

# HOUSE BILL 1455

L5, Q2

3lr3190

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

Introduced and read first time: February 21, 2013

Assigned to: Rules and Executive Nominations

Re-referred to: Ways and Means, March 6, 2013

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2013

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland–National Capital Park and Planning Commission – Property Tax –**  
3 **Payment in Lieu of Taxes Agreement**

4 **MC/PG 118–13**

5 FOR the purpose of authorizing the Maryland–National Capital Park and Planning  
6 Commission to enter into an agreement for payment in lieu of certain taxes with  
7 the owner of a facility for the generation of electricity that locates in Prince  
8 George's County; requiring that a payment in lieu of taxes agreement include  
9 certain provisions; requiring the Commission to obtain certifications of certain  
10 facts from certain officials and approvals from certain officials of Prince  
11 George's County before entering into or amending a payment in lieu of taxes  
12 agreement; requiring a payment in lieu of taxes to be distributed to funds of the  
13 Commission in a certain manner; exempting real or personal property of a  
14 facility for the generation of electricity that locates in Prince George's County  
15 from certain taxes as specified in a payment in lieu of taxes agreement;  
16 providing for a delayed effective date; providing for the application of this Act;  
17 and generally relating to authorizing the Maryland–National Capital Park and  
18 Planning Commission to enter into a payment in lieu of taxes agreement with a  
19 facility for the generation of electricity that locates in Prince George's County.

20 BY adding to  
21 Article – Land Use  
22 Section 18–309

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland  
2 (2012 Volume)

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

5 **Article – Land Use**

6 **18-309.**

7 (A) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE  
8 COMMISSION MAY ENTER INTO AN AGREEMENT WITH THE OWNER OF A  
9 FACILITY FOR THE GENERATION OF ELECTRICITY THAT LOCATES IN PRINCE  
10 GEORGE’S COUNTY FOR A NEGOTIATED PAYMENT BY THE OWNER IN LIEU OF  
11 TAXES IMPOSED ON REAL OR PERSONAL PROPERTY OF THE FACILITY UNDER  
12 THIS SUBTITLE.

13 (2) AN AGREEMENT FOR A NEGOTIATED PAYMENT IN LIEU OF  
14 TAXES UNDER THIS SECTION SHALL PROVIDE THAT, FOR THE TERM SPECIFIED  
15 IN THE AGREEMENT:

16 (I) THE OWNER SHALL PAY A SPECIFIED AMOUNT EACH  
17 YEAR IN LIEU OF THE PAYMENT OF TAXES IMPOSED ON REAL OR PERSONAL  
18 PROPERTY UNDER THIS SUBTITLE; AND

19 (II) ALL OR A SPECIFIED PART OF THE REAL OR PERSONAL  
20 PROPERTY AT THE FACILITY SHALL BE EXEMPT FROM TAXES IMPOSED ON REAL  
21 OR PERSONAL PROPERTY UNDER THIS SUBTITLE FOR THE TERM OF THE  
22 AGREEMENT.

23 (3) AN AGREEMENT FOR A NEGOTIATED PAYMENT IN LIEU OF  
24 TAXES UNDER THIS SECTION SHALL:

25 (I) BE RECORDED IN THE LAND RECORDS OF PRINCE  
26 GEORGE’S COUNTY; AND

27 (II) REQUIRE THAT THE OBLIGATION OF THE OWNER OF A  
28 FACILITY FOR THE GENERATION OF ELECTRICITY TO MAKE, IN A TIMELY  
29 MANNER, A PAYMENT IN LIEU OF TAXES:

30 1. BE GUARANTEED BY APPROPRIATE ENTITIES  
31 AFFILIATED WITH THE OWNER OF THE FACILITY;

32 2. BE A COVENANT RUNNING WITH THE LAND;

1                   **3.     CREATE A LIEN ATTACHED TO THE PROPERTY**  
2 **AND FIXTURES OF THE FACILITY THAT IS ENFORCEABLE IN ACCORDANCE WITH**  
3 **THE MARYLAND CONTRACT LIEN ACT; AND**

4                   **4.     BE SECURED BY A SECURITY INTEREST IN ALL OR**  
5 **A SPECIFIED PART OF THE PERSONAL PROPERTY OF THE OWNER OF THE**  
6 **FACILITY THAT IS PERFECTED AND ENFORCEABLE IN ACCORDANCE WITH TITLE**  
7 **9 OF THE MARYLAND UNIFORM COMMERCIAL CODE.**

8           **(B)    BEFORE ENTERING INTO OR AMENDING AN AGREEMENT FOR A**  
9 **NEGOTIATED PAYMENT IN LIEU OF TAXES UNDER THIS SECTION, THE**  
10 **COMMISSION SHALL OBTAIN:**

11                   **(1)    CERTIFICATES ENDORSED BY THE SECRETARY–TREASURER**  
12 **OF THE COMMISSION AND THE DIRECTOR OF FINANCE OF PRINCE GEORGE’S**  
13 **COUNTY AFFIRMING THAT THE TERMS OF THE AGREEMENT ARE REASONABLY**  
14 **EXPECTED TO GENERATE MORE REVENUE FOR THE COMMISSION THAN WOULD**  
15 **BE GENERATED IF THE FACILITY FOR THE GENERATION OF ELECTRICITY DID**  
16 **NOT LOCATE IN PRINCE GEORGE’S COUNTY; AND**

17                   **(2)    THE AFFIRMATIVE APPROVAL OF THE TERMS OF THE**  
18 **AGREEMENT BY THE COUNTY EXECUTIVE, COUNTY COUNCIL, AND PLANNING**  
19 **BOARD OF PRINCE GEORGE’S COUNTY, AS EVIDENCED BY:**

20                           **(I)    AN EXECUTIVE ORDER OF THE COUNTY EXECUTIVE;**

21                           **(II)   A RESOLUTION OF THE COUNTY COUNCIL; AND**

22                           **(III)  A RESOLUTION OF THE PLANNING BOARD.**

23           **(C)    EXCEPT AS OTHERWISE PROVIDED IN AN AGREEMENT UNDER THIS**  
24 **SECTION, A PAYMENT IN LIEU OF TAXES THAT THE COMMISSION RECEIVES**  
25 **SHALL BE DISTRIBUTED TO THE FUNDS OF THE COMMISSION IN THE SAME**  
26 **PROPORTION THAT THE TAXES IMPOSED ON REAL OR PERSONAL PROPERTY**  
27 **UNDER THIS SUBTITLE ARE DISTRIBUTED DURING THE FISCAL YEAR WHEN THE**  
28 **PAYMENT IS RECEIVED.**

29           **(D)    AS SPECIFIED IN AN AGREEMENT FOR A NEGOTIATED PAYMENT IN**  
30 **LIEU OF TAXES UNDER THIS SECTION, FOR THE TERM SPECIFIED IN THE**  
31 **AGREEMENT, THE REAL OR PERSONAL PROPERTY AT A FACILITY FOR THE**  
32 **GENERATION OF ELECTRICITY THAT LOCATES IN PRINCE GEORGE’S COUNTY IS**  
33 **EXEMPT FROM THE TAXES IMPOSED ON REAL OR PERSONAL PROPERTY UNDER**  
34 **THIS SUBTITLE.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 June 1, ~~2013~~ 2014, and shall be applicable to all taxable years beginning after June  
3 30, ~~2013~~ 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.