

Bill No.: \_\_\_\_\_

Requested: \_\_\_\_\_

Committee: \_\_\_\_\_

Drafted by: Carter

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Stored - 10/26/18

Proofread by \_\_\_\_\_

Checked by \_\_\_\_\_

By: Delegate Atterbeary

A BILL ENTITLED

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~~  
5 ~~County; authorizing the County Council of Howard County to enact a local law~~  
6 ~~providing for the annual alteration of the amount of the school facilities surcharge~~  
7 ~~based on a certain calculation; requiring the school facilities surcharge to be used~~  
8 ~~only for the benefit of schools within whose attendance area certain residential~~  
9 ~~construction is located; requiring the County Executive of Howard County to submit~~  
10 ~~a certain report to certain persons at a certain time; defining a certain term; and~~  
11 ~~generally relating to the school facilities surcharge in Howard County.~~

[ Insert here.]

12 BY repealing and reenacting, with amendments,  
13 The Public Local Laws of Howard County  
14 Section 20.142  
15 Article 14 - Public Local Laws of Maryland  
16 (1977 Edition and August 2008 Supplement, as amended)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



**LR 511 – Insert for backings**

[Insert on page 1, after line 11]

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.

[Insert on page 3, after line 14:]

**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.**

[Insert on page 3, after line 26:]

**(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.

[Insert on page 5, in line 20 at end of stricken language:]

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.

1 Article 14 – Howard County

2 20.142.

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

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

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

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

10 ~~(4) “MARYLAND SCHOOL CONSTRUCTION COST INDEX” MEANS THE~~  
11 ~~STATEWIDE SCHOOL BUILDING AND SITE DEVELOPMENT COST AS ESTABLISHED AND~~  
12 ~~ADJUSTED ANNUALLY BY THE MARYLAND INTERAGENCY COMMISSION ON SCHOOL~~  
13 ~~CONSTRUCTION, EXPRESSED IN AN AMOUNT PER SQUARE FOOT.~~

14 ~~{(4)}{(5)}~~ (i) “New construction” means construction of a building  
15 which requires a Howard County building permit.

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

21 ~~{(5)}{(6)}~~ “Occupiable” means space that is:

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

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

25 ~~{(6)}{(7)}~~ (i) “Residential” means a building that contains one or more  
26 dwelling units and includes a boarding house.

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

3 (iii) "Residential" does not include:

- 4 1. Transient accommodations, including a hotel, country inn,  
5 or bed and breakfast inn;
- 6 2. Nonresidential uses in a mixed-use structure; or
- 7 3. Detached accessory buildings, including a detached garage  
8 or shed that does not contain living quarters.

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

11 (c) (1) ~~(I)~~ [For] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR**  
12 **fiscal year [2005] 2020 AND EACH SUCCEEDING FISCAL YEAR, a school facilities**  
13 **surcharge imposed on residential new construction shall be in [the] amount of [~~\$1.00~~ ~~\$4.00~~**  
14 **per square foot of occupiable area in the residential new construction.** AN

[ Insert here ]

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

ADJUSTMENT AMOUNT OF THE

UNDER PARAGRAPH  
(1)(I) OF THIS  
SUBSECTION IN  
THE  
FOLLOWING  
MANNER:

20 (2) **THE COUNTY COUNCIL MAY ENACT A LOCAL LAW THAT PROVIDES**  
21 **FOR AN ANNUAL INCREASE IN THE SCHOOL FACILITIES SURCHARGE IN AN AMOUNT**  
22 **CALCULATED BY MULTIPLYING THE SCHOOL CONSTRUCTION FEE OF THE PREVIOUS**  
23 **YEAR BY A PERCENTAGE EQUAL TO THE CHANGE IN THE MARYLAND SCHOOL**  
24 **CONSTRUCTION COST INDEX FROM THE PREVIOUS YEAR TO THE CURRENT YEAR**  
25 **PLUS 2%, PROVIDED THAT THE FEE INCREASE IN A SINGLE YEAR MAY NOT EXCEED**  
26 ~~6%.~~

[ Insert here ]

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

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

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

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

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

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

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

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

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

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

1 (h) ~~THE SCHOOL FACILITIES SURCHARGE FOR EACH RESIDENTIAL~~  
2 ~~CONSTRUCTION SHALL BE USED ONLY TO BENEFIT PROJECTS OR DEBT SERVICE ON~~  
3 ~~BONDS FOR SCHOOL FACILITIES OR SCHOOL CONSTRUCTION FOR SCHOOLS WITHIN~~  
4 ~~WHOSE ATTENDANCE AREAS THE RESIDENTIAL CONSTRUCTION IS LOCATED.~~

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

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

12 (I)  
13 [(1)] (ii) A detailed description of how fees were expended; [and]

14 [(2)] ~~(iii)~~ The amount of fees collected. ; AND

IN A YEAR  
THAT

15 (K) ~~IF THE COUNTY COUNCIL ENACTS A LOCAL LAW TO PROVIDE FOR AN~~  
16 ~~ANNUAL INCREASE IN THE SCHOOL FACILITIES SURCHARGE IN ACCORDANCE WITH~~  
17 ~~SUBSECTION (C)(2) OF THIS SECTION, THE COUNTY EXECUTIVE SHALL PREPARE A~~  
18 ~~REPORT ON OR BEFORE AUGUST 31 OF THE FIFTH YEAR FOLLOWING~~  
19 ~~IMPLEMENTATION OF THE ANNUAL INCREASE, FOR THE COUNTY COUNCIL OF~~  
20 ~~HOWARD COUNTY, THE HOWARD COUNTY SENATORS, AND THE HOWARD COUNTY~~  
~~HOUSE DELEGATION. TO INCLUDE: [Insert here]~~

21 ~~(1)~~ DETAILED INFORMATION REGARDING THE SCHOOL FACILITIES  
22 SURCHARGE, AND THE AMOUNT AND KIND OF RESIDENTIAL DEVELOPMENT AND THE  
23 CHANGE IN SCHOOL POPULATION IN THE COUNTY OVER THE PREVIOUS 5 YEARS;  
24 AND

25 ~~(2)~~ RECOMMENDATIONS REGARDING HOW THE COUNTY SHOULD  
26 PROCEED IN ITS CALCULATION OF THE SCHOOL FACILITIES SURCHARGE FOR THE  
27 NEXT 5 YEARS.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
29 1, 2019.