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

Introduced and read first time: February 12, 1998

Assigned to: Commerce and Government Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 29, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Washington Suburban Sanitary Commission - Eminent Domain -**  
3 **Elimination of Quick Take Authority in Prince George's County**  
4 **PG/MC 32-98**

5 FOR the purpose of repealing the authority of the Washington Suburban Sanitary  
6 Commission (WSSC) to acquire property under certain circumstances in Prince  
7 George's County by using a "quick take" condemnation process; repealing  
8 related procedures; and generally relating to the WSSC's condemnation  
9 authority for property within Prince George's County.

10 BY repealing and reenacting, without amendments,  
11 Article 29 - Washington Suburban Sanitary District  
12 Section 1-202  
13 Annotated Code of Maryland  
14 (1997 Replacement Volume and 1997 Supplement)

15 BY repealing  
16 Article 29 - Washington Suburban Sanitary District  
17 Section 2-101 through 2-104, inclusive, and the title designation "Title 2. Prince  
18 George's County Quick Take"  
19 Annotated Code of Maryland  
20 (1997 Replacement Volume and 1997 Supplement)

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

**Article 29 - Washington Suburban Sanitary District**

1-202.

(a) In this section, "property" includes:

- (1) Land;
- (2) Structures;
- (3) Buildings;
- (4) Streambeds;
- (5) Waterways;
- (6) Water rights; or
- (7) Watersheds.

(b) If the WSSC decides to acquire property within or without the sanitary district, the WSSC may purchase in fee or as an easement property for the construction, extension, or maintenance of a project the WSSC considers necessary to carry out the provisions of this article.

(c) If the WSSC fails to agree with the owner of any property, the WSSC may condemn the property by proceedings in the circuit court for the county in which the property is situated, as provided for condemnation of land under the Real Property Article.

(d) (1) Land used for cemetery purposes may not be condemned unless the WSSC adopts a resolution, on the affirmative vote of a majority of the WSSC members from the county where the cemetery land is located, that declares that it is necessary for the public health and safety to acquire the cemetery land, or an easement in the cemetery land, immediately by condemnation.

(2) However, land used for cemetery purposes, either public or private, or an easement in the land may be condemned if the land or easement sought to be acquired by the WSSC is for the purpose of the installation of sewer lines or water lines, which lines shall be constructed below the surface of the earth and enclosed.

(3) The land or easement to be acquired may not disturb any existing grave, grave marker or monument, or any grave site the title to which has been transferred as a result of a bona fide sale or exchange or in which burial rights have vested or been transferred as a result of a bona fide sale or exchange.

(e) The WSSC may condemn the interest of any tenant, lessee, or other person having an interest in the property.

[Title 2. Prince George's County Quick Take.]

2 [2-101.

3 In this title, "water supply, sanitary sewerage, or drainage project" includes any:

4 (1) Water main, sewer, or drain or appurtenance of such water main,  
5 sewer, or drain;

6 (2) Fire hydrant;

7 (3) Reservoir;

8 (4) Water purification plant;

9 (5) Tank;

10 (6) Pumping station; and

11 (7) Sewage disposal plant.]

12 [2-102. This title applies only to land in Prince George's County.]

13 [2-103.

14 (a) (1) If the WSSC has acquired or is acquiring by purchase or other  
15 procedure, including the condemnation procedures provided for in the Real Property  
16 Article and § 1-202 of this article, one-half or more of the takings of land or interest  
17 in land required for the extension or construction of a water supply, sanitary  
18 sewerage, or drainage project, and the WSSC finds and determines that the  
19 remaining number of takings of land or interests in land are needed for the extension  
20 or construction project, the WSSC may enter on and take possession of the remaining  
21 land or interests in land and proceed with the construction of the water supply,  
22 sanitary sewerage, or drainage project.

23 (2) However, the WSSC first shall pay to the owner of the land or  
24 interest in land involved, or to the Circuit Court for Prince George's County for the  
25 owner's benefit, a sum that the WSSC estimates to be the fair value of the property  
26 being acquired by the WSSC.

27 (3) The estimate may not be less than the appraised value of the land or  
28 interest in land being taken as evaluated by at least one experienced and qualified  
29 appraiser, whose qualifications as an appraiser have been accepted by a court of  
30 record of this State.

31 (4) The payment to the property owner or to the court for the owner's  
32 benefit does not limit the amount which may finally be awarded in subsequent  
33 condemnation proceedings with respect to the land or interests in land so taken.

34 (b) A building may not be taken under the provisions of this section.

1 (c) (1) If the money is paid into the court for the benefit of the owner of the  
2 land or interests in land involved, the property owner, on written request to the clerk  
3 of the court, may receive the sum paid without prejudice to any of the owner's rights,  
4 if the property owner agrees to pay back to the WSSC the difference, if any, between  
5 the sum and the final award.

6 (2) If the WSSC and the owner of the land or interests in land being  
7 taken are unable to agree as to the compensation and damages, if any, caused by the  
8 taking, the WSSC shall institute condemnation proceedings in the manner prescribed  
9 by the Real Property Article.

10 (3) If the condemnation proceedings are not instituted at the same time  
11 as the WSSC pays the money to the owner or to the court for the owner's benefit, the  
12 WSSC shall institute proceedings not later than 30 days after receipt of notice from  
13 the property owner that the disagreement exists.

14 (4) The court shall hear and determine the proceedings as soon as  
15 practicable after the application to the court.

16 (5) The intent of this section is to provide that in emergencies land or  
17 interests in land may be condemned by the WSSC, in its discretion, before or after  
18 construction of the water supply, sanitary sewerage, or drainage system, or part of the  
19 system has begun subject to the prohibition against the taking of any building under  
20 the optional procedure provided by this section.]

21 [2-104.

22 (a) (1) The WSSC's right to enter and take possession of the land or interest  
23 in the land in the circumstances and on the conditions stated in this section begins  
24 immediately on the filing of a written declaration of taking in the Circuit Court for  
25 Prince George's County, accompanied by the estimated payment.

26 (2) (i) The declaration of taking may be combined with a petition for  
27 condemnation, either filed simultaneously with or as part of the same pleading, or  
28 filed after a petition for condemnation.

29 (ii) The WSSC's right to enter and take possession of the land or  
30 interest in the land is effective on the filing of the pleading if accompanied by the  
31 estimated payment provided for in § 2-103 of this title.

32 (3) The declaration of taking shall:

33 (i) Include a WSSC statement as to the number of takings in land  
34 or interests in land necessary for the construction of the water supply, sanitary  
35 sewerage, or drainage project;

36 (ii) Include a statement that the WSSC has acquired or is acquiring  
37 by purchase or by procedures other than the declaration of taking method at least  
38 one-half or more of the takings needed for the construction project;

1 (iii) Contain a description of the land or interest in land being  
2 taken;

3 (iv) Name the WSSC as plaintiff and the owner of the land or  
4 interests in lands as defendant;

5 (v) Be docketed as a law case by the clerk of the circuit court,  
6 unless the petition for condemnation is on file or filed simultaneously with the  
7 declaration of taking; and

8 (vi) Identify the qualified appraiser and specify the estimated  
9 valuation required by § 2-103 of this title.

10 (b) (1) Notice of and service on the owner of the declaration of taking shall  
11 be accomplished in the same manner as is provided for petitions for condemnation.

12 (2) The date of filing the declaration of taking, accompanied by the  
13 payment required under § 2-103 of this title, shall in any subsequent proceeding be  
14 the operative date of the taking with respect to the determination of the fair value of  
15 the land or interest in the land taken and damages, if any, occasioned by the taking.]

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 July 1, 1998.