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House Engrossed

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
Second Regular Session  
2002

# HOUSE BILL 2104

AN ACT

AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-254.05; RELATING TO COUNTY POWERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 11, chapter 2, article 4, Arizona Revised Statutes,  
3 is amended by adding section 11-254.05, to read:

4 11-254.05. Purchase or lease of development rights; definition

5 A. THE BOARD OF SUPERVISORS, BY RESOLUTION, MAY PURCHASE OR LEASE THE  
6 DEVELOPMENT RIGHTS OF PRIVATE LAND IN THE COUNTY WITH MONIES FROM THE  
7 DEVELOPMENT RIGHTS RETIREMENT FUND, ESTABLISHED BY SECTION 41-511.15, OR FROM  
8 ANY OTHER PUBLIC OR PRIVATE SOURCE. THE BOARD MAY NOT EXERCISE THE POWER OF  
9 EMINENT DOMAIN TO ACQUIRE DEVELOPMENT RIGHTS BUT MAY ACQUIRE DEVELOPMENT  
10 RIGHTS ONLY FROM WILLING PROPERTY OWNERS.

11 B. DEVELOPMENT RIGHTS MAY BE ACQUIRED ONLY FOR THE FOLLOWING PURPOSES:

12 1. TO ESTABLISH BUFFER ZONES FROM DEVELOPING URBAN AREAS.

13 2. TO PRESERVE HABITAT OR OPEN SPACE.

14 3. TO SUSTAIN THE CULTURE AND HERITAGE OF AGRICULTURE AND RANCHING  
15 ACTIVITIES IN THE COUNTY.

16 4. TO PRESERVE ARCHAEOLOGICAL RESOURCES OR HISTORIC PROPERTIES.

17 5. TO IMPLEMENT A PLAN TO COMPLY WITH THE REQUIREMENTS OF THE  
18 ENDANGERED SPECIES ACT OF 1973 (P.L. 205; 87 STAT. 884; 16 UNITED STATES CODE  
19 SECTIONS 1531 THROUGH 1599).

20 C. THE BOARD SHALL:

21 1. DETERMINE THAT THE POTENTIAL SELLER OR LESSOR OF THE DEVELOPMENT  
22 RIGHTS IS FULLY INFORMED AS TO THE EFFECTS AND CONSEQUENCES ON THE VALUE OF  
23 THE LAND.

24 2. HOLD A PUBLIC HEARING BEFORE ADOPTING ANY RESOLUTION TO ACQUIRE  
25 DEVELOPMENT RIGHTS.

26 3. IN THE CASE OF A PURCHASE OF DEVELOPMENT RIGHTS, AGREE IN  
27 PERPETUITY NOT TO EXERCISE THE DEVELOPMENT RIGHTS AND REQUIRE THE SELLER TO  
28 AGREE THAT THE LAND SHALL REMAIN AS OPEN SPACE.

29 4. IN THE CASE OF A LEASE OF DEVELOPMENT RIGHTS, AGREE NOT TO EXERCISE  
30 THE DEVELOPMENT RIGHTS AND REQUIRE THE LESSOR TO AGREE THAT THE LAND SHALL  
31 REMAIN AS OPEN SPACE FOR THE TERM OF THE LEASE. THE TERM OF THE LEASE MUST  
32 BE AT LEAST TWENTY-FIVE YEARS.

33 5. IN ALL CASES, PURCHASE OR LEASE THE DEVELOPMENT RIGHTS AT NO LESS  
34 THAN MARKET VALUE.

35 D. FOR PURPOSES OF THIS SECTION, "ACQUIRE DEVELOPMENT RIGHTS" MEANS  
36 THE PURCHASE OR LEASE OF A NONPOSSESSORY INTEREST IN REAL PROPERTY THAT  
37 REQUIRES THE OWNER OF THE REAL PROPERTY TO AGREE TO CONSERVE THE LAND AS OPEN  
38 SPACE OR TO PRESERVE THE HISTORICAL, ARCHITECTURAL, ARCHAEOLOGICAL OR  
39 CULTURAL ASPECTS OF THE REAL PROPERTY IN PERPETUITY, IF PURCHASED, OR FOR THE  
40 TERM OF THE LEASE, IF LEASED.