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By: **Prince George's County Delegation and Montgomery County  
Delegation**

Introduced and read first time: February 6, 2002  
Assigned to: Commerce and Government Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 21, 2002

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CHAPTER 389

1 AN ACT concerning

2 **Prince George's County - Development Rights and Responsibilities**  
3 **Agreements**  
4 **PG/MC 113-02**

5 FOR the purpose of authorizing Prince George's County to enter into and amend  
6 development rights and responsibilities agreements for advancing school  
7 capacity; authorizing the District Council to establish procedures and  
8 requirements for the consideration and execution of agreements and to approve  
9 agreements negotiated by the County Executive; authorizing the County  
10 Executive to negotiate and execute agreements for certain real property with  
11 certain persons and to include certain government units as an additional party  
12 to an agreement; ~~requiring~~ allowing a developer to petition the County  
13 Executive requesting that an agreement be executed; providing for the effect of  
14 agreements; prohibiting the County Executive from entering into an agreement  
15 under certain circumstances; requiring that agreements include certain  
16 provisions; allowing inclusion of additional provisions; requiring that any  
17 extension be approved by the District Council; establishing that certain laws,  
18 rules, regulations, and policies govern agreements under certain circumstances;  
19 authorizing certain persons to amend or terminate agreements under certain  
20 circumstances; providing for the effect of recording of an agreement under  
21 certain circumstances; establishing the rights of parties to enforce an  
22 agreement; defining certain terms; providing that this Act is self-executing; and  
23 generally relating to development rights and responsibilities agreements in  
24 Prince George's County.

25 BY adding to

1 Article 28 - Maryland-National Capital Park and Planning Commission  
2 Section 7-121.1  
3 Annotated Code of Maryland  
4 (1997 Replacement Volume and 2001 Supplement)

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

7 **Article 28 - Maryland-National Capital Park and Planning Commission**

8 7-121.1.

9 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
10 INDICATED.

11 (1) "DEVELOPER" MEANS A PERSON HAVING A LEGAL OR EQUITABLE  
12 INTEREST IN REAL PROPERTY LOCATED IN PRINCE GEORGE'S COUNTY.

13 (2) "DEVELOPMENT" MEANS ANY ACTIVITY, OTHER THAN NORMAL  
14 AGRICULTURAL ACTIVITY, WHICH MATERIALLY AFFECTS THE EXISTING CONDITION  
15 OR USE OF ANY LAND OR STRUCTURE.

16 (3) "DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT" OR  
17 "AGREEMENT" MEANS AN AGREEMENT, NEGOTIATED AND EXECUTED BY THE  
18 COUNTY EXECUTIVE OR THE COUNTY EXECUTIVE'S DESIGNEE, WITH THE APPROVAL  
19 OF THE DISTRICT COUNCIL, FOR THE PURPOSE OF ESTABLISHING CONDITIONS FOR  
20 ADVANCING SCHOOL CAPACITY.

21 (B) THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

22 ~~(C) THE DISTRICT COUNCIL MAY:~~

23 ~~(1) ESTABLISH PROCEDURES AND REQUIREMENTS FOR THE~~  
24 ~~CONSIDERATION AND EXECUTION OF DEVELOPMENT RIGHTS AND~~  
25 ~~RESPONSIBILITIES AGREEMENTS, INCLUDING PROVISIONS FOR NEGOTIATION AND~~  
26 ~~APPROVAL IN ACCORDANCE WITH THIS SECTION; AND~~

27 ~~(2) APPROVE DEVELOPMENT RIGHTS AND RESPONSIBILITIES~~  
28 ~~AGREEMENTS NEGOTIATED BY THE COUNTY EXECUTIVE.~~

29 (C) A DEVELOPER OR DEVELOPER'S REPRESENTATIVE MAY PETITION THE  
30 COUNTY EXECUTIVE REQUESTING THAT AN AGREEMENT BE EXECUTED.

31 (D) THE COUNTY EXECUTIVE MAY:

32 (1) NEGOTIATE DEVELOPMENT RIGHTS AND RESPONSIBILITIES  
33 AGREEMENTS FOR REAL PROPERTY LOCATED IN THE COUNTY WITH A DEVELOPER;

34 (2) INCLUDE A FEDERAL, STATE, OR LOCAL GOVERNMENT OR UNIT AS  
35 AN ADDITIONAL PARTY TO THE AGREEMENT; AND

1           (3)     ~~AFTER APPROVAL BY THE DISTRICT COUNCIL, EXECUTE AN~~  
2 ~~AGREEMENT ONLY AFTER ITS APPROVAL BY THE DISTRICT COUNCIL.~~

3     (E)     ~~A DEVELOPER OR A DEVELOPER'S REPRESENTATIVE SHALL PETITION THE~~  
4 ~~COUNTY EXECUTIVE REQUESTING THAT AN AGREEMENT BE EXECUTED.~~

5     (E)     THE DISTRICT COUNCIL:

6           (1)     MAY:

7                   (I)     ESTABLISH PROCEDURES AND REQUIREMENTS FOR THE  
8 CONSIDERATION AND EXECUTION OF DEVELOPMENT RIGHTS AND  
9 RESPONSIBILITIES AGREEMENTS, INCLUDING PROVISIONS FOR NEGOTIATION AND  
10 APPROVAL IN ACCORDANCE WITH THIS SECTION; AND

11                   (II)    APPROVE DEVELOPMENT RIGHTS AND RESPONSIBILITIES  
12 AGREEMENTS NEGOTIATED BY THE COUNTY EXECUTIVE; AND

13           (2)     SHALL REQUIRE A PUBLIC HEARING BEFORE APPROVING A  
14 DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT.

15     (F)     AN AGREEMENT EXECUTED BY THE COUNTY EXECUTIVE TAKES EFFECT  
16 WITHOUT ANY FURTHER ACTION BY THE DISTRICT COUNCIL.

17     (G)     THE COUNTY EXECUTIVE MAY NOT ENTER INTO AN AGREEMENT UNLESS  
18 A PLANNING BOARD OF THE COMMISSION DETERMINES THAT THE PROPOSED  
19 AGREEMENT IS CONSISTENT WITH THE COMMISSION'S GENERAL PLAN.

20     (H)     (1)     AN AGREEMENT SHALL INCLUDE:

21                   (I)     A DESCRIPTION OF THE REAL PROPERTY SUBJECT TO THE  
22 AGREEMENT;

23                   (II)    THE PARTIES INVOLVED;

24                   (III)   THE SPECIFIC PURPOSES OF THE AGREEMENT;

25                   (IV)   THE DURATION OF THE AGREEMENT;

26                   (V)     A PHYSICAL DESCRIPTION AND LOCATION OF THE BUILDINGS,  
27 STRUCTURES, AND SUPPORTING FACILITIES AND FEATURES ON THE REAL  
28 PROPERTY;

29                   (VI)    A DESCRIPTION OF ALL ANTICIPATED PERMITS REQUIRED OR  
30 ALREADY APPROVED FOR THE DEVELOPMENT OF THE REAL PROPERTY;

31                   (VII)   PROVISIONS FOR THE CONSTRUCTION OR FINANCING OF  
32 ADEQUATE PUBLIC FACILITIES FOR SCHOOLS;

1 (VIII) A STATEMENT THAT THE PROPOSED DEVELOPMENT IS  
2 CONSISTENT WITH THE COMMISSION'S GENERAL PLAN AND ALL APPLICABLE  
3 DEVELOPMENT LAWS AND REGULATIONS; AND

4 (IX) A DESCRIPTION OF THE CONDITIONS, TERMS, RESTRICTIONS,  
5 OR OTHER REQUIREMENTS DETERMINED BY A PLANNING BOARD TO BE NECESSARY  
6 TO ENSURE THE PUBLIC HEALTH, SAFETY, AND WELFARE OF ITS CITIZENS.

7 (2) AN AGREEMENT MAY:

8 (I) ESTABLISH THE TERMS BY WHICH AND A PERIOD OF TIME  
9 DURING WHICH AN APPROVED DEVELOPMENT, OR INDIVIDUAL PHASES, MUST  
10 COMMENCE AND BE COMPLETED; AND

11 (II) PROVIDE FOR OTHER MATTERS CONSISTENT WITH THIS  
12 ARTICLE.

13 (I) UNLESS OTHERWISE PROVIDED WITHIN THE AGREEMENT OR EXTENDED  
14 BY AMENDMENT UNDER SUBSECTION (K) OF THIS SECTION, AN AGREEMENT SHALL  
15 CONTAIN A DEFINITE PERIOD OF DURATION THAT IS DETERMINED BY THE PARTIES,  
16 NOT EXCEEDING 15 YEARS. ANY EXTENSION MUST BE APPROVED BY THE DISTRICT  
17 COUNCIL.

18 (J) THE LAWS, RULES, REGULATIONS, AND POLICIES IN FORCE AT THE TIME  
19 THE PARTIES EXECUTE THE AGREEMENT SHALL GOVERN THE USE, DENSITY, OR  
20 INTENSITY OF THE REAL PROPERTY SUBJECT TO THE AGREEMENT UNLESS THE  
21 ~~LOCAL GOVERNING BODY~~ DISTRICT COUNCIL OR STATE OR FEDERAL GOVERNMENT  
22 DETERMINES THAT COMPLIANCE WITH LAWS, RULES, REGULATIONS, AND POLICIES  
23 ENACTED OR ADOPTED AFTER THE PARTIES EXECUTED THE AGREEMENT IS  
24 ESSENTIAL TO ENSURE THE HEALTH, SAFETY, OR WELFARE OF THE RESIDENTS OF  
25 ALL OR PART OF THE JURISDICTION.

26 (K) THE PARTIES TO AN AGREEMENT MAY AMEND THE AGREEMENT BY  
27 MUTUAL CONSENT IF THE DISTRICT COUNCIL:

28 (1) APPROVES ANY SUBSTANTIAL MODIFICATION; AND

29 (2) DETERMINES THAT THE PROPOSED AMENDMENT TO THE  
30 AGREEMENT IS CONSISTENT WITH THE COMMISSION'S GENERAL PLAN.

31 (L) (1) THE PARTIES TO AN AGREEMENT MAY TERMINATE THE AGREEMENT  
32 BY MUTUAL CONSENT.

33 (2) THE COUNTY EXECUTIVE MAY SUSPEND OR TERMINATE AN  
34 AGREEMENT IF THE COUNTY EXECUTIVE DETERMINES THAT THE SUSPENSION OR  
35 TERMINATION IS ESSENTIAL TO ENSURE THE PUBLIC HEALTH, SAFETY, OR  
36 WELFARE.

1 (M) (1) AN AGREEMENT SHALL BE VOID IF NOT RECORDED IN THE LAND  
2 RECORDS OFFICE OF PRINCE GEORGE'S COUNTY WITHIN ~~20~~ 30 DAYS AFTER THE  
3 DATE ON WHICH THE PARTIES EXECUTE THE AGREEMENT.

4 (2) WHEN AN AGREEMENT IS RECORDED, THE PARTIES TO THE  
5 AGREEMENT AND THEIR SUCCESSORS IN INTEREST ARE BOUND TO THE  
6 AGREEMENT.

7 (N) UNLESS TERMINATED UNDER SUBSECTION (L) OF THIS SECTION, AN  
8 AGREEMENT MAY BE ENFORCED BY THE PARTIES TO THE AGREEMENT OR THEIR  
9 SUCCESSORS IN INTEREST, UTILIZING ALL REMEDIES AVAILABLE ~~BY~~ AT LAW OR IN  
10 EQUITY. NO RIGHT TO AN ADMINISTRATIVE APPEAL ARISES FROM THE NEGOTIATION  
11 OR ENFORCEMENT OF AN AGREEMENT.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is self-executing  
13 and shall take effect without any action required by the District Council for Prince  
14 George's County.

15 ~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take  
16 effect October 1, 2002.