

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 699

(Senator Brinkley)

Budget and Taxation

Ways and Means

Frederick County - Transfer Tax - Property Tax Assessment Cap

This bill authorizes the Frederick County Commissioners to impose a maximum 1% transfer tax on the transfer of real property within the county to finance public school capital improvements, affordable housing, and transportation projects. The county may allow an individual or business to pay the transfer tax over a five-year period. If the county commissioners impose the proposed transfer tax, the Homestead credit percentage for the county may not exceed 5%.

The bill takes effect July 1, 2004.

Fiscal Summary

State Effect: None.

Local Effect: Frederick County revenue could increase by \$9.9 million in FY 2005 and by \$2.9 million in FY 2010. If Frederick County allows individuals and businesses to pay the transfer tax over a five-year period, county revenues would decrease in FY 2005 through 2009. In FY 2010, the county would realize an \$803,000 increase in revenues. County expenditures would not be affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: The Frederick County Commissioners may impose a maximum 1% transfer tax on the transfer of real property in the county. The transfer tax cannot be imposed on the transfer of unimproved property or on the first transfer of improved property which transfers within two years of the payment of the school impact fee. The

county commissioners may provide for additional exemptions from the transfer tax. The county may allow an individual or business to pay the transfer tax over a five-year period.

Transfer tax revenues received from the transfer of residential property must be used for public school capital improvements or affordable housing purposes, and revenues from the transfer of nonresidential property must be used for transportation purposes. If the county commissioners impose the proposed transfer tax, the Homestead credit percentage for the county may not exceed 5%.

Current Law: Section 1-22-11 of the Public Local Laws of Frederick County enables the county commissioners to impose a public school development impact fee and Section 1-22-21 authorizes a library development impact fee. Section 2-7-131 of the Public Local Laws of Frederick County enables the county commissioners to impose a building excise tax for financing public road facilities.

Background: Frederick County imposes impact fees for school construction and library development and a building excise tax for roads and bridges which generate approximately \$10 million in revenue. The authority to impose impact fees was provided by Chapter 468 of 1990 and the authority to impose an excise tax was provided by Chapter 690 of 2001. **Exhibit 1** shows the amount of the impact fee for each type of housing and **Exhibit 2** shows the revenue attainment in fiscal 2001 through 2003.

Exhibit 1
Amount of School and Library Impact Fees

<u>Housing Type</u>	<u>Schools</u>	<u>Library</u>	<u>Total</u>
Single Family Detached	\$9,129	\$487	\$9,616
Townhouses/Duplex	6,193	455	6,648
Other Residential	1,724	306	2,030

Exhibit 2
Revenues from School and Library Impact Fees

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2003</u>
Schools	\$11,507,003	\$9,473,661	\$8,219,227
Library	<u>282,356</u>	<u>761,647</u>	<u>548,805</u>
Total	\$11,789,359	\$10,235,308	\$8,768,032

The building excise tax for residential construction is established at \$0.00 for the first 700 square feet; \$0.10 per gross square foot for the second 700 square feet; and \$0.25 per square foot over 1,400 square feet. The nonresidential rate is \$0.80 per gross square foot. The current building excise tax generates approximately \$1.3 million annually.

Homestead Tax Credit Program

The Homestead Tax Credit Program (assessment caps) provides tax credits against State, county, and municipal corporation real property taxes for owner-occupied residential properties for the amount of real property taxes resulting from an annual assessment increase that exceeds a certain percentage or “cap” in any given year. The State requires the cap on assessment increases to be set at 10% for State property tax purposes; however, local governments have the authority to lower the rate. In fiscal 2004, 10 of the 24 local jurisdictions have assessment caps below 10%. Jurisdictions with assessment caps below 10% include Baltimore City and Anne Arundel, Baltimore, Charles, Garrett, Howard, Kent, Prince George’s, and St. Mary’s counties, with Talbot County imposing a 0% cap.

The Homestead Tax Credit Program has significantly reduced local property tax revenues in recent years. The statewide revenue loss is estimated at \$75.5 million in fiscal 2004 and \$172.7 million in fiscal 2005. The revenue loss is compounded by jurisdictions setting an assessment cap below 10%. The statewide revenue loss associated with an assessment cap below 10% is estimated at \$34 million in fiscal 2004 and \$57 million in fiscal 2005.

Local Fiscal Effect: Real property transfers in Frederick County totaled \$1.6 billion in fiscal 2003. Assuming moderate growth in real estate transactions and housing costs, real property transfers could total approximately \$2 billion by fiscal 2010. Assuming 30% of real property transfers would be exempt from the transfer tax and the county commissioners impose the maximum 1% transfer tax; county revenues could increase by \$12.2 million on an annualized basis.

However, since the bill requires the county to lower its Homestead credit (assessment cap) to 5% upon imposing the transfer tax, county revenues could actually decrease. According to the State Department of Assessments and Taxation (SDAT), reducing the assessment cap in Frederick County from 10% to 5% would result in a \$2.3 million revenue loss in fiscal 2005 and a \$4.7 million revenue loss in fiscal 2006. Beginning in fiscal 2007, the annual revenue loss would increase by \$2 million each year.

Exhibit 3 shows the projected revenue impact from the new transfer tax and the reduction in the Homestead credit percentage. If Frederick County allows individuals and businesses to pay the transfer tax over a five-year period, county revenues would

decrease in fiscal 2005 through 2009. In fiscal 2010, the county would realize an \$803,000 increase in net revenues. If Frederick County requires full payment at the time of the property transaction, county revenues could increase by \$9.9 million in fiscal 2005. However, the net revenue increase declines each year due to the property tax revenue loss from the lower homestead credit percentage. By fiscal 2010, the net county revenue increase would total only \$2.9 million.

Exhibit 3
Projected Increase in Frederick County Revenues
Fiscal 2005 - 2010

Option 1 - Payment of Transfer Tax Over a Five-Year Period

	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
New Transfer Tax	\$0	\$2,444,000	\$5,010,000	\$7,704,000	\$10,533,000	\$13,503,000
Homestead Cap	-2,300,000	-4,700,000	-6,700,000	-8,700,000	-10,700,000	-12,700,000
Net Increase	-\$2,300,000	-\$2,256,000	-\$1,690,000	-\$996,000	-\$167,000	\$803,000

Option 2 - No Deferral of Transfer Tax Payment

	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
New Transfer Tax	\$12,218,000	\$12,829,000	\$13,470,000	\$14,144,000	\$14,851,000	\$15,594,000
Homestead Cap	-2,300,000	-4,700,000	-6,700,000	-8,700,000	-10,700,000	-12,700,000
Net Increase	\$9,918,000	\$8,129,000	\$6,770,000	\$5,444,000	\$4,151,000	\$2,894,000

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Judiciary (Administrative Office of the Courts), Frederick County, Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2004
mh/mdr Revised - Senate Third Reader - April 9, 2004

Analysis by: Hiram L. Burch Jr.

Direct Inquiries to:
(410) 946-5510
(301) 970-5510