

SENATE BILL 740

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SB 784/01 - SRU

2002 Regular Session  
2lr2060  
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By: **Senators Currie, Colburn, Conway, DeGrange, Forehand, Hafer, Harris,  
Hogan, Hollinger, Hooper, Kasemeyer, Kittleman, Middleton, Mooney,  
Munson, Neall, Ruben, and Stoltzfus**

Introduced and read first time: February 1, 2002  
Assigned to: Budget and Taxation

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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  
30 certain date; providing for the sovereign immunity of certain entities; providing  
31 for the application of certain procurement procedures to a comprehensive  
32 agreement under certain circumstances; establishing a certain jurisdiction for  
33 the Department; defining certain terms; and generally relating to

1 public-private transportation agreements.

2 BY adding to

3 Article - Transportation

4 Section 2-701 through 2-719 to be under the new subtitle "Subtitle 7.

5 Public-Private Transportation"

6 Annotated Code of Maryland

7 (2001 Replacement Volume)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article - Transportation**

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

12 2-701.

13 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
14 INDICATED.

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

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

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

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

26 (2) REMAINS UNREMEDIED AFTER THE RESPONSIBLE PUBLIC ENTITY  
27 HAS PROVIDED NOTICE TO THE OPERATOR AND A REASONABLE CURE PERIOD HAS  
28 ELAPSED.

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

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

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

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

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

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

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

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

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

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

19 2-702.

20 (A) THE GENERAL ASSEMBLY FINDS THAT:

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

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

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

32 (B) AN ACTION SERVES THE PUBLIC PURPOSES OF THIS SUBTITLE IF THE  
33 ACTION FACILITATES THE TIMELY ACQUISITION OR CONSTRUCTION OF, OR  
34 IMPROVEMENT TO, A QUALIFYING TRANSPORTATION FACILITY OR THE CONTINUED  
35 OPERATION OF A QUALIFYING TRANSPORTATION FACILITY.

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

1 2-703.

2 (A) A PERSON SEEKING AUTHORIZATION UNDER THIS SUBTITLE TO ACQUIRE,  
3 CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE A TRANSPORTATION FACILITY  
4 SHALL FIRST OBTAIN APPROVAL OF THE RESPONSIBLE PUBLIC ENTITY UNDER §  
5 2-704 OF THIS SUBTITLE.

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

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

9 (2) THE RESPONSIBLE PUBLIC ENTITY REQUESTING PROPOSALS UNDER  
10 § 2-704(B) OF THIS SUBTITLE.

11 2-704.

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

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

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

18 2. A DESCRIPTION OF THE TRANSPORTATION FACILITY,  
19 INCLUDING THE CONCEPTUAL DESIGN OF THE FACILITY AND ALL PROPOSED  
20 INTERCONNECTIONS WITH OTHER TRANSPORTATION FACILITIES;

21 3. THE PROJECTED TOTAL LIFE-CYCLE COST OF THE  
22 TRANSPORTATION FACILITY AND THE PROPOSED DATE FOR ACQUISITION OF THE  
23 TRANSPORTATION FACILITY OR THE BEGINNING OF CONSTRUCTION OF, OR  
24 IMPROVEMENTS TO, THE TRANSPORTATION FACILITY;

25 4. A STATEMENT SETTING FORTH THE METHOD BY WHICH  
26 THE OPERATOR PROPOSES TO SECURE ALL PROPERTY INTERESTS REQUIRED FOR  
27 THE TRANSPORTATION FACILITY INCLUDING:

28 A. THE NAMES AND ADDRESSES, IF KNOWN, OF THE  
29 CURRENT OWNERS OF THE PROPERTY NEEDED FOR THE TRANSPORTATION  
30 FACILITY;

31 B. THE NATURE OF THE PROPERTY INTERESTS TO BE  
32 ACQUIRED; AND

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

35 5. INFORMATION RELATING TO THE CURRENT  
36 TRANSPORTATION PLANS OF EACH AFFECTED LOCAL JURISDICTION;

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

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

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

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

12                                 10.      ADDITIONAL MATERIAL AND INFORMATION AS THE  
13 RESPONSIBLE PUBLIC ENTITY MAY REASONABLY REQUEST.

14                                 (II)     THE RESPONSIBLE PUBLIC ENTITY MAY WAIVE THE  
15 REQUIREMENT TO PROVIDE ANY OF THE INFORMATION IN SUBPARAGRAPH (I) OF  
16 THIS PARAGRAPH.

17       (B)     THE RESPONSIBLE PUBLIC ENTITY MAY REQUEST PROPOSALS FOR THE  
18 ACQUISITION, CONSTRUCTION, IMPROVEMENT, OR OPERATION OF TRANSPORTATION  
19 FACILITIES.

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

25                                 (2)     THE RESPONSIBLE PUBLIC ENTITY MAY DETERMINE THAT THE  
26 ACQUISITION, CONSTRUCTION, IMPROVEMENT, OR OPERATION OF A  
27 TRANSPORTATION FACILITY AS A QUALIFYING TRANSPORTATION FACILITY SERVES  
28 THE PUBLIC PURPOSE OF THIS SUBTITLE IF:

29                                 (I)     THERE IS A PUBLIC NEED FOR THE TYPE OF TRANSPORTATION  
30 FACILITY PROPOSED TO BE OPERATED AS A QUALIFYING TRANSPORTATION  
31 FACILITY;

32                                 (II)     THE TRANSPORTATION FACILITY, THE PROPOSED  
33 INTERCONNECTIONS WITH EXISTING TRANSPORTATION FACILITIES, AND THE  
34 OPERATOR'S PLANS FOR OPERATION OF THE QUALIFYING TRANSPORTATION  
35 FACILITY ARE REASONABLE AND COMPATIBLE WITH THE MARYLAND  
36 TRANSPORTATION PLAN, THE CONSOLIDATED TRANSPORTATION PROGRAM, AND  
37 ANY RELEVANT LOCAL TRANSPORTATION PLAN;

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

1 (IV) THE OPERATOR'S PLANS WILL RESULT IN THE TIMELY  
2 ACQUISITION OR CONSTRUCTION OF OR IMPROVEMENTS TO A TRANSPORTATION  
3 FACILITY OR MORE EFFICIENT OPERATION OF AN EXISTING TRANSPORTATION  
4 FACILITY.

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

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

13 (E) THE APPROVAL OF THE RESPONSIBLE PUBLIC ENTITY SHALL BE SUBJECT  
14 TO THE OPERATOR ENTERING INTO A COMPREHENSIVE AGREEMENT WITH THE  
15 RESPONSIBLE PUBLIC ENTITY.

16 (F) (1) IN CONNECTION WITH ITS APPROVAL OF THE OPERATION OF THE  
17 TRANSPORTATION FACILITY AS A QUALIFYING TRANSPORTATION FACILITY, THE  
18 RESPONSIBLE PUBLIC ENTITY SHALL ESTABLISH A DATE FOR THE ACQUISITION OF  
19 OR THE BEGINNING OF CONSTRUCTION OF OR IMPROVEMENTS TO THE QUALIFYING  
20 TRANSPORTATION FACILITY.

21 (2) THE RESPONSIBLE PUBLIC ENTITY MAY EXTEND THE DATE  
22 ESTABLISHED UNDER THIS SUBSECTION.

23 2-705.

24 A PUBLIC ENTITY MAY CONTRACT WITH AN OPERATOR FOR TRANSPORTATION  
25 SERVICES TO BE PROVIDED BY A QUALIFYING TRANSPORTATION FACILITY IN  
26 EXCHANGE FOR THE SERVICE PAYMENTS AND OTHER CONSIDERATION THAT THE  
27 PUBLIC ENTITY DEEMS APPROPRIATE.

28 2-706.

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

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

1 2-707.

2 (A) A PUBLIC ENTITY MAY DEDICATE ANY PROPERTY INTEREST THAT IT HAS  
3 FOR PUBLIC USE AS A QUALIFIED TRANSPORTATION FACILITY IF THE PUBLIC  
4 ENTITY FINDS THAT THE DEDICATION OF THE PROPERTY INTEREST WILL SERVE THE  
5 PUBLIC PURPOSE OF THIS SUBTITLE.

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

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

13 2-708.

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

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

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

21 (2) THE OPERATOR MAY NOT IMPOSE TOLLS OR FEES ON ANY EXISTING  
22 INTERSTATE HIGHWAY OR ON ANY FREE ROAD, BRIDGE, TUNNEL, OR OVERPASS  
23 UNLESS THE ROAD, BRIDGE, TUNNEL, OR OVERPASS IS RECONSTRUCTED TO  
24 PROVIDE FOR INCREASED CAPACITY.

25 (C) (1) THE OPERATOR MAY FINANCE THE QUALIFYING TRANSPORTATION  
26 FACILITY IN AN AMOUNT AND ON TERMS AND CONDITIONS AS MAY BE DETERMINED  
27 BY THE OPERATOR.

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

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

37 (E) IN OPERATING THE QUALIFYING TRANSPORTATION FACILITY, THE  
38 OPERATOR MAY:

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

3 (2) WITH THE CONSENT OF THE RESPONSIBLE PUBLIC ENTITY, MAKE  
4 AND ENFORCE REASONABLE RULES TO THE SAME EXTENT THAT THE RESPONSIBLE  
5 PUBLIC ENTITY MAY MAKE AND ENFORCE RULES WITH RESPECT TO A SIMILAR  
6 TRANSPORTATION FACILITY.

7 (F) THE OPERATOR SHALL:

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

10 (I) MEETS THE ENGINEERING STANDARDS OF THE RESPONSIBLE  
11 PUBLIC ENTITY FOR TRANSPORTATION FACILITIES OPERATED AND MAINTAINED BY  
12 THE RESPONSIBLE PUBLIC ENTITY; AND

13 (II) IS IN ACCORDANCE WITH THE PROVISIONS OF THE  
14 COMPREHENSIVE AGREEMENT;

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

18 (I) FOR TEMPORARY CLOSURES BECAUSE OF EMERGENCIES;

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

21 (III) DURING REASONABLE PERIODS OF TIME, FOR CONSTRUCTION  
22 OR MAINTENANCE PROCEDURES;

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

25 (4) COOPERATE WITH THE RESPONSIBLE PUBLIC ENTITY IN  
26 ESTABLISHING ANY INTERCONNECTION WITH THE QUALIFYING TRANSPORTATION  
27 FACILITY REQUESTED BY THE RESPONSIBLE PUBLIC ENTITY; AND

28 (5) COMPLY WITH THE PROVISIONS OF THE COMPREHENSIVE  
29 AGREEMENT AND ANY SERVICE CONTRACT.

30 2-709.

31 (A) PRIOR TO ACQUIRING, CONSTRUCTING, IMPROVING, MAINTAINING, OR  
32 OPERATING A QUALIFYING TRANSPORTATION FACILITY, THE OPERATOR SHALL  
33 ENTER INTO A COMPREHENSIVE AGREEMENT WITH THE RESPONSIBLE PUBLIC  
34 ENTITY.

35 (B) THE COMPREHENSIVE AGREEMENT SHALL PROVIDE FOR:



1 (1) DELIVERY OF PERFORMANCE AND PAYMENT BONDS IN  
2 CONNECTION WITH THE CONSTRUCTION OF OR IMPROVEMENTS TO THE  
3 QUALIFYING TRANSPORTATION FACILITY, IN THE FORMS TO THE RESPONSIBLE  
4 PUBLIC ENTITY;

5 (2) REVIEW OF PLANS AND SPECIFICATIONS FOR THE QUALIFYING  
6 TRANSPORTATION FACILITY BY THE RESPONSIBLE PUBLIC ENTITY AND APPROVAL  
7 BY THE RESPONSIBLE PUBLIC ENTITY IF THE PLANS AND SPECIFICATIONS  
8 CONFORM TO STANDARD CONDITIONS OF THE RESPONSIBLE PUBLIC ENTITY;

9 (3) INSPECTION OF, CONSTRUCTION OF, OR IMPROVEMENTS TO THE  
10 QUALIFYING TRANSPORTATION FACILITY BY THE RESPONSIBLE PUBLIC ENTITY TO  
11 ENSURE CONFORMANCE WITH ENGINEERING STANDARDS ACCEPTABLE TO THE  
12 RESPONSIBLE PUBLIC ENTITY;

13 (4) MAINTENANCE OF A POLICY OF PUBLIC LIABILITY INSURANCE OR  
14 SELF-INSURANCE, IN FORM AND AMOUNT SATISFACTORY TO THE RESPONSIBLE  
15 PUBLIC ENTITY AND REASONABLY SUFFICIENT TO INSURE COVERAGE OF TORT  
16 LIABILITY TO THE PUBLIC AND EMPLOYEES AND TO ENABLE THE CONTINUED  
17 OPERATION OF THE QUALIFYING TRANSPORTATION FACILITY;

18 (5) MONITORING OF THE MAINTENANCE PRACTICES OF THE OPERATOR  
19 BY THE RESPONSIBLE PUBLIC ENTITY AND THE TAKING OF ANY ACTIONS THE  
20 RESPONSIBLE PUBLIC ENTITY FINDS APPROPRIATE TO ENSURE THAT THE  
21 QUALIFYING TRANSPORTATION FACILITY IS PROPERLY MAINTAINED;

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

24 (7) FILING OF APPROPRIATE FINANCIAL STATEMENTS ON A PERIODIC  
25 BASIS;

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

28 (9) THE DATE OF TERMINATION OF THE OPERATOR'S AUTHORITY AND  
29 DUTIES UNDER THIS SUBTITLE AND DEDICATION TO THE APPROPRIATE PUBLIC  
30 ENTITY.

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

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

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

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

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

7 (6) THE EXECUTION OF THE COMPREHENSIVE AGREEMENT OR ANY  
8 AMENDMENT TO THE COMPREHENSIVE AGREEMENT SHALL CONSTITUTE  
9 CONCLUSIVE EVIDENCE THAT THE USER FEES PROVIDED FOR IN THE AGREEMENT  
10 COMPLY WITH THIS SUBTITLE.

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

14 (D) IN THE COMPREHENSIVE AGREEMENT, THE RESPONSIBLE PUBLIC ENTITY  
15 MAY AGREE TO MAKE GRANTS OR LOANS TO THE OPERATOR FROM TIME TO TIME  
16 FROM AMOUNTS RECEIVED FROM THE FEDERAL GOVERNMENT OR ANY AGENCY OR  
17 INSTRUMENTALITY OF THE FEDERAL GOVERNMENT.

18 (E) (1) THE COMPREHENSIVE AGREEMENT SHALL INCORPORATE THE  
19 DUTIES OF THE OPERATOR UNDER THIS SUBTITLE AND MAY CONTAIN SUCH OTHER  
20 TERMS AND CONDITIONS THAT THE RESPONSIBLE PUBLIC ENTITY DETERMINES  
21 SERVE THE PUBLIC PURPOSE OF THIS SUBTITLE.

22 (2) THE COMPREHENSIVE AGREEMENT MAY CONTAIN PROVISIONS  
23 UNDER WHICH THE RESPONSIBLE PUBLIC ENTITY AGREES TO PROVIDE NOTICE OF  
24 DEFAULT AND CURE RIGHTS FOR THE BENEFIT OF THE OPERATOR AND THE  
25 PERSONS SPECIFIED IN THE COMPREHENSIVE AGREEMENT AS PROVIDING  
26 FINANCING FOR THE QUALIFYING TRANSPORTATION FACILITY.

27 (3) THE COMPREHENSIVE AGREEMENT MAY CONTAIN ANY OTHER  
28 LAWFUL TERMS AND CONDITIONS TO WHICH THE OPERATOR AND THE RESPONSIBLE  
29 PUBLIC ENTITY MUTUALLY AGREE, INCLUDING PROVISIONS REGARDING  
30 UNAVOIDABLE DELAYS OR PROVISIONS PROVIDING FOR A LOAN OF PUBLIC FUNDS  
31 TO THE OPERATOR TO ACQUIRE, CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE  
32 ONE OR MORE QUALIFYING TRANSPORTATION FACILITIES.

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

36 (2) EXCESS EARNINGS MAY BE DISTRIBUTED TO:

37 (I) THE TRANSPORTATION TRUST FUND;

38 (II) THE RESPONSIBLE PUBLIC ENTITY;

1 (III) THE OPERATOR FOR DEBT REDUCTION; OR

2 (IV) AFFECTED LOCAL JURISDICTIONS.

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

6 2-710.

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

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

12 (B) IF THE RESPONSIBLE PUBLIC ENTITY IS A STATE AGENCY, ANY FUNDS  
13 RECEIVED FROM THE STATE OR FEDERAL GOVERNMENT OR ANY AGENCY OF THE  
14 STATE OR FEDERAL GOVERNMENT SHALL BE SUBJECT TO APPROPRIATION BY THE  
15 GENERAL ASSEMBLY.

16 (C) THE RESPONSIBLE PUBLIC ENTITY MAY DETERMINE THAT IT SERVES THE  
17 PUBLIC PURPOSE OF THIS SUBTITLE FOR ALL OR A PORTION OF THE COSTS OF A  
18 QUALIFYING TRANSPORTATION FACILITY TO BE PAID, DIRECTLY OR INDIRECTLY,  
19 FROM THE PROCEEDS OF A GRANT OR LOAN MADE BY THE LOCAL, STATE, OR  
20 FEDERAL GOVERNMENT OR ANY AGENCY OF THE LOCAL, STATE, OR FEDERAL  
21 GOVERNMENT.

22 2-711.

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

27 (2) EXCEPT UPON AGREEMENT OF THE OPERATOR AND ANY OTHER  
28 PARTIES IDENTIFIED IN THE COMPREHENSIVE AGREEMENT, A RESPONSIBLE PUBLIC  
29 ENTITY MAY NOT EXERCISE ANY OF THE REMEDIES PROVIDED IN THIS SECTION OR  
30 IN § 2-712(B) AND (C) OF THIS SUBTITLE UNLESS A JUDGMENT BY DEFAULT HAS BEEN  
31 ENTERED BY A COURT OF COMPETENT JURISDICTION.

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

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

1 (2) IF THE RESPONSIBLE PUBLIC ENTITY HAS THE POWER OF  
2 CONDEMNATION, EXERCISE THE POWER OF CONDEMNATION TO ACQUIRE THE  
3 QUALIFYING TRANSPORTATION FACILITY, EXCEPT THAT A PERSON THAT HAS  
4 PROVIDED FINANCING FOR THE QUALIFYING TRANSPORTATION FACILITY, AND THE  
5 OPERATOR, TO THE EXTENT OF ITS CAPITAL INVESTMENT, MAY PARTICIPATE IN THE  
6 CONDEMNATION PROCEEDINGS WITH THE STANDING OF A PROPERTY OWNER;

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

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

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

15 (I) ACQUIRE, CONSTRUCT, IMPROVE, OPERATE, AND MAINTAIN  
16 THE TRANSPORTATION FACILITY;

17 (II) IMPOSE USER FEES FOR THE USE OF THE TRANSPORTATION  
18 FACILITY; AND

19 (III) COMPLY WITH ANY SERVICE CONTRACTS AS IF IT WERE THE  
20 OPERATOR.

21 (2) ANY REVENUES THAT ARE SUBJECT TO A LIEN SHALL BE  
22 COLLECTED FOR THE BENEFIT OF, AND PAID TO, SECURED PARTIES, AS THEIR  
23 INTERESTS MAY APPEAR, TO THE EXTENT NECESSARY TO SATISFY THE OPERATOR'S  
24 OBLIGATIONS TO SECURED PARTIES, INCLUDING THE MAINTENANCE OF RESERVES,  
25 AND THE LIENS SHALL BE CORRESPONDINGLY REDUCED AND, WHEN PAID OFF,  
26 RELEASED.

27 (3) BEFORE ANY PAYMENTS TO, OR FOR THE BENEFIT OF, SECURED  
28 PARTIES, THE RESPONSIBLE PUBLIC ENTITY MAY USE REVENUES TO PAY CURRENT  
29 OPERATION AND MAINTENANCE COSTS OF THE TRANSPORTATION FACILITY,  
30 INCLUDING COMPENSATION TO THE RESPONSIBLE PUBLIC ENTITY FOR ITS  
31 SERVICES IN OPERATING AND MAINTAINING THE QUALIFYING TRANSPORTATION  
32 FACILITY.

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

38 (II) THE RIGHT TO RECEIVE PAYMENT UNDER THIS PARAGRAPH  
39 SHALL BE CONSIDERED JUST COMPENSATION FOR THE QUALIFYING  
40 TRANSPORTATION FACILITY.

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

4 (6) ASSUMPTION OF THE OPERATION OF THE QUALIFYING  
5 TRANSPORTATION FACILITY DOES NOT OBLIGATE THE RESPONSIBLE PUBLIC ENTITY  
6 TO PAY ANY OBLIGATION OF THE OPERATOR FROM SOURCES OTHER THAN  
7 REVENUES.

8 2-712.

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

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

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

20 (C) AFTER THE ENTRY OF A FINAL ORDER OF DEFAULT, ANY RESPONSIBLE  
21 PUBLIC ENTITY HAVING THE POWER OF CONDEMNATION UNDER LAW MAY  
22 EXERCISE THAT POWER AS PROVIDED IN § 2-711(B)(2) OF THIS SUBTITLE IN LIEU OF,  
23 OR AT ANY TIME AFTER TAKING OVER THE TRANSPORTATION FACILITY UNDER §  
24 2-711(B)(1) OF THIS SUBTITLE.

25 2-713.

26 (A) THE OPERATOR AND EACH PUBLIC SERVICE COMPANY, PUBLIC UTILITY,  
27 RAILROAD, OR CABLE TELEVISION PROVIDER, WHOSE FACILITIES ARE TO BE  
28 CROSSED OR AFFECTED BY A QUALIFYING TRANSPORTATION FACILITY SHALL  
29 COOPERATE FULLY WITH THE QUALIFYING TRANSPORTATION FACILITY IN  
30 PLANNING AND ARRANGING THE MANNER OF THE CROSSING OR RELOCATION OF  
31 THE FACILITIES.

32 (B) AN ENTITY SPECIFIED IN SUBSECTION (A) OF THIS SECTION, POSSESSING  
33 THE POWER OF CONDEMNATION MAY EXERCISE THOSE POWERS IN CONNECTION  
34 WITH THE MOVING OR RELOCATION OF FACILITIES TO BE CROSSED BY THE  
35 QUALIFYING TRANSPORTATION FACILITY OR THAT MUST BE RELOCATED TO THE  
36 EXTENT THAT THE MOVING OR RELOCATION IS MADE NECESSARY OR DESIRABLE BY  
37 CONSTRUCTION OF OR IMPROVEMENTS TO THE QUALIFYING TRANSPORTATION  
38 FACILITY, WHICH SHALL BE CONSTRUED TO INCLUDE CONSTRUCTION OF OR  
39 IMPROVEMENTS TO TEMPORARY FACILITIES FOR THE PURPOSE OF PROVIDING  
40 SERVICE DURING THE PERIOD OF CONSTRUCTION OR IMPROVEMENT.

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

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

9 (2) THE DEPARTMENT MAY EMPLOY EXPERT ENGINEERS WHO SHALL  
10 EXAMINE THE LOCATION AND PLANS FOR THE CROSSING OR RELOCATION, HEAR  
11 ANY OBJECTIONS AND CONSIDER MODIFICATIONS, AND MAKE A RECOMMENDATION  
12 TO THE DEPARTMENT.

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

15 2-714.

16 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, LAW  
17 ENFORCEMENT OFFICERS OF THE STATE AND EACH AFFECTED LOCAL  
18 JURISDICTION, SHALL HAVE THE SAME POWERS AND JURISDICTION WITHIN THE  
19 LIMITS OF A QUALIFYING TRANSPORTATION FACILITY AS THEY HAVE IN THEIR  
20 RESPECTIVE AREAS OF JURISDICTION.

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

24 (3) THE AUTHORITY GRANTED TO A LAW ENFORCEMENT OFFICER  
25 UNDER THIS SUBSECTION DOES NOT EXTEND TO THE PRIVATE OFFICES, BUILDINGS,  
26 GARAGES, AND OTHER IMPROVEMENTS OF THE OPERATOR TO ANY GREATER  
27 DEGREE THAN THE POLICE POWER EXTENDS TO ANY OTHER PRIVATE BUILDINGS  
28 AND IMPROVEMENTS.

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

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

1 2-715.

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

5 (B) ON TERMINATION, THE AUTHORITY AND DUTIES OF THE OPERATOR  
6 UNDER THIS SUBTITLE SHALL CEASE, AND THE QUALIFYING TRANSPORTATION  
7 FACILITY SHALL BE DEDICATED TO THE RESPONSIBLE PUBLIC ENTITY OR, IF THE  
8 QUALIFYING TRANSPORTATION FACILITY WAS INITIALLY DEDICATED BY AN  
9 AFFECTED LOCAL JURISDICTION, TO THE AFFECTED LOCAL JURISDICTION, FOR  
10 PUBLIC USE.

11 2-716.

12 (A) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED AS OR DEEMED TO BE A  
13 WAIVER OF THE SOVEREIGN IMMUNITY OF THE STATE, ANY RESPONSIBLE PUBLIC  
14 ENTITY, OR ANY AFFECTED LOCAL JURISDICTION, OR ANY OFFICER OR EMPLOYEE  
15 THEREOF WITH RESPECT TO THE PARTICIPATION IN, OR APPROVAL OF, ANY PART OF  
16 THE QUALIFYING TRANSPORTATION FACILITY OR ITS OPERATION, INCLUDING  
17 INTERCONNECTION OF THE QUALIFYING TRANSPORTATION FACILITY WITH ANY  
18 OTHER TRANSPORTATION FACILITY.

19 (B) COUNTIES AND MUNICIPAL CORPORATIONS IN WHICH A QUALIFYING  
20 TRANSPORTATION FACILITY IS LOCATED SHALL POSSESS SOVEREIGN IMMUNITY  
21 WITH RESPECT TO THE CONSTRUCTION AND OPERATION OF THE QUALIFYING  
22 TRANSPORTATION FACILITY.

23 2-717.

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

27 (B) (1) A UNIT OF STATE GOVERNMENT, AS DEFINED IN § 11-101(X) OF THE  
28 STATE FINANCE AND PROCUREMENT ARTICLE, THAT IS A RESPONSIBLE PUBLIC  
29 ENTITY SHALL DEVELOP PROCEDURES FOR THE DEVELOPMENT AND  
30 IMPLEMENTATION OF COMPREHENSIVE AGREEMENTS THAT ARE CONSISTENT WITH  
31 § 13-103 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

36 2-718.

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

1 2-719.

2 THIS SUBTITLE MAY BE CITED AS THE PUBLIC-PRIVATE TRANSPORTATION ACT  
3 OF 2001.

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