

## Chapter 686

(House Bill 900)

AN ACT concerning

### **Prince George's County – Proposed Subdivisions – ~~Escrow Funds~~ Development Impact Fees for Traffic Mitigation**

PG/MC 109-12

FOR the purpose of ~~authorizing the Prince George's County Planning Board, if it makes certain findings, to allow a developer of a proposed subdivision that would increase traffic in a certain roadway or intersection beyond a certain level to pay a certain fee into a certain escrow fund instead of making certain necessary improvements to the roadway or intersection; requiring the Prince George's County Department of Public Works and Transportation to maintain an escrow fund established under this Act; specifying the permissible uses for an escrow fund established under this Act; providing for the calculation of the fee to be paid into an escrow fund by a developer of a subdivision; authorizing the Board to require a subdivision to construct certain improvements under certain circumstances; providing for a certain fee deduction or reimbursement if certain improvements are made; providing that this Act applies only in certain areas; defining certain terms~~ repealing a limitation on a certain impact fee; altering the requirement that the Prince George's County Council provide credit in lieu of payment of development impact fees to include certain payments made regarding certain permanent or interim public transportation projects; requiring the County Council to provide credit in lieu of payment of certain development impact fees for certain payments related to subdivision approval; authorizing that a certain local law may allow the Prince George's County Planning Board to impose a certain development impact fee in lieu of certain mandatory transportation improvements if certain requirements are met; repealing the requirement that certain impact fees be retained in a separate account; requiring that certain impact fees be retained in a certain escrow account; altering the permissible uses for certain impact fees; requiring that a certain escrow account be budgeted, maintained, and accounted for in a certain manner by the Prince George's County Department of Finance; authorizing that a certain account be expended only for certain purposes; requiring certain development impact fees collected and maintained by Prince George's County before a certain date be aggregated into a certain escrow account and be expended for certain purposes; making certain conforming changes; and generally relating to proposed subdivisions and ~~escrow funds~~ development impact fees for traffic mitigation in Prince George's County.

~~BY adding to~~

~~Article 28 – Maryland National Capital Park and Planning Commission  
Section 7-115.1  
Annotated Code of Maryland  
(2010 Replacement Volume and 2011 Supplement)~~

BY repealing and reenacting, with amendments,  
The Public Local Laws of Prince George’s County  
Section 10-265  
Article 17 – Public Local Laws of Maryland  
(2007 Edition and 2008/2009 Supplement, as amended)

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

~~Article 28 – Maryland National Capital Park and Planning Commission~~

~~7-115.1.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) “BOARD” MEANS THE PRINCE GEORGE’S COUNTY PLANNING BOARD.~~

~~(3) “GUIDELINES” MEANS THE GUIDELINES FOR THE ANALYSIS OF THE TRAFFIC IMPACT OF DEVELOPMENT PROPOSALS GUIDELINES FOR THE ANALYSIS OF THE TRAFFIC IMPACT OF DEVELOPMENT PROPOSALS OF THE PRINCE GEORGE’S COUNTY PLANNING DEPARTMENT.~~

~~(B) THIS SECTION APPLIES ONLY IN CORRIDORS AND CENTERS DESIGNATED IN THE MOST CURRENT VERSION OF THE PRINCE GEORGE’S COUNTY GENERAL PLAN.~~

~~(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO SUBSECTION (A) OF THIS SECTION, IF A PROPOSED SUBDIVISION WOULD INCREASE TRAFFIC VOLUME IN A ROADWAY OR INTERSECTION TO A LEVEL THAT EXCEEDS THE ACCEPTABLE PEAK HOUR SERVICE LEVEL AS DEFINED IN THE GUIDELINES, THE BOARD MAY, INSTEAD OF REQUIRING THE DEVELOPER OF THE SUBDIVISION TO MAKE THE ROAD IMPROVEMENTS NECESSARY TO ACCOMMODATE THE INCREASED TRAFFIC VOLUME, REQUIRE THE DEVELOPER TO PAY A FEE INTO AN ESCROW FUND ESTABLISHED FOR THE ROADWAY OR INTERSECTION IN ACCORDANCE WITH THIS SECTION.~~

~~(D) THE BOARD MAY AUTHORIZE A DEVELOPER OF A SUBDIVISION TO PAY A FEE INTO AN ESCROW FUND IN ACCORDANCE WITH THIS SECTION ONLY IF THE BOARD FINDS THAT IT WOULD NOT BE EQUITABLE OR ECONOMICALLY REASONABLE TO IMPOSE ON THE DEVELOPER THE ENTIRE COST OF ROAD IMPROVEMENTS NECESSARY TO ACHIEVE AN ACCEPTABLE PEAK HOUR SERVICE LEVEL UNDER THE GUIDELINES.~~

~~(E) AN ESCROW FUND ESTABLISHED UNDER THIS SECTION SHALL BE MAINTAINED BY THE PRINCE GEORGE'S COUNTY DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION AND HELD AS A DEDICATED FUND TO BE USED ONLY TO:~~

~~(1) PAY FOR DESIGN AND CONSTRUCTION OF IMPROVEMENTS FOR THE PARTICULAR ROADWAY OR INTERSECTION FOR WHICH THE FUND IS ESTABLISHED; AND~~

~~(2) OFFSET THE IMPACT OF THE INCREASE IN TRAFFIC CAUSED BY A SUBDIVISION DEVELOPED BY A DEVELOPER THAT PAYS INTO THE FUND.~~

~~(F) (1) THE FEE PAYABLE BY A DEVELOPER INTO THE ESCROW FUND SHALL BE CALCULATED ON A PER UNIT BASIS FOR RESIDENTIAL DEVELOPMENT AND A PER SQUARE FOOT BASIS FOR COMMERCIAL DEVELOPMENT.~~

~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE FEE SHALL REPRESENT AN EQUITABLE ALLOCATION OF THE ESTIMATED COST OF REQUIRED ROAD IMPROVEMENTS AND SHALL BE CALCULATED BASED ON 150% OF THE SUBDIVISION'S PRO RATA TRAFFIC IMPACT ON THE ROADWAY OR INTERSECTION.~~

~~(3) A PORTION OF THE COST OF THE REQUIRED IMPROVEMENTS SHALL BE ATTRIBUTED TO EXISTING FLOW THROUGH TRAFFIC ON A PRO RATA BASIS AND SHALL BE SUBTRACTED FROM THE TOTAL COST OF REQUIRED IMPROVEMENTS FOR PURPOSES OF DETERMINING THE FEE TO BE PAID BY A PROPOSED SUBDIVISION.~~

~~(G) (1) THE BOARD MAY REQUIRE THE DEVELOPER OF A SUBDIVISION TO CONSTRUCT INTERIM IMPROVEMENTS IF THE BOARD FINDS THAT THE IMPROVEMENTS WOULD MATERIALLY IMPROVE THE EXISTING TRAFFIC CONDITIONS IN THE ROADWAY OR INTERSECTION.~~

~~(2) THE COST OF AN INTERIM IMPROVEMENT MADE UNDER THIS SUBSECTION SHALL BE DEDUCTED FROM THE FEE OTHERWISE OWED BY THE~~

~~DEVELOPER UNDER THIS SECTION OR SHALL ENTITLE THE DEVELOPER TO A REIMBURSEMENT FROM THE ESCROW FUND IF THE FEE HAS BEEN PAID.~~

### Article 17 – Prince George’s County

10–265.

(a) Subject to the provisions of [Subsection (b) of] this Section, the County Council may, by [ordinance] LOCAL LAW, impose and provide for the collection of development impact fees for financing up to 50% of the capital costs of additional or expanded transportation projects required to accommodate new construction or development.

(b) (1) Any impact fees imposed under this Section shall be adopted in accordance with a general statement of public policy adopted by the County Council to impose impact fees in areas of the County in which the level of new construction or development is creating a need for additional or expanded transportation projects.

(2) [The impact fee imposed under this Section for single-family residences may not exceed \$1,000 per unit.

(3) The County Council shall:

(A) Adopt a method for determining the timing and location of the areas in which an impact fee is to be imposed; and

(B) In lieu of payment of development impact fees IMPOSED UNDER THIS SECTION, provide credit for:

(I) [payments] PAYMENTS made for the construction of, or improvements to, PERMANENT OR INTERIM public transportation projects [included among the transportation projects subject to impact fee funding within the impact fee area] AUTHORIZED FOR IMPACT FEE FUNDING AS PROVIDED IN THIS SECTION; AND

(II) PAYMENTS RELATED TO SUBDIVISION APPROVAL AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.

(C) A LOCAL LAW ENACTED IN ACCORDANCE WITH THIS SECTION MAY AUTHORIZE THE PLANNING BOARD TO IMPOSE A DEVELOPMENT IMPACT FEE IN LIEU OF MANDATORY TRANSPORTATION IMPROVEMENTS OTHERWISE REQUIRED TO ACHIEVE TRANSPORTATION ADEQUACY AT THE TIME OF SUBDIVISION APPROVAL IF:

(1) THE PROPOSED DEVELOPMENT IS LOCATED WITHIN AN AREA OF THE COUNTY IN WHICH IMPACT FEES ARE AUTHORIZED BY THE COUNTY COUNCIL UNDER THIS SECTION;

(2) TRANSPORTATION ADEQUACY IS DETERMINED BY THE PLANNING BOARD ACCORDING TO THE GUIDELINES FOR THE ANALYSIS OF THE TRAFFIC IMPACT OF DEVELOPMENT PROPOSALS IN PRINCE GEORGE'S COUNTY;

(3) THE LOCAL LAW PROVIDES STANDARDS FOR AND THE PLANNING BOARD FINDS THAT IT WOULD NOT BE EQUITABLE OR ECONOMICALLY REASONABLE TO REQUIRE THE APPLICANT DEVELOPER TO FUND THE ENTIRE COST OF ROAD IMPROVEMENTS NECESSARY TO ACHIEVE AN ACCEPTABLE PEAK HOUR SERVICE LEVEL UNDER THE GUIDELINES;

(4) THE IMPACT FEE IN LIEU OF MANDATORY TRANSPORTATION IMPROVEMENTS OTHERWISE REQUIRED IS ONLY IMPOSED WITH THE CONSENT OF THE OWNER OF THE PROPERTY SUBJECT TO THE SUBDIVISION APPROVAL;

(5) PAYMENT OF THE IMPACT FEE IS AN EXPRESS CONDITION OF THE SUBDIVISION'S APPROVAL AND NOTED ON THE FINAL PLAT BEFORE RECORDING THE PLAT IN THE LAND RECORDS;

(6) THE COUNTY DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION HAS APPROVED THE ESTIMATED COST OF REQUIRED TRANSPORTATION IMPROVEMENTS;

(7) THE LOCAL LAW PROVIDES STANDARDS FOR THE PLANNING BOARD TO DETERMINE THE IMPACT FEE ALLOCABLE TO THE PROPOSED SUBDIVISION SUBJECT TO THE FOLLOWING:

(A) THE IMPACT FEE PAYABLE SHALL BE CALCULATED ON THE BASIS OF DAILY VEHICLE TRIPS FOR ALL DEVELOPMENTS TO BE SERVED BY THE TRANSPORTATION FACILITIES INVOLVED;

(B) EXCEPT AS PROVIDED IN ITEM (C) OF THIS ITEM, THE IMPACT FEE SHALL REPRESENT A REASONABLE ALLOCATION OF THE TOTAL ESTIMATED COST OF REQUIRED TRANSPORTATION IMPROVEMENTS AND SHALL BE CALCULATED BASED ON 150% OF THE SUBDIVISION'S PRO RATA SHARE OF THE TOTAL TRIPS FOR THE TRAFFIC FACILITIES INVOLVED; AND

(C) THE LOCAL LAW MAY PROVIDE FOR AN ADJUSTMENT IN CALCULATING THE SUBDIVISION'S SHARE OF TRIPS BY REDUCTION TO ACCOUNT FOR PREEXISTING TRIPS THAT DO NOT ORIGINATE OR TERMINATE WITHIN PRINCE GEORGE'S COUNTY; AND

**(8) THE LOCAL LAW PROVIDES STANDARDS FOR THE PLANNING BOARD TO REQUIRE THE APPLICANT OR OWNER TO CONSTRUCT INTERIM IMPROVEMENTS IF THE PLANNING BOARD FINDS THAT THE IMPROVEMENTS WOULD MATERIALLY IMPROVE THE EXISTING TRAFFIC CONDITIONS IN THE ROADWAY OR INTERSECTION.**

**[(c)] (D) Any impact fees collected by the County:**

**(1) Shall be retained in [a separate account] THE ESCROW ACCOUNT MAINTAINED IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION;**

**(2) May be used AT THE DISCRETION OF THE COUNTY DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION only for the capital costs of additional or expanded transportation projects within the [area] AREAS OF THE COUNTY in which the IMPACT fees are [imposed] AUTHORIZED BY THE COUNTY COUNCIL UNDER THIS SECTION; and**

**(3) May not be transferred to any other account.**

**(E) THE ESCROW ACCOUNT REQUIRED BY SUBSECTION (D) OF THIS SECTION SHALL BE BUDGETED, MAINTAINED, AND ACCOUNTED FOR ON AN AGGREGATE BASIS AS A RESTRICTED FUND BY THE COUNTY DEPARTMENT OF FINANCE AND MAY BE EXPENDED ONLY FOR THE PURPOSES SET FORTH IN THIS SECTION IN ANY AREA OF THE COUNTY IN WHICH IMPACT FEES ARE AUTHORIZED BY THE COUNTY COUNCIL UNDER THIS SECTION.**

**SECTION 2. AND BE IT FURTHER ENACTED, That any development impact fees collected and maintained by the County before October 1, 2012, shall be aggregated into the escrow account established in accordance with this Act and expended thereafter for the purposes authorized by this Act.**

**SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.**

**Approved by the Governor, May 22, 2012.**