

House Engrossed

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

CHAPTER 136

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 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.

APPROVED BY THE GOVERNOR MAY 6, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2002.

Passed the House April 8, 2002,

Passed the Senate April 30, 2002

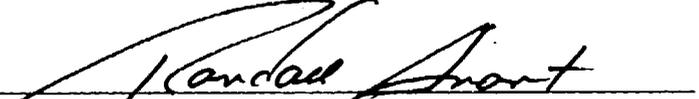
by the following vote: 38 Ayes,

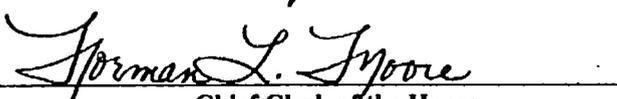
by the following vote: 26 Ayes,

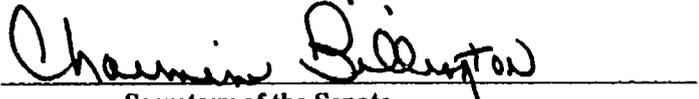
13 Nays, 9 Not Voting

2 Nays, 2 Not Voting


Speaker of the House

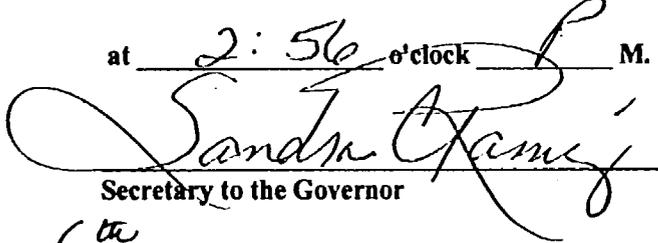

President of the Senate


Chief Clerk of the House


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
30 day of April, 2002,

at 2:56 o'clock P M.

Secretary to the Governor

Approved this 6th day of
May, 2002,

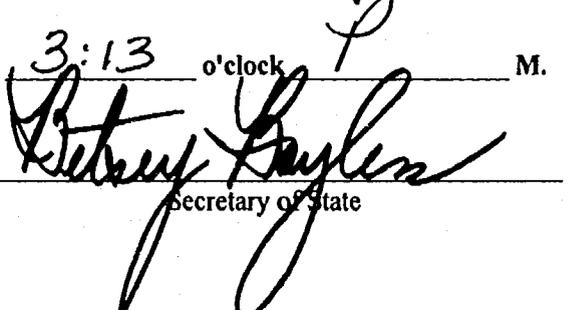
at 3:26 o'clock P M.

Governor of Arizona

H.B. 2104

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 7 day of May, 2002,

at 3:13 o'clock P M.

Secretary of State