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REFERENCE TITLE: county acquisition of development rights

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

HB 2104

Introduced by
Representatives Huffman, Hershberger, O'Halleran, Senator Valadez:
Representative Gullett

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 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, lease or transfer of development rights;
5 definition

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

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

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

14 2. TO PRESERVE HABITAT OR OPEN SPACE.

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

17 4. TO PRESERVE ARCHAEOLOGICAL RESOURCES OR HISTORIC PROPERTIES.

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

21 C. THE BOARD SHALL:

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

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

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

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

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

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