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**By: St. Mary's County Delegation**

Introduced and read first time: January 31, 1997

Assigned to: Commerce and Government Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 10, 1997

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **St. Mary's County - Roads - Procedures**

3 FOR the purpose of prescribing certain procedures under which the County  
4 Commissioners of St. Mary's County consider the opening, closing, or alteration of  
5 certain public roads in the County; providing that certain subdivision streets shall be  
6 approved in accordance with County subdivision regulations; specifying certain  
7 notice and hearing requirements and procedures and criteria pertaining to the  
8 approval process; providing that certain provisions of law do not apply in the  
9 County; providing that Planning Board approval is required in a certain manner;  
10 modifying statutory references applicable to the condemnation process and  
11 modifying application of certain statutes; making stylistic and technical changes;  
12 and generally relating to procedures concerning governmental action pertaining to  
13 road construction in St. Mary's County.

14 BY repealing and reenacting, with amendments,  
15 The Public Local Laws of St. Mary's County  
16 Section 109-1 and 109-2  
17 Article 19 - Public Local Laws of Maryland  
18 (1978 Edition and July 1996 Supplement, as amended)

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

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1 **Article 19 - St. Mary's County**

2 109-1.

3 The County Commissioners of St. Mary's County are authorized and empowered to  
4 control and regulate the public roads and bridges in [said county] THE COUNTY, subject  
5 to the provisions of this chapter.

6 109-2.

7 A. The County Commissioners ON MOTION OF THE COUNTY COMMISSIONERS  
8 OR BY PETITION, AND ACTING by ordinance [or resolution], may:

9 (1) Condemn, lay out, open, extend and make new PUBLIC roads;

10 (2) Alter, straighten, widen, grade, improve, or close up, in whole or in part,  
11 any existing PUBLIC road;

12 (3) Remove trees, posts and other obstructions FROM PUBLIC ROADS; and

13 (4) Build or lay out public bridges or drains, when, in their opinion, the  
14 public necessity or convenience requires same, without any previous application or  
15 petition.

16 B. (1) ALL NEW SUBDIVISION STREETS SHALL BE APPROVED IN  
17 ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE COUNTY SUBDIVISION  
18 REGULATIONS WITHOUT THE NEED FOR ANY PROCEEDINGS UNDER THIS SECTION  
19 UNLESS THE SUBDIVISION PLAT REQUIRES CLOSURE OR MATERIAL ALTERATION,  
20 OTHER THAN IMPROVEMENTS SUCH AS ACCELERATION OR DECELERATION LANES,  
21 OF PUBLIC ROADS LOCATED OUTSIDE THE BOUNDARIES OF THE SUBDIVISION.

22 (2) IF A PROPOSED SUBDIVISION PLAT REQUIRES CLOSURE OR  
23 MATERIAL ALTERATION OF PUBLIC ROADS LOCATED OUTSIDE THE BOUNDARIES  
24 OF THE SUBDIVISION, THE PRELIMINARY PLAT MAY NOT BE APPROVED UNTIL THE  
25 COUNTY COMMISSIONERS HAVE FIRST APPROVED THE CLOSURE OR MATERIAL  
26 ALTERATION AS PROVIDED IN THIS SECTION.

27 (3) (I) EXCEPT AS PROVIDED IN PARAGRAPHS (1) AND (2) OF THIS  
28 SUBSECTION, A PUBLIC ROAD MAY NOT BE OPENED, ALTERED, OR CLOSED UNLESS  
29 ~~30 DAYS~~ NOTICE IS FIRST GIVEN BY PUBLICATION AND POSTING IN ACCORDANCE  
30 WITH THIS SUBSECTION AND A PUBLIC HEARING IS CONDUCTED.

31 ~~(II) THE NOTICE SHALL BE PUBLISHED THREE TIMES, ONCE A~~  
32 ~~WEEK FOR THREE CONSECUTIVE WEEKS, IN ONE OR MORE NEWSPAPERS OF~~  
33 ~~GENERAL CIRCULATION IN THE COUNTY~~ AN ACT, ORDINANCE, OR RESOLUTION  
34 OPENING, ALTERING, OR CLOSING A ROAD MAY NOT BE ADOPTED BY THE COUNTY  
35 COMMISSIONERS, UNDER THE POWERS CONFERRED BY THIS SECTION, UNTIL 10  
36 DAYS AFTER A PUBLIC HEARING HAS BEEN HELD ON THE PROPOSED ACT,  
37 ORDINANCE, OR RESOLUTION. PRIOR NOTICE OF THE PUBLIC HEARING, TOGETHER  
38 WITH A FAIR SUMMARY OF THE PROPOSED ACT, ORDINANCE, OR RESOLUTION,  
39 SHALL BE PUBLISHED IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN  
40 THE COUNTY ONCE EACH WEEK FOR 2 SUCCESSIVE WEEKS.

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1 (III) THE NOTICE SHALL BE POSTED AT THREE PUBLIC PLACES IN  
2 EACH OF THE ELECTION DISTRICTS IN WHICH IT IS PROPOSED TO OPEN, CLOSE, OR  
3 ALTER THE ROAD FOR AT LEAST 30 DAYS PRIOR TO THE PUBLIC HEARING.

4 (IV) IF THE ROAD OPENING, CLOSING, OR ALTERATION IS  
5 INITIATED BY PETITION, THE PETITIONER IS RESPONSIBLE FOR THE COSTS OF  
6 NOTICE, POSTING, AND PUBLICATION.

7 (V) THE NOTICE AND PUBLIC HEARING REQUIREMENTS  
8 APPLICABLE TO ALTERATIONS UNDER THIS SECTION DO NOT APPLY TO ROUTINE  
9 MAINTENANCE, IMPROVEMENTS WITHIN THE EXISTING RIGHT-OF-WAY THAT DO  
10 NOT REQUIRE THE ACQUISITION OF ANY PRIVATE PROPERTY, OR THE  
11 RESURFACING OR GRADING OF ANY PUBLIC ROAD.

12 (4) (I) A COUNTER PETITION MAY BE PRESENTED TO THE COUNTY  
13 COMMISSIONERS.

14 (II) THE COUNTY COMMISSIONERS SHALL TAKE INTO  
15 CONSIDERATION THE REASONS SET FORTH IN THE COUNTER PETITION AND OTHER  
16 TESTIMONY THAT MAY COME BEFORE THEM AND DETERMINE THE CASE IN THE  
17 MANNER THAT THEY DEEM RIGHT AND PROPER.

18 (5) A PUBLIC HEARING CONDUCTED UNDER THIS SUBSECTION  
19 RELATIVE TO PUBLIC ROADS SHALL BE CONDUCTED AS A LEGISLATIVE HEARING,  
20 AND RULES OF PROCEDURE APPLICABLE TO QUASI-JUDICIAL HEARINGS DO NOT  
21 APPLY.

22 (6) THE PROVISIONS UNDER ARTICLE 25 OF THE ANNOTATED CODE OF  
23 MARYLAND PERTAINING TO PUBLIC ROADS, TO THE EXTENT OF ANY  
24 INCONSISTENCY, DO NOT APPLY IN ST. MARY'S COUNTY.

25 (7) A PUBLIC ~~OR PRIVATE~~ STREET OR ROAD OR ANY PRIVATE ROAD TO  
26 BE IMPROVED VIA A ROAD IMPROVEMENT TAXING DISTRICT MAY NOT BE  
27 CONSTRUCTED OR FINALLY AUTHORIZED UNTIL APPROVED BY THE PLANNING  
28 COMMISSION IN ACCORDANCE WITH ARTICLE 66B, § 3.08 OF THE ANNOTATED CODE  
29 OF MARYLAND AND INCLUDED IN THE COUNTY'S CAPITAL IMPROVEMENT PLAN.  
30 ~~PLANNING COMMISSION APPROVAL IN THE FORM OF AN AMENDMENT TO THE~~  
31 ~~TRANSPORTATION PLAN ELEMENT OF THE COMPREHENSIVE PLAN SHALL BE~~  
32 ~~OBTAINED PRIOR TO THE NOTICE FOR THE PUBLIC HEARING REQUIRED UNDER~~  
33 ~~THIS SUBSECTION. THIS PARAGRAPH MAY NOT BE CONSTRUED TO APPLY TO NEW~~  
34 SUBDIVISION STREETS THAT MAY BE APPROVED BY THE PLANNING COMMISSION OR  
35 ZONING ADMINISTRATOR AS PART OF THE COUNTY'S SUBDIVISION APPROVAL  
36 PROCESS.

37 [B.] C. The County Commissioners may contract with the owner or owners of  
38 the land for the purpose of laying out, opening, extending and making new PUBLIC roads,  
39 bridges or drains; or for altering, straightening, widening, grading, improving or for  
40 closing up, in whole or in part, any existing public road, bridge or drain; or for the  
41 right-of-way over the land necessary therefor [if he, she or they be competent to  
42 contract; and, if]. IF the County Commissioners contract in this manner, they shall cause  
43 a plat of the road to be made, filed and recorded in the office of the Clerk of the Circuit

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1 Court for St. Mary's County[, with the]. IF A deed or deeds conveying the land  
2 acquired[, and] IS USED IN LIEU OF A PLAT CONVEYING TITLE, the plat shall be  
3 referred to in and is a part of the deed or deeds[, and the]. THE lands conveyed are  
4 thenceforth the property of St. Mary's County and subject to the purposes and uses for  
5 which granted.

6 [C. Petition.] D. (1) The County Commissioners may construct and improve roads  
7 and drainage incident to construction or improvement on or along private roads after the  
8 approval of a petition of the majority of the property owners whose property will benefit  
9 from the proposed construction or improvement, requesting that the roads be taken into  
10 the county road system. In addition, when requested by the property owners and on  
11 receipt of a petition signed by a majority of the property owners affected, the County  
12 Commissioners may construct and install sidewalk systems. In the exercise of the powers  
13 granted by this subsection, the County Commissioners, by proper ordinance passed in  
14 accordance with [the provisions of § 3 of] Article 25, § 3 of the Annotated Code of [this  
15 state] MARYLAND, may adopt all necessary rules and conditions for the acceptance,  
16 construction and maintenance of roads or other authorized improvements by the county.  
17 The ordinance shall provide for the method of determination of the annual benefit  
18 assessments levied against the properties benefiting from the improvements for the  
19 purpose of reimbursing the county for the cost of the improvements and the time and  
20 manner of payment, but not to exceed [twenty (20)] 20 years. Annual benefit assessments  
21 are a first lien upon the property against which they are assessed, until paid, subject only  
22 to prior state and county taxes, and if any property is sold for state and county taxes and  
23 there remains a surplus, then the County Commissioners may petition the Circuit Court  
24 to secure payment of their lien.

25 (2) Before the powers granted by this subsection are exercised, there must  
26 first be the petition of the property owners requesting improvements, public hearing upon  
27 the petition after [ten (10)] 10 days' notice in a newspaper regularly published in St.  
28 Mary's County, approval of the petition by the majority vote of the County  
29 Commissioners, and passage of a resolution pursuant to the authority of the section,  
30 setting forth the improvements being constructed, the property owners affected, and all  
31 material terms of the annual benefit assessments levied to pay the cost of the  
32 improvements, or any reasonable portion of them, as determined by the County  
33 Commissioners.

34 [D. Appeals.] E. (1) A person adversely affected by an ordinance, resolution or  
35 contract authorized under this section may appeal the [county commissioners'] action  
36 OF THE COUNTY COMMISSIONERS to the Circuit Court of St. Mary's County.

37 (2) An appeal authorized under this section shall be filed within [ thirty  
38 (30)] 30 days of the effective date of:

39 (a) An ordinance or resolution passed pursuant to this section; or

40 (b) A contract authorized in Subsection [B] C of this section.

41 (3) An appeal authorized in this section shall be conducted in accordance  
42 with the provisions of the Maryland Rules of Procedure governing appeals from  
43 administrative agencies.

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1                   (4) In a judicial proceeding authorized by this section, the sole issues shall  
2 be whether the County Commissioners acted in accordance with:

3                   (a) Procedures concerning county ordinances in Article 25, § 3(r), of  
4 the Annotated Code of Maryland;

5                   (b) The requirements of this section; or

6                   (c) Other procedures required by law.

7                   (5) Issues subject to review under this section shall be decided by the court  
8 without a jury.

9                   (6) The county may appeal a decision of the Circuit Court under this section  
10 to the Court of Special Appeals.

11                  [E.] F. If the County Commissioners condemn any necessary land for the use of  
12 roads, the procedures [outlines] OUTLINED in [the Annotated Code,] TITLE 12 OF THE  
13 Real Property Article[, Title 12] OF THE ANNOTATED CODE OF MARYLAND, ARTICLE  
14 23, § 339 OF THE ANNOTATED CODE OF MARYLAND, and applicable sections of [Article  
15 89B] TITLE 8 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF  
16 MARYLAND are to be followed.

17                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 July 1, 1997.