
By: Delegates Mossburg and Poole

Introduced and read first time: February 19, 1996
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vested Development Rights**

3 FOR the purpose of establishing a vested right to undertake and complete the
4 development and proposed use of property at the density or intensity permitted
5 under applicable planning controls; providing that the development right vests on
6 the date of recordation of the recorded subdivision plat or the date of enactment of
7 this Act, whichever is later; providing that the vested development right is effective
8 for a certain period of time; prohibiting certain local jurisdictions from requiring a
9 landowner from waiving the establishment of a vested development right or from
10 certain actions which diminish the permitted density, intensity, and use of the
11 property as set forth in the zoning ordinance of the local jurisdiction; providing
12 certain exceptions; providing for the extension of a vested development right under
13 certain circumstances; providing that a vested development right runs with the land
14 and is not a personal right; providing that a landowner may seek relief in a court of
15 competent jurisdiction if a local jurisdiction fails to recognize a vested development
16 right; providing for the application of certain provisions of this Act; defining certain
17 terms; and generally relating to the creation of vested development rights.

18 BY adding to

19 Article 28 - Maryland-National Capital Park and Planning Commission
20 Section 9-101 through 9-109, inclusive, to be under the new title "Title 9. Vested
21 Development Rights"
22 Annotated Code of Maryland
23 (1993 Replacement Volume and 1995 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article 66B - Zoning and Planning
26 Section 7.03
27 Annotated Code of Maryland
28 (1995 Replacement Volume)

29 BY adding to

30 Article 66B - Zoning and Planning
31 Section 14.01 through 14.09, inclusive, to be under the new subtitle "Vested
32 Development Rights"

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1 Annotated Code of Maryland
2 (1995 Replacement Volume)

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

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

6 TITLE 9.

7 VESTED DEVELOPMENT RIGHTS.

8 9-101.

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

10 (B) "COUNTY" MEANS MONTGOMERY COUNTY OR PRINCE GEORGE'S
11 COUNTY.

12 (C) "LANDOWNER" MEANS ANY OWNER OF A LEGAL OR EQUITABLE
13 INTEREST IN REAL PROPERTY, INCLUDING THE HEIRS, DEVISES, SUCCESSORS,
14 ASSIGNS AND PERSONAL REPRESENTATIVES OF THE OWNER.

15 (D) "MUNICIPAL CORPORATION" MEANS ANY MUNICIPAL CORPORATION, IN
16 THE REGIONAL DISTRICT, THAT HAS ZONING AUTHORITY.

17 (E) "PROPERTY" MEANS ANY REAL PROPERTY SUBJECT TO ZONING
18 REGULATIONS AND RESTRICTIONS AND ZONE BOUNDARIES BY A COUNTY OR
19 MUNICIPAL CORPORATION.

20 (F) "RECORD PLAT" MEANS A PLAT, APPROVED BY A COUNTY OR MUNICIPAL
21 CORPORATION, THAT DEPICTS ONE OR MORE LOTS OR PARCELS OF LAND
22 DESIGNED TO BE OCCUPIED BY BUILDINGS, STRUCTURES, OR DWELLINGS,
23 TOGETHER WITH ADJACENT STREETS OR OPEN SPACES WHERE APPLICABLE, AND
24 WHICH IS RECORDED IN THE LAND RECORDS OF THE COUNTY OR MUNICIPALITY
25 WHERE THE PROPERTY IS LOCATED AND IS IN CONFORMITY WITH THE STANDARDS
26 SET OUT IN § 3-108 OF THE REAL PROPERTY ARTICLE.

27 (G) "VESTED DEVELOPMENT RIGHT" MEANS THE VESTED RIGHT TO
28 UNDERTAKE AND COMPLETE THE DEVELOPMENT AND PROPOSED USE OF
29 PROPERTY AT THE DENSITY OR INTENSITY PERMITTED UNDER APPLICABLE
30 PLANNING AND ZONING CONTROLS.

31 9-102.

32 (A) A VESTED DEVELOPMENT RIGHT IS ESTABLISHED ON THE LATER OF:

33 (1) THE DATE OF RECORDATION OF THE RECORD PLAT; OR

34 (2) THE DATE OF ENACTMENT OF THIS TITLE.

35 (B) AT THE TIME OF FILING OF A SUBDIVISION PLAT FOR RECORDATION, THE
36 COUNTY OR MUNICIPAL CORPORATION SHALL STAMP THE RECORD PLAT WITH A

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1 STAMP THAT STATES THAT THE VESTED DEVELOPMENT RIGHT HAS BEEN
2 ESTABLISHED AND THE DATE AND TIME OF VESTING.

3 (C) A COUNTY OR MUNICIPAL CORPORATION MAY NOT REQUIRE A
4 LANDOWNER TO WAIVE THE ESTABLISHMENT OF A VESTED DEVELOPMENT RIGHT
5 AS A CONDITION OF APPROVAL OF THE SUBDIVISION PLAT.

6 9-103.

7 (A) A VESTED DEVELOPMENT RIGHT UNDER THIS TITLE SHALL REMAIN
8 VESTED FOR 7 YEARS AFTER THE DATE IT BECOMES A VESTED DEVELOPMENT
9 RIGHT.

10 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE VESTING
11 PERIOD MAY NOT BE EXTENDED BY ANY AMENDMENTS OR MODIFICATIONS TO THE
12 RECORD PLAT UNLESS EXPRESSLY PROVIDED ON THE RECORD PLAT BY THE
13 PLANNING BODY FOR THE COUNTY OR MUNICIPAL CORPORATION.

14 (C) A COUNTY OR MUNICIPAL CORPORATION MAY PROVIDE ON THE RECORD
15 PLAT OR OTHER APPROPRIATE RECORDED DOCUMENT THAT A VESTED
16 DEVELOPMENT RIGHT SHALL BE ESTABLISHED FOR A PERIOD EXCEEDING 7 YEARS
17 IF WARRANTED IN VIEW OF ALL RELEVANT CIRCUMSTANCES, INCLUDING THE SIZE
18 AND PHASING OF DEVELOPMENT, THE LEVEL OF INVESTMENT, ECONOMIC CYCLES,
19 AND MARKET CONDITIONS.

20 (D) NOTHING IN THIS TITLE SHALL PREVENT OR OTHERWISE PROHIBIT THE
21 COUNTY OR MUNICIPAL CORPORATION FROM ENTERING INTO A DEVELOPMENT
22 RIGHTS AND RESPONSIBILITIES AGREEMENT, AS DEFINED IN § 7-121 OF THIS
23 ARTICLE AND ARTICLE 66B, §§ 1.00 AND 13.01 OF THE CODE, THAT PROVIDES FOR THE
24 VESTING OF DEVELOPMENT RIGHTS FOR 7 YEARS OR MORE.

25 9-104.

26 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AFTER A
27 VESTED DEVELOPMENT RIGHT HAS BEEN ESTABLISHED UNDER THIS TITLE, A
28 COUNTY OR MUNICIPAL CORPORATION MAY NOT CHANGE, ALTER, IMPAIR,
29 PREVENT, OR OTHERWISE DIMINISH THE PERMITTED DENSITY, INTENSITY, AND USE
30 OF THE PROPERTY AS SET FORTH IN THE ZONING ORDINANCE OF THE COUNTY OR
31 MUNICIPAL CORPORATION.

32 (B) A COUNTY OR MUNICIPAL CORPORATION MAY CHANGE, ALTER, IMPAIR,
33 PREVENT, OR OTHERWISE DIMINISH THE PERMITTED DENSITY, INTENSITY, AND USE
34 OF THE PROPERTY AS SET FORTH IN THE ZONING ORDINANCE, IF, BY ORDINANCE
35 OR RESOLUTION AFTER NOTICE AND A PUBLIC HEARING, THE COUNTY OR
36 MUNICIPAL CORPORATION FINDS:

37 (1) THAT NATURAL OR MAN-MADE HAZARDS ON THE PROPERTY, IF
38 UNCORRECTED, WOULD POSE A SERIOUS THREAT TO THE PUBLIC HEALTH, SAFETY,
39 AND WELFARE IF THE PROJECT WERE TO PROCEED AS CONTEMPLATED IN THE
40 RECORD PLAT; OR

41 (2) THAT THE LANDOWNER OR THE LANDOWNER'S REPRESENTATIVE
42 INTENTIONALLY SUPPLIED INACCURATE INFORMATION OR MADE MATERIAL

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1 MISREPRESENTATIONS THAT MADE A DIFFERENCE IN THE APPROVAL BY THE
2 COUNTY OR MUNICIPAL CORPORATION OF THE RECORD PLAT.

3 (C) NOTHING IN THIS SECTION PROHIBITS A COUNTY OR MUNICIPAL
4 CORPORATION FROM ADOPTING AND ENFORCING ZONING ORDINANCES.

5 9-105.

6 THIS TITLE DOES NOT, AFTER RECORDATION OF A RECORD PLAT, PROHIBIT
7 THE COUNTY OR MUNICIPAL CORPORATION FROM ENACTING AMENDMENTS TO ITS
8 LAWS, INCLUDING ZONING AND SUBDIVISION ORDINANCES RELATING TO LAND
9 DEVELOPMENT, PROVIDED THAT SUCH AMENDMENTS SHALL NOT AFFECT THE USE
10 OR DEVELOPMENT OF THE PROPERTY AT THE DENSITY OR INTENSITY PERMITTED
11 UNDER APPLICABLE ZONING ORDINANCES OR REGULATIONS ON THE DATE THE
12 VESTED DEVELOPMENT RIGHT WAS ESTABLISHED.

13 9-106.

14 A VESTED DEVELOPMENT RIGHT TERMINATES AT THE END OF THE PERIOD
15 SET UNDER § 10-103 OF THIS TITLE, UNLESS THE VESTED DEVELOPMENT RIGHT IS
16 SECURED BY:

17 (1) FILING AN APPLICATION FOR A FOUNDATION OR BUILDING PERMIT,
18 WHICHEVER IS EARLIER; OR

19 (2) IF MORE THAN ONE BUILDING IS INVOLVED, FILING AN
20 APPLICATION FOR THE FIRST BUILDING PERMIT.

21 9-107.

22 (A) A VESTED DEVELOPMENT RIGHT THAT IS ESTABLISHED UNDER THIS
23 TITLE IS NOT A PERSONAL RIGHT, BUT SHALL ATTACH AND RUN WITH THE
24 PROPERTY.

25 (B) EACH SUCCESSOR TO THE ORIGINAL PROPERTY OWNER SHALL BE
26 ENTITLED TO EXERCISE THAT VESTED DEVELOPMENT RIGHT.

27 9-108.

28 (A) IF A MORATORIUM OR OTHER RESTRICTION IMPOSED BY THE COUNTY
29 OR MUNICIPAL CORPORATION DURING THE PERIOD OF TIME THE PROPERTY IS
30 BEING DEVELOPED AFFECTS THE DEVELOPMENT RIGHTS OF THE PROPERTY, THEN
31 THE PERIOD OF TIME THAT THE DEVELOPMENT RIGHTS ARE RESTRICTED SHALL BE
32 EXTENDED FOR THE TIME PERIOD OF THE RESTRICTION OR MORATORIUM.

33 (B) A VESTED DEVELOPMENT RIGHT MAY NOT EXPIRE OR TERMINATE
34 DURING THE MORATORIUM PERIOD OR PROHIBITION ON THE DEVELOPMENT.

35 9-109.

36 (A) A LANDOWNER MAY SEEK APPROPRIATE RELIEF FROM A COURT OF
37 COMPETENT JURISDICTION IF A COUNTY OR MUNICIPAL CORPORATION FAILS TO
38 RECOGNIZE A VESTED DEVELOPMENT RIGHT.

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1 (B) A LANDOWNER IS ENTITLED TO THE RELIEF THAT THE COURT
2 CONSIDERS APPROPRIATE, INCLUDING DECLARATORY JUDGMENT AND
3 INJUNCTIVE RELIEF.

4 **Article 66B - Zoning and Planning**

5 7.03.

6 (a) Except as provided in §§ 3.05(a)(1)(iii), (v), (vi), and (viii),(4), and (b),
7 3.06(b) and (c), 4.01(a)(2), 4.09, 5.03(e), 7.01(c), 10.01, 11.01, 12.01, [and] 13.01, AND
8 14.01 THROUGH 14.09, INCLUSIVE, of this article, and subject to subsection (b) of this
9 section, this article does not apply to the chartered counties of Maryland. This section
10 supersedes § 7.02 of this article and any inconsistent provision of Article 28 of the Code.

11 (b) [Section] SECTIONS 13.01 AND 14.01 THROUGH 14.09, INCLUSIVE, of this
12 article [does] DO not apply to Montgomery County or Prince George's County.

13 VESTED DEVELOPMENT RIGHTS

14 14.01.

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) "LANDOWNER" MEANS ANY OWNER OF A LEGAL OR EQUITABLE
18 INTEREST IN REAL PROPERTY, INCLUDING THE HEIRS, DEVICES, SUCCESSORS,
19 ASSIGNS AND PERSONAL REPRESENTATIVES OF THE OWNER.

20 (C) "POLITICAL SUBDIVISION" MEANS BALTIMORE CITY AND ANY COUNTY
21 OR MUNICIPAL CORPORATION THAT HAS ZONING AUTHORITY.

22 (D) "PROPERTY" MEANS ANY REAL PROPERTY SUBJECT TO ZONING
23 REGULATIONS AND RESTRICTIONS AND ZONE BOUNDARIES BY A POLITICAL
24 SUBDIVISION.

25 (E) "RECORD PLAT" MEANS A PLAT, APPROVED BY A POLITICAL
26 SUBDIVISION, THAT DEPICTS ONE OR MORE LOTS OR PARCELS OF LAND DESIGNED
27 TO BE OCCUPIED BY BUILDINGS, STRUCTURES, OR DWELLINGS, TOGETHER WITH
28 ADJACENT STREETS OR OPEN SPACES WHERE APPLICABLE, AND WHICH IS
29 RECORDED IN THE LAND RECORDS OF THE COUNTY OR MUNICIPALITY WHERE THE
30 PROPERTY IS LOCATED AND IS IN CONFORMITY WITH THE STANDARDS SET OUT IN
31 § 3-108 OF THE REAL PROPERTY ARTICLE.

32 (F) "VESTED DEVELOPMENT RIGHT" MEANS THE VESTED RIGHT TO
33 UNDERTAKE AND COMPLETE THE DEVELOPMENT AND PROPOSED USE OF
34 PROPERTY AT THE DENSITY OR INTENSITY PERMITTED UNDER APPLICABLE
35 PLANNING AND ZONING CONTROLS.

36 14.02.

37 (A) A VESTED DEVELOPMENT RIGHT IS ESTABLISHED ON THE LATER OF:

38 (1) THE DATE OF RECORDATION OF THE RECORD PLAT; OR

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1 (2) THE DATE OF ENACTMENT OF THIS SUBTITLE.

2 (B) AT THE TIME OF FILING OF A SUBDIVISION PLAT FOR RECORDATION, THE
3 POLITICAL SUBDIVISION SHALL STAMP THE RECORD PLAT WITH A STAMP THAT
4 STATES THAT THE VESTED DEVELOPMENT RIGHT HAS BEEN ESTABLISHED AND THE
5 DATE AND TIME OF VESTING.

6 (C) A POLITICAL SUBDIVISION MAY NOT REQUIRE A LANDOWNER TO WAIVE
7 THE ESTABLISHMENT OF A VESTED DEVELOPMENT RIGHT AS A CONDITION OF
8 APPROVAL OF THE SUBDIVISION PLAT.

9 14.03.

10 (A) A VESTED DEVELOPMENT RIGHT UNDER THIS SUBTITLE SHALL REMAIN
11 VESTED FOR 7 YEARS AFTER THE DATE IT BECOMES A VESTED DEVELOPMENT
12 RIGHT.

13 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE VESTING
14 PERIOD MAY NOT BE EXTENDED BY ANY AMENDMENTS OR MODIFICATIONS TO THE
15 RECORD PLAT UNLESS EXPRESSLY PROVIDED ON THE RECORD PLAT BY THE
16 PLANNING BODY FOR THE POLITICAL SUBDIVISION.

17 (C) A POLITICAL SUBDIVISION MAY PROVIDE ON THE RECORD PLAT OR
18 OTHER APPROPRIATE RECORDED DOCUMENT THAT A VESTED DEVELOPMENT
19 RIGHT SHALL BE ESTABLISHED FOR A PERIOD EXCEEDING 7 YEARS IF WARRANTED
20 IN VIEW OF ALL RELEVANT CIRCUMSTANCES, INCLUDING THE SIZE AND PHASING
21 OF DEVELOPMENT, THE LEVEL OF INVESTMENT, ECONOMIC CYCLES, AND MARKET
22 CONDITIONS.

23 (D) NOTHING IN THIS SUBTITLE SHALL PREVENT OR OTHERWISE PROHIBIT
24 THE POLITICAL SUBDIVISION FROM ENTERING INTO A DEVELOPMENT RIGHTS AND
25 RESPONSIBILITIES AGREEMENT, AS DEFINED IN ARTICLE 28, § 7-121 OR §§ 1.00 AND
26 13.01 OF THIS ARTICLE THAT PROVIDES FOR THE VESTING OF DEVELOPMENT
27 RIGHTS FOR 7 YEARS OR MORE.

28 14.04.

29 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AFTER A
30 VESTED DEVELOPMENT RIGHT HAS BEEN ESTABLISHED UNDER THIS SUBTITLE, A
31 POLITICAL SUBDIVISION MAY NOT CHANGE, ALTER, IMPAIR, PREVENT, OR
32 OTHERWISE DIMINISH THE PERMITTED DENSITY, INTENSITY, AND USE OF THE
33 PROPERTY AS SET FORTH IN THE ZONING ORDINANCE OF THE COUNTY OR
34 MUNICIPAL CORPORATION.

35 (B) A POLITICAL SUBDIVISION MAY CHANGE, ALTER, IMPAIR, PREVENT, OR
36 OTHERWISE DIMINISH THE PERMITTED DENSITY, INTENSITY, AND USE OF THE
37 PROPERTY AS SET FORTH IN THE ZONING ORDINANCE, IF, BY ORDINANCE OR
38 RESOLUTION AFTER NOTICE AND A PUBLIC HEARING, THE POLITICAL SUBDIVISION
39 FINDS:

40 (1) THAT NATURAL OR MAN-MADE HAZARDS ON THE PROPERTY, IF
41 UNCORRECTED, WOULD POSE A SERIOUS THREAT TO THE PUBLIC HEALTH, SAFETY,

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1 AND WELFARE IF THE PROJECT WERE TO PROCEED AS CONTEMPLATED IN THE
2 RECORD PLAT; OR

3 (2) THAT THE LANDOWNER OR THE LANDOWNER'S REPRESENTATIVE
4 INTENTIONALLY SUPPLIED INACCURATE INFORMATION OR MADE MATERIAL
5 MISREPRESENTATIONS THAT MADE A DIFFERENCE IN THE APPROVAL BY THE
6 POLITICAL SUBDIVISION OF THE RECORD PLAT.

7 (C) NOTHING IN THIS SECTION PROHIBITS A POLITICAL SUBDIVISION FROM
8 ADOPTING AND ENFORCING ZONING ORDINANCES.

9 14.05.

10 THIS SUBTITLE DOES NOT, AFTER RECORDATION OF A RECORD PLAT,
11 PROHIBIT THE POLITICAL SUBDIVISION FROM ENACTING AMENDMENTS TO ITS
12 LAWS, INCLUDING ZONING AND SUBDIVISION ORDINANCES RELATING TO LAND
13 DEVELOPMENT, PROVIDED THAT SUCH AMENDMENTS SHALL NOT AFFECT THE USE
14 OR DEVELOPMENT OF THE PROPERTY AT THE DENSITY OR INTENSITY PERMITTED
15 UNDER APPLICABLE ZONING ORDINANCES OR REGULATIONS ON THE DATE THE
16 VESTED DEVELOPMENT RIGHT WAS ESTABLISHED.

17 14.06.

18 A VESTED DEVELOPMENT RIGHT TERMINATES AT THE END OF THE PERIOD
19 SET UNDER § 14.03 OF THIS SUBTITLE, UNLESS THE VESTED DEVELOPMENT RIGHT IS
20 SECURED BY:

21 (1) FILING AN APPLICATION FOR A FOUNDATION OR BUILDING PERMIT,
22 WHICHEVER IS EARLIER; OR

23 (2) IF MORE THAN ONE BUILDING IS INVOLVED, FILING AN
24 APPLICATION FOR THE FIRST BUILDING PERMIT.

25 14.07.

26 (A) A VESTED DEVELOPMENT RIGHT THAT IS ESTABLISHED UNDER THIS
27 SUBTITLE IS NOT A PERSONAL RIGHT, BUT SHALL ATTACH AND RUN WITH THE
28 PROPERTY.

29 (B) EACH SUCCESSOR TO THE ORIGINAL PROPERTY OWNER SHALL BE
30 ENTITLED TO EXERCISE THAT VESTED DEVELOPMENT RIGHT.

31 14.08.

32 (A) IF A MORATORIUM OR OTHER RESTRICTION IMPOSED BY THE POLITICAL
33 SUBDIVISION DURING THE PERIOD OF TIME THE PROPERTY IS BEING DEVELOPED
34 AFFECTS THE DEVELOPMENT RIGHTS OF THE PROPERTY, THEN THE PERIOD OF
35 TIME THAT THE DEVELOPMENT RIGHTS ARE RESTRICTED SHALL BE EXTENDED
36 FOR THE TIME PERIOD OF THE RESTRICTION OR MORATORIUM.

37 (B) A VESTED DEVELOPMENT RIGHT MAY NOT EXPIRE OR TERMINATE
38 DURING THE MORATORIUM PERIOD OR PROHIBITION ON THE DEVELOPMENT.

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1 14.09.

2 (A) A LANDOWNER MAY SEEK APPROPRIATE RELIEF FROM A COURT OF
3 COMPETENT JURISDICTION IF A POLITICAL SUBDIVISION FAILS TO RECOGNIZE A
4 VESTED DEVELOPMENT RIGHT.

5 (B) A LANDOWNER IS ENTITLED TO THE RELIEF THAT THE COURT
6 CONSIDERS APPROPRIATE, INCLUDING DECLARATORY JUDGMENT AND
7 INJUNCTIVE RELIEF.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 1996.