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**By: Frederick County Delegation**

Introduced and read first time: February 15, 2005

Assigned to: Rules and Executive Nominations

Re-referred to: Ways and Means, March 21, 2005

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 30, 2005

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Frederick County - Building Excise Tax - Road Projects**

3 FOR the purpose of ~~altering a certain exemption from a building excise tax in~~  
 4 ~~Frederick County on certain road construction under certain conditions;~~  
 5 ~~specifying fees that would qualify for the exemption;~~ prohibiting the Frederick  
 6 County Commissioners from expending certain funds for a road project on a  
 7 State highway unless the County Commissioners act aggressively to obtain  
 8 State funds or other grants for the same project; and generally relating to  
 9 revenues from the building excise tax in Frederick County.

10 BY repealing and reenacting, with amendments,  
 11 The Public Local Laws of Frederick County  
 12 Section 2-7-131(D)  
 13 Article 11 - Public Local Laws of Maryland  
 14 (2004 Edition, as amended)

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

17 **Article 11 - Frederick County**

18 2-7-131.

19 (A) ~~Subject to subsection (B) of this section, the County Commissioners of~~  
 20 ~~Frederick County, by ordinance, may fix, impose, and collect a building excise tax.~~

1 (B) (1) If the county commissioners imposed a building excise tax, the county  
 2 commissioners may not also impose an impact fee for financing the capital costs of  
 3 additional or expanded roads under the authority granted in Article 25, § 9(J) of the  
 4 Code.

5 (2) (1) ~~[(F) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, IF~~  
 6 ~~a municipal corporation has imposed OR COLLECTED a tax OR FEE on construction~~  
 7 ~~specifically devoted and limited by law OR BY AGREEMENT to use for capital projects~~  
 8 ~~for additional or expanded public road facilities THAT MAY INCLUDE UTILITIES AND~~  
 9 ~~OTHER IMPROVEMENTS CUSTOMARILY CONSTRUCTED WITH ROAD PROJECTS, the~~  
 10 ~~county commissioners may not impose or collect a building excise tax on the same~~  
 11 ~~construction within the municipal corporation.~~

12 (H) FEES QUALIFYING FOR THE BUILDING EXCISE TAX EXEMPTION  
 13 UNDER THIS PARAGRAPH INCLUDE FEES IMPOSED OR PAID UNDER AN AGREEMENT  
 14 IN SATISFACTION OF THE PROPERTY OWNER'S OBLIGATIONS WITH REGARD TO SUCH  
 15 MATTERS AS SPECIAL ASSESSMENT FEES, IMPACT FEES, AND ADEQUATE PUBLIC  
 16 FACILITIES REQUIREMENTS.

17 (III) IF THE TAX OR FEE IMPOSED OR COLLECTED IS LESS THAN  
 18 WHAT THE BUILDING EXCISE TAX WOULD HAVE BEEN ON THE CONSTRUCTION, THE  
 19 PROPERTY OWNER SHALL PAY THE DIFFERENCE TO THE COUNTY.

20 (C) (1) Except as otherwise provided in this subsection, the county  
 21 commissioners shall specify in the ordinance the type of construction subject to the  
 22 building excise tax.

23 (2) Construction intended to be actively used for farm or agricultural use  
 24 may not be subject to a building excise tax under this section so long as the  
 25 construction continues to be actively used for farm or agricultural use.

26 (3) Residential construction may not be subject to a building excise tax  
 27 under this section if:

28 (1) The construction is for a single family residential building  
 29 existing on July 1, 2001; and

30 (H) The construction increases the square footage of the building by  
 31 less than 100% of the already permitted square footage.

32 (4) The county commissioners may establish:

33 (1) Criteria to determine if construction qualifies for an exemption  
 34 under this section; and

35 (H) Additional building excise tax exemptions with appropriate  
 36 criteria.

37 (D) (1) The county director of finance shall deposit the revenues from the  
 38 building excise tax in an account called the "Development Road Improvement Fund."

1           (2)     Subject to paragraphs (3) and (4) of this subsection, the revenues  
2 from the building excise tax in the development road improvement fund shall be used  
3 only to pay for capital projects or indebtedness incurred for capital projects for  
4 additional or expanded public road facilities, including bridges, intersection  
5 improvements, and new road construction and road improvement.

6           (3)     Before the county commissioners may expend funds from the  
7 development road improvement fund, the county commissioners must match at least  
8 the same amount of funds for capital projects for additional or expanded public road  
9 facilities.

10          (4)     Before the county commissioners may expend funds from the  
11 development road improvement fund for a road project on a state highway, as defined  
12 in § 8-101 of the Transportation Article, the [state must match at least the same  
13 amount of funds for a capital project for additional or expanded public road facilities  
14 on the same road project on the state highway that is within Frederick County.]  
15 COUNTY COMMISSIONERS MUST ACT AGGRESSIVELY TO OBTAIN STATE FUNDS OR  
16 OTHER GRANTS BEFORE LOCAL MONEY IS USED EXCLUSIVELY FOR THE SAME  
17 PROJECT.

18     ~~(E)     A municipal corporation shall assist the county commissioners in the  
19 collection of the building excise tax within the municipal corporation by:~~

20           ~~(1)     Collecting and remitting the tax to the county; or~~

21           ~~(2)     Requiring the tax to be paid to the county commissioners in  
22 accordance with a county ordinance.~~

23     ~~(F)     The county commissioners, in consultation with the Frederick County  
24 Director of Finance:~~

25           ~~(1)     Shall conduct a comprehensive study of the impact of the building  
26 excise tax on the economy of Frederick County; and~~

27           ~~(2)     On or before January 1, 2006, shall submit the results of the study  
28 and recommendations to the Frederick County Senators and Delegates.~~

29     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 July 1, 2005.