

HOUSE BILL 1409

L2

9lr0511

By: **Howard County Delegation**

Introduced and read first time: March 1, 2019

Assigned to: Rules and Executive Nominations

Re-referred to: Appropriations, March 11, 2019

Committee Report: Favorable

House action: Adopted

Read second time: March 25, 2019

CHAPTER _____

1 AN ACT concerning

2 **Howard County – School Facilities Surcharge – Rates**

3 **Ho. Co. 03–19**

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

16 BY repealing and reenacting, with amendments,
17 The Public Local Laws of Howard County
18 Section 20.142
19 Article 14 – Public Local Laws of Maryland
20 (1977 Edition and August 2008 Supplement, as amended)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 That the Laws of Maryland read as follows:

2 **Article 14 – Howard County**

3 20.142.

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

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

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

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

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

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

18 (5) “Occupiable” means space that is:

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

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

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

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

26 (iii) “Residential” does not include:

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

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

30 3. Detached accessory buildings, including a detached garage

1 or shed that does not contain living quarters.

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

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

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

11 **2. EQUAL TO THE AMOUNT IMPOSED BY THE COUNTY**
12 **COUNCIL ON JUNE 30, 2019, PER SQUARE FOOT OF OCCUPIABLE AREA IN THE**
13 **RESIDENTIAL NEW CONSTRUCTION THAT IS CLASSIFIED AS SENIOR HOUSING UNDER**
14 **42 U.S.C. § 3607(B).**

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **(VI) THE EFFECT ON AFFORDABLE HOUSING UNITS; AND**

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

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

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

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

31 (2) If, on completion, the residential new construction is not sold but the

1 property is occupied by the applicant or the immediate family of the applicant, the county
2 shall rebate to the applicant the school facilities surcharge imposed under this section if
3 the initial assessment value assigned to the property by the State Department of
4 Assessments and Taxation for purposes of the county real property tax equates to a market
5 value that is less than \$200,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
12 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.