
17 LIMITED LIABILITY COMPANIES, FOREIGN LIMITED COMPANIES, OR FOREIGN  
18 LIMITED PARTNERSHIPS.

19 (8) "SUBSIDIARY CORPORATION" INCLUDES ANY CORPORATION THAT IS  
20 A SUBSIDIARY OF EITHER A PARENT CORPORATION OR ANY OTHER SUBSIDIARY  
21 CORPORATION OF THE PARENT CORPORATION.

22 (B) THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MAY  
23 IMPOSE, BY ORDINANCE, ~~AN EXCISE~~ A TRANSFER TAX ON AN INSTRUMENT OF  
24 WRITING:

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

26 (2) FILED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND  
27 TAXATION.

28 (C) THE RATE OF THE ~~EXCISE~~ TRANSFER TAX IMPOSED UNDER THIS SECTION  
29 MAY NOT EXCEED 1% OF THE CONSIDERATION PAYABLE FOR THE INSTRUMENT OF  
30 WRITING. THE CONSIDERATION INCLUDES THE AMOUNT OF ANY MORTGAGE OR  
31 DEED OF TRUST ASSUMED BY THE GRANTEE.

32 (D) (1) AN INSTRUMENT OF WRITING IS NOT SUBJECT TO THE ~~EXCISE~~  
33 TRANSFER TAX IF THE INSTRUMENT OF WRITING:

34 (I) TRANSFERS UNIMPROVED PROPERTY; OR

35 (II) IS THE FIRST TRANSFER OF THE PROPERTY AFTER THE  
36 PAYMENT OF A SCHOOL IMPACT FEE TO FREDERICK COUNTY, SO LONG AS THIS FIRST  
37 TRANSFER OCCURS WITHIN 2 YEARS OF THE PAYMENT OF THE SCHOOL IMPACT FEE  
38 TO FREDERICK COUNTY.

1 (2) THE BOARD OF COUNTY COMMISSIONERS MAY PROVIDE FOR  
2 ADDITIONAL EXEMPTIONS FROM THE ~~EXCISE~~ TRANSFER TAX.

3 (E) THE ORDINANCE IMPOSING THE ~~EXCISE~~ TRANSFER TAX ~~SHALL~~ MAY  
4 ALLOW FOR THE ~~EXCISE~~ TRANSFER TAX TO BE PAID OVER A PERIOD OF 5 YEARS.

5 (F) ~~AN EXCISE~~ A TRANSFER TAX IMPOSED UNDER THIS SECTION SHALL BE  
6 COLLECTED AND SECURED IN THE SAME MANNER AS GENERAL AD VALOREM TAXES  
7 UNLESS OTHERWISE PROVIDED IN THE ORDINANCE AND SHALL BE SUBJECT TO THE  
8 SAME PENALTIES AND PROCEDURES, SALE, AND LIEN PRIORITY IN CASE OF  
9 DELINQUENCY AS IS PROVIDED FOR GENERAL AD VALOREM TAXES.

10 (G) REVENUES FROM THE ~~EXCISE~~ TRANSFER TAX SHALL BE USED AS  
11 FOLLOWS:

12 (1) ~~EXCISE~~ TRANSFER TAX REVENUES RECEIVED FROM AN  
13 INSTRUMENT OF WRITING TRANSFERRING RESIDENTIAL PROPERTY SHALL BE USED  
14 FOR PUBLIC SCHOOL CAPITAL IMPROVEMENTS AND AFFORDABLE HOUSING  
15 PURPOSES; AND

16 (2) ~~EXCISE~~ TRANSFER TAX REVENUES FROM AN INSTRUMENT OF  
17 WRITING TRANSFERRING NONRESIDENTIAL PROPERTY SHALL BE USED FOR  
18 TRANSPORTATION PURPOSES.

19 (H) NOTWITHSTANDING § 9-105(E)(5) OF THE TAX - PROPERTY ARTICLE, IF THE  
20 COUNTY COMMISSIONERS IMPOSE AN EXCISE A TRANSFER TAX UNDER THIS  
21 SECTION, THE COUNTY COMMISSIONERS MAY NOT IMPOSE A BUILDING EXCISE TAX  
22 AUTHORIZED UNDER § 2-7-131 OF THIS CHAPTER THE HOMESTEAD CREDIT  
23 PERCENTAGE FOR THE FREDERICK COUNTY PROPERTY TAX UNDER § 9-105 OF THE  
24 TAX - PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND MAY NOT  
25 EXCEED 105% FOR ANY TAXABLE YEAR.

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