

HOUSE BILL 1034

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2002 Regular Session
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By: **Delegates La Vay, Amedori, R. Baker, Baldwin, Bartlett, Barve, Boschert, Boutin, Branch, Brinkley, Busch, Dewberry, Donoghue, Eckardt, Edwards, Elliott, Franchot, Fulton, Giannetti, Greenip, Hecht, Hill, Hutchins, Kagan, Kelly, Klima, Leopold, Marriott, McKee, Mitchell, Murphy, O'Donnell, Owings, Patterson, Petzold, Pielke, Pitkin, Ports, Redmer, Rosso, Rzepkowski, Shank, Snodgrass, Stocksdales, Stull, Valderrama, Walkup, and Wood**

Introduced and read first time: February 8, 2002
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Public-Private Transportation Act of 2002**

3 FOR the purpose of authorizing a person to enter into an agreement with a certain
4 responsible public entity for the acquisition or construction of or improvement to
5 a transportation facility; stating the public policy objectives of the General
6 Assembly regarding transportation facilities; authorizing a person to request
7 approval to acquire, construct, improve, maintain, or operate a transportation
8 facility; authorizing certain public entities to request proposals for the
9 acquisition or construction of or improvement to a transportation facility;
10 establishing a method for a person to request approval to acquire, construct,
11 improve, maintain, or operate a transportation facility; requiring certain items
12 to be included in an application; establishing the circumstances under which a
13 responsible public entity may authorize the acquisition or construction of or
14 improvement to a transportation facility; authorizing a public entity to enter
15 into certain service agreements; establishing certain requirements related to the
16 provision of certain notice to certain local jurisdictions; authorizing a certain
17 dedication of certain public property; establishing the powers and duties of an
18 operator of a certain transportation facility; authorizing a certain operator of a
19 transportation facility and a certain responsible public entity to enter into a
20 certain comprehensive agreement; requiring a comprehensive agreement to
21 contain certain provisions; authorizing a responsible public entity to take action
22 to obtain certain federal, State, or local assistance; authorizing the Department
23 of Transportation to bring an action for a judgment by default under certain
24 circumstances; authorizing certain remedies on entry of a certain judgment by
25 default; authorizing the exercise of certain powers of condemnation; providing
26 for the standards for cooperation of certain entities when a transportation
27 facility will affect certain public service providers under certain circumstances;
28 providing for the operation of certain police powers in certain transportation
29 facilities; providing for a certain method for a dedication of certain assets after a

1 certain date; providing for the sovereign immunity of certain entities; providing
2 for the application of certain procurement procedures to a comprehensive
3 agreement under certain circumstances; establishing a certain jurisdiction for
4 the Department; defining certain terms; and generally relating to
5 public-private transportation agreements.

6 BY adding to
7 Article - Transportation
8 Section 2-701 through 2-719 to be under the new subtitle "Subtitle 7.
9 Public-Private Transportation"
10 Annotated Code of Maryland
11 (2001 Replacement Volume)

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

14 **Article - Transportation**

15 **SUBTITLE 7. PUBLIC-PRIVATE TRANSPORTATION.**

16 2-701.

17 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (B) "AFFECTED LOCAL JURISDICTION" MEANS ANY COUNTY OR MUNICIPAL
20 CORPORATION IN WHICH ALL OR A PORTION OF A QUALIFYING TRANSPORTATION
21 FACILITY IS LOCATED.

22 (C) "COMPREHENSIVE AGREEMENT" MEANS THE AGREEMENT BETWEEN THE
23 OPERATOR AND THE RESPONSIBLE PUBLIC ENTITY REQUIRED BY § 2-709 OF THIS
24 SUBTITLE.

25 (D) "MATERIAL DEFAULT" MEANS A DEFAULT BY THE OPERATOR IN THE
26 PERFORMANCE OF THE OPERATOR'S DUTIES UNDER § 2-708(F) OF THIS SUBTITLE
27 THAT:

28 (1) JEOPARDIZES ADEQUATE SERVICE TO THE PUBLIC FROM A
29 QUALIFYING TRANSPORTATION FACILITY; AND

30 (2) REMAINS UNREMEDIED AFTER THE RESPONSIBLE PUBLIC ENTITY
31 HAS PROVIDED NOTICE TO THE OPERATOR AND A REASONABLE CURE PERIOD HAS
32 ELAPSED.

33 (E) "OPERATOR" MEANS THE PRIVATE ENTITY THAT IS RESPONSIBLE FOR THE
34 ACQUISITION, CONSTRUCTION, IMPROVEMENT, MAINTENANCE, OR OPERATION OF A
35 QUALIFYING TRANSPORTATION FACILITY.

1 (F) (1) "PUBLIC ENTITY" MEANS THE STATE OR ANY AGENCY OF THE STATE,
2 OR A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION.

3 (2) "PUBLIC ENTITY" DOES NOT INCLUDE A PUBLIC SERVICE COMPANY.

4 (G) "QUALIFYING TRANSPORTATION FACILITY" MEANS A TRANSPORTATION
5 FACILITY ACQUIRED, CONSTRUCTED, IMPROVED, MAINTAINED, OR OPERATED BY A
6 PERSON IN ACCORDANCE WITH THIS SUBTITLE.

7 (H) "RESPONSIBLE PUBLIC ENTITY" MEANS THE PUBLIC ENTITY THAT HAS
8 JURISDICTION TO ACQUIRE, CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE A
9 TRANSPORTATION FACILITY.

10 (I) "REVENUES" MEANS THE USER FEES OR SERVICE PAYMENTS GENERATED
11 BY A QUALIFYING TRANSPORTATION FACILITY.

12 (J) "SERVICE CONTRACT" MEANS A CONTRACT ENTERED INTO BETWEEN A
13 PUBLIC ENTITY AND THE OPERATOR PURSUANT TO § 2-705 OF THIS SUBTITLE.

14 (K) "SERVICE PAYMENTS" MEANS PAYMENTS TO THE OPERATOR OF A
15 QUALIFYING TRANSPORTATION FACILITY PURSUANT TO A SERVICE CONTRACT.

16 (L) "TRANSPORTATION FACILITY" HAS THE MEANING STATED IN § 3-101(L) OF
17 THIS ARTICLE.

18 (M) "USER FEES" MEANS THE RATES, FEES, OR OTHER CHARGES IMPOSED BY
19 THE OPERATOR OF A QUALIFYING TRANSPORTATION FACILITY FOR THE USE OF ALL
20 OR A PORTION OF A QUALIFYING TRANSPORTATION FACILITY PURSUANT TO THE
21 COMPREHENSIVE AGREEMENT.

22 2-702.

23 (A) THE GENERAL ASSEMBLY FINDS THAT:

24 (1) THERE IS A PUBLIC NEED FOR TIMELY ACQUISITION OR
25 CONSTRUCTION OF AND IMPROVEMENTS TO TRANSPORTATION FACILITIES IN THE
26 STATE THAT ARE COMPATIBLE WITH STATE AND LOCAL TRANSPORTATION PLANS;

27 (2) THE PUBLIC NEED MAY NOT BE WHOLLY SATISFIED BY EXISTING
28 WAYS IN WHICH TRANSPORTATION FACILITIES ARE ACQUIRED, CONSTRUCTED, OR
29 IMPROVED; AND

30 (3) AUTHORIZING PERSONS TO ACQUIRE, CONSTRUCT, IMPROVE,
31 MAINTAIN, OR OPERATE ONE OR MORE TRANSPORTATION FACILITIES MAY RESULT
32 IN THE AVAILABILITY OF IMPROVED TRANSPORTATION FACILITIES TO THE PUBLIC
33 IN A MORE TIMELY OR LESS COSTLY FASHION, THEREBY SERVING THE PUBLIC
34 SAFETY AND WELFARE.

35 (B) AN ACTION SERVES THE PUBLIC PURPOSES OF THIS SUBTITLE IF THE
36 ACTION FACILITATES THE TIMELY ACQUISITION OR CONSTRUCTION OF, OR

1 IMPROVEMENT TO, A QUALIFYING TRANSPORTATION FACILITY OR THE CONTINUED
2 OPERATION OF A QUALIFYING TRANSPORTATION FACILITY.

3 (C) THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO PROMOTE ITS
4 UNDERLYING PURPOSES AND POLICIES.

5 2-703.

6 (A) A PERSON SEEKING AUTHORIZATION UNDER THIS SUBTITLE TO ACQUIRE,
7 CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE A TRANSPORTATION FACILITY
8 SHALL FIRST OBTAIN APPROVAL OF THE RESPONSIBLE PUBLIC ENTITY UNDER §
9 2-704 OF THIS SUBTITLE.

10 (B) THE APPROVAL PROCESS MAY BE INITIATED BY:

11 (1) A PERSON REQUESTING APPROVAL UNDER § 2-704(A) OF THIS
12 SUBTITLE; OR

13 (2) THE RESPONSIBLE PUBLIC ENTITY REQUESTING PROPOSALS UNDER
14 § 2-704(B) OF THIS SUBTITLE.

15 2-704.

16 (A) (1) A PERSON MAY REQUEST APPROVAL FROM THE RESPONSIBLE
17 PUBLIC ENTITY TO BUILD A QUALIFIED TRANSPORTATION FACILITY.

18 (2) (I) A REQUEST MADE UNDER THIS SUBSECTION SHALL BE
19 ACCOMPANIED BY THE FOLLOWING MATERIAL AND INFORMATION:

20 1. A TOPOGRAPHIC MAP (1:2,000 OR OTHER APPROPRIATE
21 SCALE) INDICATING THE LOCATION OF THE TRANSPORTATION FACILITY;

22 2. A DESCRIPTION OF THE TRANSPORTATION FACILITY,
23 INCLUDING THE CONCEPTUAL DESIGN OF THE FACILITY AND ALL PROPOSED
24 INTERCONNECTIONS WITH OTHER TRANSPORTATION FACILITIES;

25 3. THE PROJECTED TOTAL LIFE-CYCLE COST OF THE
26 TRANSPORTATION FACILITY AND THE PROPOSED DATE FOR ACQUISITION OF THE
27 TRANSPORTATION FACILITY OR THE BEGINNING OF CONSTRUCTION OF, OR
28 IMPROVEMENTS TO, THE TRANSPORTATION FACILITY;

29 4. A STATEMENT SETTING FORTH THE METHOD BY WHICH
30 THE OPERATOR PROPOSES TO SECURE ALL PROPERTY INTERESTS REQUIRED FOR
31 THE TRANSPORTATION FACILITY INCLUDING:

32 A. THE NAMES AND ADDRESSES, IF KNOWN, OF THE
33 CURRENT OWNERS OF THE PROPERTY NEEDED FOR THE TRANSPORTATION
34 FACILITY;

35 B. THE NATURE OF THE PROPERTY INTERESTS TO BE
36 ACQUIRED; AND

1 C. ANY PROPERTY THAT THE RESPONSIBLE PUBLIC ENTITY
2 IS EXPECTED TO BE REQUESTED TO CONDEMN;

3 5. INFORMATION RELATING TO THE CURRENT
4 TRANSPORTATION PLANS OF EACH AFFECTED LOCAL JURISDICTION;

5 6. A LIST OF ALL PERMITS AND APPROVALS REQUIRED FOR
6 ACQUISITION OR CONSTRUCTION OF OR IMPROVEMENTS TO THE TRANSPORTATION
7 FACILITY FROM LOCAL, STATE, OR FEDERAL AGENCIES AND A PROJECTED
8 SCHEDULE FOR OBTAINING SUCH PERMITS AND APPROVALS;

9 7. A LIST OF PUBLIC UTILITY FACILITIES THAT WILL BE
10 CROSSED BY THE TRANSPORTATION FACILITY AND A STATEMENT OF THE PLANS OF
11 THE OPERATOR TO ACCOMMODATE SUCH CROSSINGS;

12 8. A STATEMENT SETTING FORTH THE OPERATOR'S
13 GENERAL PLANS FOR FINANCING AND OPERATING THE TRANSPORTATION FACILITY;

14 9. THE NAMES AND ADDRESSES OF THE PERSONS WHO MAY
15 BE CONTACTED FOR FURTHER INFORMATION CONCERNING THE REQUEST; AND

16 10. ADDITIONAL MATERIAL AND INFORMATION AS THE
17 RESPONSIBLE PUBLIC ENTITY MAY REASONABLY REQUEST.

18 (II) THE RESPONSIBLE PUBLIC ENTITY MAY WAIVE THE
19 REQUIREMENT TO PROVIDE ANY OF THE INFORMATION IN SUBPARAGRAPH (I) OF
20 THIS PARAGRAPH.

21 (B) THE RESPONSIBLE PUBLIC ENTITY MAY REQUEST PROPOSALS FOR THE
22 ACQUISITION, CONSTRUCTION, IMPROVEMENT, OR OPERATION OF TRANSPORTATION
23 FACILITIES.

24 (C) (1) THE RESPONSIBLE PUBLIC ENTITY MAY GRANT APPROVAL FOR THE
25 ACQUISITION, CONSTRUCTION, IMPROVEMENT, OR OPERATION OF A
26 TRANSPORTATION FACILITY AS A QUALIFYING TRANSPORTATION FACILITY IF THE
27 RESPONSIBLE PUBLIC ENTITY DETERMINES THAT IT SERVES THE PUBLIC PURPOSE
28 OF THIS SUBTITLE.

29 (2) THE RESPONSIBLE PUBLIC ENTITY MAY DETERMINE THAT THE
30 ACQUISITION, CONSTRUCTION, IMPROVEMENT, OR OPERATION OF A
31 TRANSPORTATION FACILITY AS A QUALIFYING TRANSPORTATION FACILITY SERVES
32 THE PUBLIC PURPOSE OF THIS SUBTITLE IF:

33 (I) THERE IS A PUBLIC NEED FOR THE TYPE OF TRANSPORTATION
34 FACILITY PROPOSED TO BE OPERATED AS A QUALIFYING TRANSPORTATION
35 FACILITY;

36 (II) THE TRANSPORTATION FACILITY, THE PROPOSED
37 INTERCONNECTIONS WITH EXISTING TRANSPORTATION FACILITIES, AND THE
38 OPERATOR'S PLANS FOR OPERATION OF THE QUALIFYING TRANSPORTATION

1 FACILITY ARE REASONABLE AND COMPATIBLE WITH THE MARYLAND
2 TRANSPORTATION PLAN, THE CONSOLIDATED TRANSPORTATION PROGRAM, AND
3 ANY RELEVANT LOCAL TRANSPORTATION PLAN;

4 (III) THE ESTIMATED COST OF THE TRANSPORTATION FACILITY IS
5 REASONABLE IN RELATION TO SIMILAR FACILITIES; AND

6 (IV) THE OPERATOR'S PLANS WILL RESULT IN THE TIMELY
7 ACQUISITION OR CONSTRUCTION OF OR IMPROVEMENTS TO A TRANSPORTATION
8 FACILITY OR MORE EFFICIENT OPERATION OF AN EXISTING TRANSPORTATION
9 FACILITY.

10 (3) IN EVALUATING A REQUEST, THE RESPONSIBLE PUBLIC ENTITY MAY
11 RELY ON INTERNAL STAFF REPORTS PREPARED BY PERSONNEL FAMILIAR WITH THE
12 OPERATION OF SIMILAR FACILITIES OR THE ADVICE OF OUTSIDE ADVISORS OR
13 CONSULTANTS HAVING RELEVANT EXPERIENCE.

14 (D) THE RESPONSIBLE PUBLIC ENTITY MAY CHARGE A REASONABLE FEE TO
15 COVER THE COSTS OF PROCESSING, REVIEWING, AND EVALUATING A REQUEST
16 INCLUDING REASONABLE ATTORNEY'S FEES AND FEES FOR FINANCIAL AND OTHER
17 NECESSARY ADVISORS OR CONSULTANTS.

18 (E) THE APPROVAL OF THE RESPONSIBLE PUBLIC ENTITY SHALL BE SUBJECT
19 TO THE OPERATOR ENTERING INTO A COMPREHENSIVE AGREEMENT WITH THE
20 RESPONSIBLE PUBLIC ENTITY.

21 (F) (1) IN CONNECTION WITH ITS APPROVAL OF THE OPERATION OF THE
22 TRANSPORTATION FACILITY AS A QUALIFYING TRANSPORTATION FACILITY, THE
23 RESPONSIBLE PUBLIC ENTITY SHALL ESTABLISH A DATE FOR THE ACQUISITION OF
24 OR THE BEGINNING OF CONSTRUCTION OF OR IMPROVEMENTS TO THE QUALIFYING
25 TRANSPORTATION FACILITY.

26 (2) THE RESPONSIBLE PUBLIC ENTITY MAY EXTEND THE DATE
27 ESTABLISHED UNDER THIS SUBSECTION.

28 2-705.

29 A PUBLIC ENTITY MAY CONTRACT WITH AN OPERATOR FOR TRANSPORTATION
30 SERVICES TO BE PROVIDED BY A QUALIFYING TRANSPORTATION FACILITY IN
31 EXCHANGE FOR THE SERVICE PAYMENTS AND OTHER CONSIDERATION THAT THE
32 PUBLIC ENTITY DEEMS APPROPRIATE.

33 2-706.

34 (A) A PERSON REQUESTING APPROVAL FROM, OR SUBMITTING A PROPOSAL
35 TO, A RESPONSIBLE PUBLIC ENTITY UNDER § 2-704 OF THIS SUBTITLE SHALL NOTIFY
36 EACH AFFECTED LOCAL JURISDICTION BY FURNISHING A COPY OF THE PERSON'S
37 REQUEST OR PROPOSAL TO EACH AFFECTED LOCAL JURISDICTION.

1 (B) AN AFFECTED LOCAL JURISDICTION THAT IS NOT A RESPONSIBLE PUBLIC
2 ENTITY FOR THE RESPECTIVE QUALIFYING TRANSPORTATION FACILITY SHALL,
3 WITHIN 60 DAYS AFTER RECEIVING THE NOTICE UNDER THIS SUBSECTION, SUBMIT
4 ANY COMMENTS IT MAY HAVE, IN WRITING, ON THE PROPOSED QUALIFYING
5 TRANSPORTATION FACILITY TO THE RESPONSIBLE PUBLIC ENTITY AND INDICATE
6 WHETHER THE FACILITY IS COMPATIBLE WITH THE LOCAL COMPREHENSIVE PLAN.

7 2-707.

8 (A) A PUBLIC ENTITY MAY DEDICATE ANY PROPERTY INTEREST THAT IT HAS
9 FOR PUBLIC USE AS A QUALIFIED TRANSPORTATION FACILITY IF THE PUBLIC
10 ENTITY FINDS THAT THE DEDICATION OF THE PROPERTY INTEREST WILL SERVE THE
11 PUBLIC PURPOSE OF THIS SUBTITLE.

12 (B) IN CONNECTION WITH DEDICATION OF A PROPERTY INTEREST UNDER
13 THIS SECTION AND SUBJECT TO THE PROVISIONS OF THIS SUBTITLE, A PUBLIC
14 ENTITY MAY CONVEY ANY PROPERTY INTEREST THAT IT HAS TO THE OPERATOR FOR
15 THE CONSIDERATION THE PUBLIC ENTITY MAY DETERMINE.

16 (C) THE CONSIDERATION PROVIDED FOR IN SUBSECTION (B) OF THIS
17 SECTION, MAY INCLUDE THE AGREEMENT OF THE OPERATOR TO OPERATE THE
18 QUALIFYING TRANSPORTATION FACILITY.

19 2-708.

20 (A) (1) THE OPERATOR MAY ACQUIRE, CONSTRUCT, IMPROVE, OR OPERATE
21 A QUALIFYING TRANSPORTATION FACILITY.

22 (2) THE OPERATOR MAY OWN, LEASE, OR ACQUIRE ANY RIGHT TO USE
23 OR OPERATE A QUALIFYING TRANSPORTATION FACILITY.

24 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
25 OPERATOR MAY IMPOSE USER FEES OR ENTER INTO SERVICE CONTRACTS IN
26 CONNECTION WITH THE USE OF THE QUALIFYING TRANSPORTATION FACILITY.

27 (2) THE OPERATOR MAY NOT IMPOSE TOLLS OR FEES ON ANY EXISTING
28 INTERSTATE HIGHWAY OR ON ANY FREE ROAD, BRIDGE, TUNNEL, OR OVERPASS
29 UNLESS THE ROAD, BRIDGE, TUNNEL, OR OVERPASS IS RECONSTRUCTED TO
30 PROVIDE FOR INCREASED CAPACITY.

31 (C) (1) THE OPERATOR MAY FINANCE THE QUALIFYING TRANSPORTATION
32 FACILITY IN AN AMOUNT AND ON TERMS AND CONDITIONS AS MAY BE DETERMINED
33 BY THE OPERATOR.

34 (2) THE OPERATOR MAY ISSUE DEBT, EQUITY, OR OTHER SECURITIES OR
35 OBLIGATIONS, ENTER INTO SALE AND LEASEBACK TRANSACTIONS, AND SECURE ANY
36 FINANCING WITH A PLEDGE OF, SECURITY INTEREST IN, OR LIEN ON, ANY OR ALL OF
37 ITS PROPERTY, INCLUDING ALL OF ITS PROPERTY INTERESTS IN THE QUALIFYING
38 TRANSPORTATION FACILITY.

1 (D) SUBJECT TO APPLICABLE PERMIT REQUIREMENTS, THE OPERATOR MAY
2 CROSS ANY CANAL OR NAVIGABLE WATERCOURSE AS LONG AS THE CROSSING DOES
3 NOT UNREASONABLY INTERFERE WITH THE NAVIGATION AND USE OF THE
4 WATERWAY.

5 (E) IN OPERATING THE QUALIFYING TRANSPORTATION FACILITY, THE
6 OPERATOR MAY:

7 (1) MAKE CLASSIFICATIONS ACCORDING TO REASONABLE CATEGORIES
8 FOR ASSESSMENT OF USER FEES; AND

9 (2) WITH THE CONSENT OF THE RESPONSIBLE PUBLIC ENTITY, MAKE
10 AND ENFORCE REASONABLE RULES TO THE SAME EXTENT THAT THE RESPONSIBLE
11 PUBLIC ENTITY MAY MAKE AND ENFORCE RULES WITH RESPECT TO A SIMILAR
12 TRANSPORTATION FACILITY.

13 (F) THE OPERATOR SHALL:

14 (1) ACQUIRE, CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE THE
15 QUALIFYING TRANSPORTATION FACILITY IN A MANNER THAT:

16 (I) MEETS THE ENGINEERING STANDARDS OF THE RESPONSIBLE
17 PUBLIC ENTITY FOR TRANSPORTATION FACILITIES OPERATED AND MAINTAINED BY
18 THE RESPONSIBLE PUBLIC ENTITY; AND

19 (II) IS IN ACCORDANCE WITH THE PROVISIONS OF THE
20 COMPREHENSIVE AGREEMENT;

21 (2) KEEP THE QUALIFYING TRANSPORTATION FACILITY OPEN FOR USE
22 BY THE MEMBERS OF THE PUBLIC AT ALL TIMES AFTER ITS INITIAL OPENING UPON
23 PAYMENT OF THE APPLICABLE USER FEES OR SERVICE PAYMENTS, EXCEPT:

24 (I) FOR TEMPORARY CLOSURES BECAUSE OF EMERGENCIES;

25 (II) WITH THE CONSENT OF THE RESPONSIBLE PUBLIC ENTITY, FOR
26 PROTECTION OF PUBLIC SAFETY; OR

27 (III) DURING REASONABLE PERIODS OF TIME, FOR CONSTRUCTION
28 OR MAINTENANCE PROCEDURES;

29 (3) MAINTAIN, OR PROVIDE BY CONTRACT FOR THE MAINTENANCE OF,
30 THE QUALIFYING TRANSPORTATION FACILITY;

31 (4) COOPERATE WITH THE RESPONSIBLE PUBLIC ENTITY IN
32 ESTABLISHING ANY INTERCONNECTION WITH THE QUALIFYING TRANSPORTATION
33 FACILITY REQUESTED BY THE RESPONSIBLE PUBLIC ENTITY; AND

34 (5) COMPLY WITH THE PROVISIONS OF THE COMPREHENSIVE
35 AGREEMENT AND ANY SERVICE CONTRACT.

1 2-709.

2 (A) PRIOR TO ACQUIRING, CONSTRUCTING, IMPROVING, MAINTAINING, OR
3 OPERATING A QUALIFYING TRANSPORTATION FACILITY, THE OPERATOR SHALL
4 ENTER INTO A COMPREHENSIVE AGREEMENT WITH THE RESPONSIBLE PUBLIC
5 ENTITY.

6 (B) THE COMPREHENSIVE AGREEMENT SHALL PROVIDE FOR:

7 (1) DELIVERY OF PERFORMANCE AND PAYMENT BONDS IN
8 CONNECTION WITH THE CONSTRUCTION OF OR IMPROVEMENTS TO THE
9 QUALIFYING TRANSPORTATION FACILITY, IN THE FORMS TO THE RESPONSIBLE
10 PUBLIC ENTITY;

11 (2) REVIEW OF PLANS AND SPECIFICATIONS FOR THE QUALIFYING
12 TRANSPORTATION FACILITY BY THE RESPONSIBLE PUBLIC ENTITY AND APPROVAL
13 BY THE RESPONSIBLE PUBLIC ENTITY IF THE PLANS AND SPECIFICATIONS
14 CONFORM TO STANDARD CONDITIONS OF THE RESPONSIBLE PUBLIC ENTITY;

15 (3) INSPECTION OF, CONSTRUCTION OF, OR IMPROVEMENTS TO THE
16 QUALIFYING TRANSPORTATION FACILITY BY THE RESPONSIBLE PUBLIC ENTITY TO
17 ENSURE CONFORMANCE WITH ENGINEERING STANDARDS ACCEPTABLE TO THE
18 RESPONSIBLE PUBLIC ENTITY;

19 (4) MAINTENANCE OF A POLICY OF PUBLIC LIABILITY INSURANCE OR
20 SELF-INSURANCE, IN FORM AND AMOUNT SATISFACTORY TO THE RESPONSIBLE
21 PUBLIC ENTITY AND REASONABLY SUFFICIENT TO INSURE COVERAGE OF TORT
22 LIABILITY TO THE PUBLIC AND EMPLOYEES AND TO ENABLE THE CONTINUED
23 OPERATION OF THE QUALIFYING TRANSPORTATION FACILITY;

24 (5) MONITORING OF THE MAINTENANCE PRACTICES OF THE OPERATOR
25 BY THE RESPONSIBLE PUBLIC ENTITY AND THE TAKING OF ANY ACTIONS THE
26 RESPONSIBLE PUBLIC ENTITY FINDS APPROPRIATE TO ENSURE THAT THE
27 QUALIFYING TRANSPORTATION FACILITY IS PROPERLY MAINTAINED;

28 (6) REIMBURSEMENT TO BE PAID TO THE RESPONSIBLE PUBLIC ENTITY
29 FOR SERVICES PROVIDED BY THE RESPONSIBLE PUBLIC ENTITY;

30 (7) FILING OF APPROPRIATE FINANCIAL STATEMENTS ON A PERIODIC
31 BASIS;

32 (8) A REASONABLE MAXIMUM RATE OF RETURN ON INVESTMENT FOR
33 THE OPERATOR; AND

34 (9) THE DATE OF TERMINATION OF THE OPERATOR'S AUTHORITY AND
35 DUTIES UNDER THIS SUBTITLE AND DEDICATION TO THE APPROPRIATE PUBLIC
36 ENTITY.

1 (C) (1) THE COMPREHENSIVE AGREEMENT SHALL PROVIDE FOR USER FEES
2 THAT MAY BE ESTABLISHED DURING THE PERIOD OF THE OPERATOR'S AUTHORITY
3 BY AGREEMENT OF THE PARTIES.

4 (2) USER FEES SHALL BE SET AT A LEVEL THAT, TAKING INTO ACCOUNT
5 ANY SERVICE PAYMENTS, ALLOWS THE OPERATOR THE RATE OF RETURN ON
6 INVESTMENT SPECIFIED IN THE COMPREHENSIVE AGREEMENT.

7 (3) A COPY OF ANY SERVICE CONTRACT ENTERED INTO SHALL BE FILED
8 WITH THE RESPONSIBLE PUBLIC ENTITY.

9 (4) A SCHEDULE OF THE CURRENT USER FEES SHALL BE MADE
10 AVAILABLE BY THE OPERATOR TO ANY MEMBER OF THE PUBLIC ON REQUEST.

11 (5) IN NEGOTIATING USER FEES UNDER THIS SUBSECTION, THE
12 PARTIES SHALL ESTABLISH FEES THAT ARE THE SAME FOR PERSONS USING THE
13 FACILITY UNDER LIKE CONDITIONS AND THAT WILL NOT MATERIALLY DISCOURAGE
14 USE OF THE QUALIFYING TRANSPORTATION FACILITY.

15 (6) THE EXECUTION OF THE COMPREHENSIVE AGREEMENT OR ANY
16 AMENDMENT TO THE COMPREHENSIVE AGREEMENT SHALL CONSTITUTE
17 CONCLUSIVE EVIDENCE THAT THE USER FEES PROVIDED FOR IN THE AGREEMENT
18 COMPLY WITH THIS SUBTITLE.

19 (7) USER FEES ESTABLISHED IN THE COMPREHENSIVE AGREEMENT AS
20 A SOURCE OF REVENUES MAY BE IN ADDITION TO, OR IN LIEU OF, SERVICE
21 PAYMENTS.

22 (D) IN THE COMPREHENSIVE AGREEMENT, THE RESPONSIBLE PUBLIC ENTITY
23 MAY AGREE TO MAKE GRANTS OR LOANS TO THE OPERATOR FROM TIME TO TIME
24 FROM AMOUNTS RECEIVED FROM THE FEDERAL GOVERNMENT OR ANY AGENCY OR
25 INSTRUMENTALITY OF THE FEDERAL GOVERNMENT.

26 (E) (1) THE COMPREHENSIVE AGREEMENT SHALL INCORPORATE THE
27 DUTIES OF THE OPERATOR UNDER THIS SUBTITLE AND MAY CONTAIN SUCH OTHER
28 TERMS AND CONDITIONS THAT THE RESPONSIBLE PUBLIC ENTITY DETERMINES
29 SERVE THE PUBLIC PURPOSE OF THIS SUBTITLE.

30 (2) THE COMPREHENSIVE AGREEMENT MAY CONTAIN PROVISIONS
31 UNDER WHICH THE RESPONSIBLE PUBLIC ENTITY AGREES TO PROVIDE NOTICE OF
32 DEFAULT AND CURE RIGHTS FOR THE BENEFIT OF THE OPERATOR AND THE
33 PERSONS SPECIFIED IN THE COMPREHENSIVE AGREEMENT AS PROVIDING
34 FINANCING FOR THE QUALIFYING TRANSPORTATION FACILITY.

35 (3) THE COMPREHENSIVE AGREEMENT MAY CONTAIN ANY OTHER
36 LAWFUL TERMS AND CONDITIONS TO WHICH THE OPERATOR AND THE RESPONSIBLE
37 PUBLIC ENTITY MUTUALLY AGREE, INCLUDING PROVISIONS REGARDING
38 UNAVOIDABLE DELAYS OR PROVISIONS PROVIDING FOR A LOAN OF PUBLIC FUNDS
39 TO THE OPERATOR TO ACQUIRE, CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE
40 ONE OR MORE QUALIFYING TRANSPORTATION FACILITIES.

1 (F) (1) THE COMPREHENSIVE AGREEMENT SHALL PROVIDE FOR THE
2 DISTRIBUTION OF ANY EARNINGS IN EXCESS OF THE MAXIMUM RATE OF RETURN AS
3 NEGOTIATED IN THE COMPREHENSIVE AGREEMENT.

4 (2) EXCESS EARNINGS MAY BE DISTRIBUTED TO:

5 (I) THE TRANSPORTATION TRUST FUND;

6 (II) THE RESPONSIBLE PUBLIC ENTITY;

7 (III) THE OPERATOR FOR DEBT REDUCTION; OR

8 (IV) AFFECTED LOCAL JURISDICTIONS.

9 (G) CHANGES IN THE TERMS OF THE COMPREHENSIVE AGREEMENT, AS MAY
10 BE AGREED UPON BY THE PARTIES FROM TIME TO TIME, SHALL BE ADDED TO THE
11 COMPREHENSIVE AGREEMENT BY WRITTEN AMENDMENT.

12 2-710.

13 (A) (1) THE RESPONSIBLE PUBLIC ENTITY MAY TAKE ANY ACTION TO
14 OBTAIN FEDERAL, STATE, OR LOCAL ASSISTANCE FOR A QUALIFYING
15 TRANSPORTATION FACILITY THAT SERVES THE PUBLIC PURPOSE OF THIS SUBTITLE.

16 (2) THE RESPONSIBLE PUBLIC ENTITY MAY ENTER INTO ANY
17 CONTRACTS REQUIRED TO RECEIVE FEDERAL ASSISTANCE.

18 (B) IF THE RESPONSIBLE PUBLIC ENTITY IS A STATE AGENCY, ANY FUNDS
19 RECEIVED FROM THE STATE OR FEDERAL GOVERNMENT OR ANY AGENCY OF THE
20 STATE OR FEDERAL GOVERNMENT SHALL BE SUBJECT TO APPROPRIATION BY THE
21 GENERAL ASSEMBLY.

22 (C) THE RESPONSIBLE PUBLIC ENTITY MAY DETERMINE THAT IT SERVES THE
23 PUBLIC PURPOSE OF THIS SUBTITLE FOR ALL OR A PORTION OF THE COSTS OF A
24 QUALIFYING TRANSPORTATION FACILITY TO BE PAID, DIRECTLY OR INDIRECTLY,
25 FROM THE PROCEEDS OF A GRANT OR LOAN MADE BY THE LOCAL, STATE, OR
26 FEDERAL GOVERNMENT OR ANY AGENCY OF THE LOCAL, STATE, OR FEDERAL
27 GOVERNMENT.

28 2-711.

29 (A) (1) AFTER PROVIDING NOTICE TO THE OPERATOR AND TO THE SECURED
30 PARTIES THAT APPEAR IN THE OPERATOR'S RECORDS, THE DEPARTMENT MAY BRING
31 AN ACTION FOR A JUDGMENT BY DEFAULT IN A COURT OF COMPETENT
32 JURISDICTION IF A MATERIAL DEFAULT HAS OCCURRED.

33 (2) EXCEPT UPON AGREEMENT OF THE OPERATOR AND ANY OTHER
34 PARTIES IDENTIFIED IN THE COMPREHENSIVE AGREEMENT, A RESPONSIBLE PUBLIC
35 ENTITY MAY NOT EXERCISE ANY OF THE REMEDIES PROVIDED IN THIS SECTION OR

1 IN § 2-712(B) AND (C) OF THIS SUBTITLE UNLESS A JUDGMENT BY DEFAULT HAS BEEN
2 ENTERED BY A COURT OF COMPETENT JURISDICTION.

3 (B) ON ENTRY BY THE COURT OF A JUDGMENT BY DEFAULT UNDER
4 SUBSECTION (A) OF THIS SECTION, THE RESPONSIBLE PUBLIC ENTITY MAY:

5 (1) TAKE OVER THE TRANSPORTATION FACILITY AND SUCCEED TO ALL
6 OF THE RIGHT, TITLE, AND INTEREST IN THE TRANSPORTATION FACILITY, SUBJECT
7 TO SUBSECTION (C) OF THIS SECTION AND ANY LIENS ON REVENUES PREVIOUSLY
8 GRANTED BY THE OPERATOR TO ANY PERSON PROVIDING FINANCING;

9 (2) IF THE RESPONSIBLE PUBLIC ENTITY HAS THE POWER OF
10 CONDEMNATION, EXERCISE THE POWER OF CONDEMNATION TO ACQUIRE THE
11 QUALIFYING TRANSPORTATION FACILITY, EXCEPT THAT A PERSON THAT HAS
12 PROVIDED FINANCING FOR THE QUALIFYING TRANSPORTATION FACILITY, AND THE
13 OPERATOR, TO THE EXTENT OF ITS CAPITAL INVESTMENT, MAY PARTICIPATE IN THE
14 CONDEMNATION PROCEEDINGS WITH THE STANDING OF A PROPERTY OWNER;

15 (3) TERMINATE THE COMPREHENSIVE AGREEMENT AND EXERCISE ANY
16 OTHER RIGHTS AND REMEDIES THAT MAY BE AVAILABLE AT LAW OR IN EQUITY; AND

17 (4) MAKE OR CAUSE TO BE MADE ANY APPROPRIATE CLAIMS UNDER
18 THE PERFORMANCE OR PAYMENT BONDS REQUIRED BY § 2-708(B)(1) OF THIS
19 SUBTITLE.

20 (C) (1) IF THE RESPONSIBLE PUBLIC ENTITY ELECTS TO TAKE OVER A
21 QUALIFYING TRANSPORTATION FACILITY UNDER SUBSECTION (B)(1) OF THIS
22 SECTION, THE RESPONSIBLE PUBLIC ENTITY SHALL:

23 (I) ACQUIRE, CONSTRUCT, IMPROVE, OPERATE, AND MAINTAIN
24 THE TRANSPORTATION FACILITY;

25 (II) IMPOSE USER FEES FOR THE USE OF THE TRANSPORTATION
26 FACILITY; AND

27 (III) COMPLY WITH ANY SERVICE CONTRACTS AS IF IT WERE THE
28 OPERATOR.

29 (2) ANY REVENUES THAT ARE SUBJECT TO A LIEN SHALL BE
30 COLLECTED FOR THE BENEFIT OF, AND PAID TO, SECURED PARTIES, AS THEIR
31 INTERESTS MAY APPEAR, TO THE EXTENT NECESSARY TO SATISFY THE OPERATOR'S
32 OBLIGATIONS TO SECURED PARTIES, INCLUDING THE MAINTENANCE OF RESERVES,
33 AND THE LIENS SHALL BE CORRESPONDINGLY REDUCED AND, WHEN PAID OFF,
34 RELEASED.

35 (3) BEFORE ANY PAYMENTS TO, OR FOR THE BENEFIT OF, SECURED
36 PARTIES, THE RESPONSIBLE PUBLIC ENTITY MAY USE REVENUES TO PAY CURRENT
37 OPERATION AND MAINTENANCE COSTS OF THE TRANSPORTATION FACILITY,
38 INCLUDING COMPENSATION TO THE RESPONSIBLE PUBLIC ENTITY FOR ITS

1 SERVICES IN OPERATING AND MAINTAINING THE QUALIFYING TRANSPORTATION
2 FACILITY.

3 (4) (I) REMAINING REVENUES, AFTER ALL PAYMENTS FOR
4 OPERATION AND MAINTENANCE OF THE TRANSPORTATION FACILITY AND
5 PAYMENTS TO OR FOR THE BENEFIT OF SECURED PARTIES HAVE BEEN MADE, SHALL
6 BE PAID TO THE OPERATOR, SUBJECT TO THE NEGOTIATED MAXIMUM RATE OF
7 RETURN.

8 (II) THE RIGHT TO RECEIVE PAYMENT UNDER THIS PARAGRAPH
9 SHALL BE CONSIDERED JUST COMPENSATION FOR THE QUALIFYING
10 TRANSPORTATION FACILITY.

11 (5) THE FULL FAITH AND CREDIT OF THE RESPONSIBLE PUBLIC ENTITY
12 SHALL NOT BE PLEDGED TO SECURE ANY FINANCING OF THE OPERATOR BY THE
13 ELECTION TO TAKE OVER THE QUALIFYING TRANSPORTATION FACILITY.

14 (6) ASSUMPTION OF THE OPERATION OF THE QUALIFYING
15 TRANSPORTATION FACILITY DOES NOT OBLIGATE THE RESPONSIBLE PUBLIC ENTITY
16 TO PAY ANY OBLIGATION OF THE OPERATOR FROM SOURCES OTHER THAN
17 REVENUES.

18 2-712.

19 (A) (1) AT THE REQUEST OF THE OPERATOR, THE RESPONSIBLE PUBLIC
20 ENTITY MAY EXERCISE ANY POWER OF CONDEMNATION THAT IT HAS UNDER LAW
21 FOR THE PURPOSE OF ACQUIRING ANY REAL PROPERTY OR ESTATES OR INTERESTS
22 IN REAL PROPERTY TO THE EXTENT THAT THE RESPONSIBLE PUBLIC ENTITY FINDS
23 THAT THE ACTION SERVES THE PUBLIC PURPOSE OF THIS SUBTITLE.

24 (2) AN AMOUNT TO BE PAID IN A CONDEMNATION PROCEEDING UNDER
25 THIS SECTION SHALL BE PAID BY THE OPERATOR.

26 (B) EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, UNTIL THE
27 COURT HAS ENTERED A FINAL ORDER OF DEFAULT UNDER § 2-711(A) OF THIS
28 SUBTITLE, THE POWER OF CONDEMNATION MAY NOT BE EXERCISED AGAINST A
29 QUALIFYING TRANSPORTATION FACILITY.

30 (C) AFTER THE ENTRY OF A FINAL ORDER OF DEFAULT, ANY RESPONSIBLE
31 PUBLIC ENTITY HAVING THE POWER OF CONDEMNATION UNDER LAW MAY
32 EXERCISE THAT POWER AS PROVIDED IN § 2-711(B)(2) OF THIS SUBTITLE IN LIEU OF,
33 OR AT ANY TIME AFTER TAKING OVER THE TRANSPORTATION FACILITY UNDER §
34 2-711(B)(1) OF THIS SUBTITLE.

35 2-713.

36 (A) THE OPERATOR AND EACH PUBLIC SERVICE COMPANY, PUBLIC UTILITY,
37 RAILROAD, OR CABLE TELEVISION PROVIDER, WHOSE FACILITIES ARE TO BE
38 CROSSED OR AFFECTED BY A QUALIFYING TRANSPORTATION FACILITY SHALL
39 COOPERATE FULLY WITH THE QUALIFYING TRANSPORTATION FACILITY IN

1 PLANNING AND ARRANGING THE MANNER OF THE CROSSING OR RELOCATION OF
2 THE FACILITIES.

3 (B) AN ENTITY SPECIFIED IN SUBSECTION (A) OF THIS SECTION, POSSESSING
4 THE POWER OF CONDEMNATION MAY EXERCISE THOSE POWERS IN CONNECTION
5 WITH THE MOVING OR RELOCATION OF FACILITIES TO BE CROSSED BY THE
6 QUALIFYING TRANSPORTATION FACILITY OR THAT MUST BE RELOCATED TO THE
7 EXTENT THAT THE MOVING OR RELOCATION IS MADE NECESSARY OR DESIRABLE BY
8 CONSTRUCTION OF OR IMPROVEMENTS TO THE QUALIFYING TRANSPORTATION
9 FACILITY, WHICH SHALL BE CONSTRUED TO INCLUDE CONSTRUCTION OF OR
10 IMPROVEMENTS TO TEMPORARY FACILITIES FOR THE PURPOSE OF PROVIDING
11 SERVICE DURING THE PERIOD OF CONSTRUCTION OR IMPROVEMENT.

12 (C) AN AMOUNT TO BE PAID FOR THE CROSSING, CONSTRUCTION, MOVING, OR
13 RELOCATING OF FACILITIES SHALL BE PAID FOR BY THE OPERATOR.

14 (D) (1) IF THE OPERATOR AND A PUBLIC SERVICE COMPANY, PUBLIC
15 UTILITY, RAILROAD, OR CABLE TELEVISION PROVIDER ARE NOT ABLE TO AGREE
16 WITH THE QUALIFYING TRANSPORTATION FACILITY ON A PLAN FOR THE CROSSING
17 OR RELOCATION, THE DEPARTMENT MAY DETERMINE THE MANNER IN WHICH THE
18 CROSSING OR RELOCATION IS TO BE ACCOMPLISHED AND ANY DAMAGES DUE
19 ARISING OUT OF THE CROSSING OR RELOCATION.

20 (2) THE DEPARTMENT MAY EMPLOY EXPERT ENGINEERS WHO SHALL
21 EXAMINE THE LOCATION AND PLANS FOR THE CROSSING OR RELOCATION, HEAR
22 ANY OBJECTIONS AND CONSIDER MODIFICATIONS, AND MAKE A RECOMMENDATION
23 TO THE DEPARTMENT.

24 (3) IF AN EXPERT IS EMPLOYED UNDER THIS SUBSECTION, THE COST OF
25 THE EXPERT IS TO BE BORNE BY THE OPERATOR.

26 2-714.

27 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, LAW
28 ENFORCEMENT OFFICERS OF THE STATE AND EACH AFFECTED LOCAL
29 JURISDICTION, SHALL HAVE THE SAME POWERS AND JURISDICTION WITHIN THE
30 LIMITS OF A QUALIFYING TRANSPORTATION FACILITY AS THEY HAVE IN THEIR
31 RESPECTIVE AREAS OF JURISDICTION.

32 (2) LAW ENFORCEMENT OFFICERS SHALL HAVE ACCESS TO THE
33 QUALIFYING TRANSPORTATION FACILITY AT ANY TIME FOR THE PURPOSE OF
34 EXERCISING POWERS AND JURISDICTION UNDER THIS SUBSECTION.

35 (3) THE AUTHORITY GRANTED TO A LAW ENFORCEMENT OFFICER
36 UNDER THIS SUBSECTION DOES NOT EXTEND TO THE PRIVATE OFFICES, BUILDINGS,
37 GARAGES, AND OTHER IMPROVEMENTS OF THE OPERATOR TO ANY GREATER
38 DEGREE THAN THE POLICE POWER EXTENDS TO ANY OTHER PRIVATE BUILDINGS
39 AND IMPROVEMENTS.

1 (B) (1) TO THE EXTENT THE TRANSPORTATION FACILITY IS A ROAD, BRIDGE,
2 TUNNEL, OVERPASS, OR SIMILAR TRANSPORTATION FACILITY FOR MOTOR VEHICLES,
3 THE TRAFFIC AND MOTOR VEHICLE LAWS OF THE STATE OR LOCAL JURISDICTION
4 SHALL APPLY IN THE SAME MANNER THAT THEY APPLY TO CONDUCT ON SIMILAR
5 TRANSPORTATION FACILITIES IN THE STATE OR LOCAL JURISDICTION.

6 (2) PUNISHMENT FOR OFFENSES SHALL BE AS PRESCRIBED BY LAW FOR
7 CONDUCT OCCURRING ON SIMILAR TRANSPORTATION FACILITIES IN THE STATE OR
8 LOCAL JURISDICTION.

9 2-715.

10 (A) THE RESPONSIBLE PUBLIC ENTITY SHALL TERMINATE THE OPERATOR'S
11 AUTHORITY AND DUTIES UNDER THIS SUBTITLE ON THE DATE SET FORTH IN THE
12 COMPREHENSIVE AGREEMENT.

13 (B) ON TERMINATION, THE AUTHORITY AND DUTIES OF THE OPERATOR
14 UNDER THIS SUBTITLE SHALL CEASE, AND THE QUALIFYING TRANSPORTATION
15 FACILITY SHALL BE DEDICATED TO THE RESPONSIBLE PUBLIC ENTITY OR, IF THE
16 QUALIFYING TRANSPORTATION FACILITY WAS INITIALLY DEDICATED BY AN
17 AFFECTED LOCAL JURISDICTION, TO THE AFFECTED LOCAL JURISDICTION, FOR
18 PUBLIC USE.

19 2-716.

20 (A) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED AS OR DEEMED TO BE A
21 WAIVER OF THE SOVEREIGN IMMUNITY OF THE STATE, ANY RESPONSIBLE PUBLIC
22 ENTITY, OR ANY AFFECTED LOCAL JURISDICTION, OR ANY OFFICER OR EMPLOYEE
23 THEREOF WITH RESPECT TO THE PARTICIPATION IN, OR APPROVAL OF, ANY PART OF
24 THE QUALIFYING TRANSPORTATION FACILITY OR ITS OPERATION, INCLUDING
25 INTERCONNECTION OF THE QUALIFYING TRANSPORTATION FACILITY WITH ANY
26 OTHER TRANSPORTATION FACILITY.

27 (B) COUNTIES AND MUNICIPAL CORPORATIONS IN WHICH A QUALIFYING
28 TRANSPORTATION FACILITY IS LOCATED SHALL POSSESS SOVEREIGN IMMUNITY
29 WITH RESPECT TO THE CONSTRUCTION AND OPERATION OF THE QUALIFYING
30 TRANSPORTATION FACILITY.

31 2-717.

32 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, DIVISION II
33 OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT APPLY TO A
34 COMPREHENSIVE AGREEMENT DEVELOPED UNDER THIS SUBTITLE.

35 (B) (1) A UNIT OF STATE GOVERNMENT, AS DEFINED IN § 11-101(X) OF THE
36 STATE FINANCE AND PROCUREMENT ARTICLE, THAT IS A RESPONSIBLE PUBLIC
37 ENTITY SHALL DEVELOP PROCEDURES FOR THE DEVELOPMENT AND
38 IMPLEMENTATION OF COMPREHENSIVE AGREEMENTS THAT ARE CONSISTENT WITH
39 § 13-103 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

1 (2) A UNIT OF STATE GOVERNMENT SHALL ENSURE THAT A
2 COMPREHENSIVE AGREEMENT DEVELOPED UNDER THIS SUBTITLE IS CONSISTENT
3 WITH THE PROCEDURES DEVELOPED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS
4 SUBSECTION.

5 2-718.

6 THE DEPARTMENT SHALL HAVE EXCLUSIVE JURISDICTION TO ADJUDICATE
7 ALL MATTERS SPECIFICALLY COMMITTED TO ITS JURISDICTION BY THIS SUBTITLE.

8 2-719.

9 THIS SUBTITLE MAY BE CITED AS THE PUBLIC-PRIVATE TRANSPORTATION ACT
10 OF 2001.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2002.