

Chapter 744

(House Bill 1409)

AN ACT concerning

Howard County – School Facilities Surcharge – Rates

Ho. Co. 03–19

FOR the purpose of altering the amount of the school facilities surcharge in Howard County for certain types of residential new construction; prohibiting the County Council of Howard County from imposing a school facilities surcharge on a certain type of residential new construction; authorizing the County Council to enact a local law providing for an annual adjustment of the amount of the school facilities surcharge in a certain manner; prohibiting the County Council from imposing a school facilities surcharge on certain types of residential new construction of less than a certain amount; requiring the County Council to consider certain issues before enacting a certain local law; requiring the County Executive of Howard County to submit a certain report to certain persons each year including certain information under certain circumstances; and generally relating to the school facilities surcharge in Howard County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Howard County
Section 20.142
Article 14 – Public Local Laws of Maryland
(1977 Edition and August 2008 Supplement, as amended)

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

Article 14 – Howard County

20.142.

(a) (1) In this section the following words have the meanings indicated.

(2) “Applicant” means the individual, partnership, corporation, or other legal entity whose signature appears on the building permit application.

(3) (i) “Building” means a structure with exterior walls which combine to form an occupiable structure.

(ii) “Building” does not include a temporary structure, as defined in the Howard County Building Code.

(4) (i) “New construction” means construction of a building which requires a Howard County building permit.

(ii) “New construction” does not include, if the building replaces an existing building, replacement of a building due to casualty or loss within 3 years of that casualty or loss, or replacement of a mobile home on a site, except to the extent the gross square footage of the replacement building or replacement mobile home exceeds the gross square footage of the building or mobile home being replaced.

(5) “Occupiable” means space that is:

(i) Designed for human occupancy in which individuals may live, work, or congregate for amusement; and

(ii) Equipped with means of egress, light, and ventilation.

(6) (i) “Residential” means a building that contains one or more dwelling units and includes a boarding house.

(ii) “Residential” includes all areas that are contained within a residential building, including an attached garage or area for home occupations.

(iii) “Residential” does not include:

1. Transient accommodations, including a hotel, country inn, or bed and breakfast inn;

2. Nonresidential uses in a mixed–use structure; or

3. Detached accessory buildings, including a detached garage or shed that does not contain living quarters.

(b) The County Council by ordinance shall impose a school facilities surcharge on residential new construction for which a building permit is issued on or after July 1, 2004.

(c) (1) **(I) [For] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR fiscal year [2005] 2020 AND EACH SUCCEEDING FISCAL YEAR, a school facilities surcharge imposed on residential new construction shall be in [the] AN amount [of \$1.00 per square foot of occupiable area in the residential new construction]:**

1. EQUAL TO OR GREATER THAN THE AMOUNT IMPOSED BY THE COUNTY COUNCIL ON JUNE 30, 2019, PER SQUARE FOOT OF OCCUPIABLE AREA IN THE RESIDENTIAL NEW CONSTRUCTION; AND

2. EQUAL TO THE AMOUNT IMPOSED BY THE COUNTY COUNCIL ON JUNE 30, 2019, PER SQUARE FOOT OF OCCUPIABLE AREA IN THE RESIDENTIAL NEW CONSTRUCTION THAT IS CLASSIFIED AS SENIOR HOUSING UNDER 42 U.S.C. § 3607(B).

(II) THE COUNTY COUNCIL MAY NOT IMPOSE A SCHOOL FACILITIES SURCHARGE ON RESIDENTIAL NEW CONSTRUCTION THAT IS CLASSIFIED AS SENIOR HOUSING AND AN AFFORDABLE HOUSING UNIT, AS DEFINED IN § 28.116 OF THE COUNTY CODE.

[(2) For fiscal year 2006 and each succeeding fiscal year, the facilities surcharge established in paragraph (1) of this subsection shall be adjusted for inflation in accordance with the Consumer Price Index for All Urban Consumers published by the United States Department of Labor, for the fiscal year preceding the year for which the amount is being calculated.]

(2) THE COUNTY COUNCIL MAY ENACT A LOCAL LAW THAT PROVIDES FOR AN ANNUAL ADJUSTMENT IN THE AMOUNT OF THE SCHOOL FACILITIES SURCHARGE UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION IN THE FOLLOWING MANNER:

(I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN INCREASE OR DECREASE IN THE AMOUNT OF THE SCHOOL FACILITIES SURCHARGE UNDER PARAGRAPH (1)(I)1 OF THIS SUBSECTION;

(II) A DECREASE IN THE AMOUNT OF THE SCHOOL FACILITIES SURCHARGE UNDER PARAGRAPH (1)(I)2 OF THIS SUBSECTION; OR

(III) ESTABLISHMENT OF A GRANDFATHERING PROCESS FOR RESIDENTIAL NEW CONSTRUCTION BASED ON THE STATUS IN THE DEVELOPMENT PROCESS.

(3) THE COUNTY COUNCIL MAY NOT IMPOSE A SCHOOL FACILITIES SURCHARGE ON RESIDENTIAL NEW CONSTRUCTION UNDER PARAGRAPH (1)(I)1 OF THIS SUBSECTION IN AN AMOUNT THAT IS LESS THAN THE AMOUNT IMPOSED BY THE COUNTY COUNCIL ON JUNE 30, 2019.

(4) BEFORE ENACTING A LOCAL LAW TO ADJUST THE AMOUNT OF THE SCHOOL FACILITIES SURCHARGE UNDER THIS SUBSECTION, THE COUNTY COUNCIL SHALL CONSIDER THE FOLLOWING ISSUES WHEN DETERMINING THE AMOUNT:

(I) THE CAPITAL COSTS FOR THE CONSTRUCTION OF NEW PUBLIC SCHOOLS AND ADDITIONS TO EXISTING PUBLIC SCHOOLS;

(II) THE ANTICIPATED AMOUNT OF THE STATE CONTRIBUTION FOR SCHOOL CONSTRUCTION FUNDING;

(III) THE AVERAGE PERCENTAGE OF STUDENT ENROLLMENTS THAT WILL BE GENERATED BY THE RESIDENTIAL NEW CONSTRUCTION;

(IV) THE IMPACT OF SCHOOL REDISTRICTING BY THE HOWARD COUNTY BOARD OF EDUCATION;

(V) THE POTENTIAL FOR CHARGING DIFFERENT AMOUNTS FOR DIFFERENTLY SIZED RESIDENTIAL NEW CONSTRUCTION UNITS;

(VI) THE EFFECT ON AFFORDABLE HOUSING UNITS; AND

(VII) SOURCES OF TAX AND FEE REVENUE FOR THE COUNTY, INCLUDING THE TRANSFER TAX.

(d) (1) The school facilities surcharge shall be paid by the applicant at the time a building permit is issued for the residential new construction.

(2) The school facilities surcharge may not be construed to be a settlement cost.

(e) (1) The county shall rebate to the applicant the school facilities surcharge imposed on residential new construction under this section if, on the initial sale of the property, the property is sold for a fair market value that is less than \$200,000.

(2) If, on completion, the residential new construction is not sold but the property is occupied by the applicant or the immediate family of the applicant, the county shall rebate to the applicant the school facilities surcharge imposed under this section if the initial assessment value assigned to the property by the State Department of Assessments and Taxation for purposes of the county real property tax equates to a market value that is less than \$200,000.

(3) For fiscal year 2006 and each succeeding fiscal year, the value of the property that is entitled to a rebate under this subsection shall be adjusted for inflation in accordance with the Consumer Price Index for All Urban Consumers published by the United States Department of Labor, for the fiscal year preceding the year for which the value is being calculated.

(4) Within 30 days after the start of each fiscal year, the Howard County Office of Finance shall calculate and publish in a newspaper of general circulation in the county the value of the property that is entitled to the rebate specified under this subsection.

(f) Payment of the school facilities surcharge does not eliminate any authority to apply any test concerning the adequacy of school facilities under the county’s adequate public school facility ordinance.

(g) Revenue collected under the school facilities surcharge shall be deposited in a separate account and may only be used to pay for:

(1) Additional or expanded public school facilities such as renovations to existing school buildings or other systemic changes; or

(2) Debt service on bonds issued for additional or expanded public school facilities or new school construction.

(h) Revenue collected under the school facilities surcharge is intended to supplement funding for public school facilities and may not supplant other county or State funding for school construction.

(i) **(1)** The County Executive of Howard County shall prepare an annual report on the school facilities surcharge on or before August 31 of each year for the County Council of Howard County, the Howard County Senate Delegation, and the Howard County House Delegation, to include:

(I) DETAILED INFORMATION REGARDING THE SCHOOL FACILITIES SURCHARGE, AND THE AMOUNT AND KIND OF RESIDENTIAL DEVELOPMENT AND THE CHANGE IN SCHOOL POPULATION IN THE COUNTY OVER THE PREVIOUS 5 YEARS;

[(1)] (II) A detailed description of how fees were expended; **[and]**

[(2)] (III) The amount of fees collected; **AND**

(IV) RECOMMENDATIONS REGARDING HOW THE COUNTY SHOULD PROCEED IN ITS CALCULATION OF THE SCHOOL FACILITIES SURCHARGE FOR THE NEXT 5 YEARS.

(K) IN A YEAR THAT THE COUNTY COUNCIL ENACTS A LOCAL LAW TO PROVIDE FOR AN ANNUAL INCREASE IN THE SCHOOL FACILITIES SURCHARGE IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION, THE COUNTY EXECUTIVE SHALL INCLUDE IN THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION A DESCRIPTION OF THE COUNTY COUNCIL’S CONSIDERATION OF THE ISSUES UNDER SUBSECTION (C)(4) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 25, 2019.