

CONSTITUTIONAL AMENDMENT

L2

6lr2714

By: Senators Amoss and Craig

Introduced and read first time: February 12, 1996

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 14, 1996

Committee Report: Favorable

Senate action: Adopted

Read second time: March 5, 1996

CHAPTER _____

1 AN ACT concerning

2 **Harford County - Eminent Domain - Limited Right of Prior Entry**

3 FOR the purpose of proposing an amendment to the Constitution of Maryland
4 authorizing the County Council of Harford County to provide for the immediate
5 taking of certain property situated in the County, subject to certain conditions,
6 when there is an immediate need for the property for right of way for road, storm
7 drain, sewer, or water construction or installation; providing that an immediate
8 taking may not result in less than a certain amount of footage between the new right
9 of way boundary and any residential dwelling or commercial building located on the
10 parcel of property subject to the taking; providing that the County may not exercise
11 this right in relation to certain property more than once for the construction or
12 improvement of a single county road, highway, or similar right of way or a single
13 public water, sewerage, or storm drain construction or installation project; and
14 submitting this amendment to the qualified voters of the State of Maryland for their
15 adoption or rejection.

16 BY proposing an amendment to the Constitution of Maryland

17 Article III - Legislative Department

18 Section 40A

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, (Three-fifths of all the members elected to each of the two Houses
21 concurring), That it be proposed that the Constitution of Maryland readas follows:

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1 **Article III - Legislative Department**

2 40A.

3 The General Assembly shall enact no law authorizing private property to be taken
 4 for public use without just compensation, to be agreed upon between the parties, or
 5 awarded by a jury, being first paid or tendered to the party entitled to such compensation,
 6 but where such property is situated in Baltimore City and is desired by this State or by the
 7 Mayor and City Council of Baltimore, the General Assembly may provide that such
 8 property may be taken immediately upon payment therefor to the owner or owners
 9 thereof by the State or by the Mayor and City Council of Baltimore, or into court, such
 10 amount as the State or the Mayor and City Council of Baltimore, as the case may be, shall
 11 estimate to be the fair value of said property, provided such legislation also requires the
 12 payment of any further sum that may subsequently be added by a jury; and further
 13 provided that the authority and procedure for the immediate taking of property as it
 14 applies to the Mayor and City Council of Baltimore on June 1, 1961, shall remain in force
 15 and effect to and including June 1, 1963, and where such property is situated in Baltimore
 16 County and is desired by Baltimore County, Maryland, the County Council of Baltimore
 17 County, Maryland, may provide for the appointment of an appraiser or appraisers by a
 18 Court of Record to value such property and that upon payment of the amount of such
 19 evaluation, to the party entitled to compensation, or into Court, and securing the payment
 20 of any further sum that may be awarded by a jury, such property may be taken; and where
 21 such property is situated in Montgomery County and in the judgment of and upon a
 22 finding by the County Council of said County that there is immediate need therefor for
 23 right of way for County roads or streets, the County Council may provide that such
 24 property may be taken immediately upon payment therefor to the owner or owners
 25 thereof, or into court, such amount as a licensed real estate broker appointed by the
 26 County Council shall estimate to be the fair market value of such property, provided that
 27 the Council shall secure the payment of any further sum that may subsequently be
 28 awarded by a jury. IF THE PROPERTY IS SITUATED IN HARFORD COUNTY, THE
 29 COUNTY COUNCIL OF HARFORD COUNTY MAY PROVIDE THAT, WHEN THERE IS AN
 30 IMMEDIATE NEED FOR THE PROPERTY FOR A RIGHT OF WAY FOR ROAD, STORM
 31 DRAIN, SEWER, OR WATER CONSTRUCTION OR INSTALLATION, THE COUNTY MAY
 32 TAKE IMMEDIATELY: (1) UP TO 20 FEET OF PROPERTY ALONG AN EXISTING COUNTY
 33 ROAD, HIGHWAY, OR SIMILAR RIGHT OF WAY (INCLUDING THE PROPERTY UNDER
 34 THE ROAD, HIGHWAY, OR SIMILAR RIGHT OF WAY), MEASURED FROM THE
 35 PROPERTY LINE; (2) UP TO 20 FEET OF PROPERTY FOR THE CONSTRUCTION OR
 36 INSTALLATION OF PUBLIC WATER, SEWERAGE, OR STORM DRAINS; AND (3) UP TO 10
 37 FEET OF REVERTIBLE SLOPE OR CONSTRUCTION EASEMENT IMMEDIATELY
 38 ADJACENT TO ANY TAKING AUTHORIZED HEREIN, AFTER THE COUNTY APPOINTS A
 39 PROPERLY DESIGNATED REAL ESTATE APPRAISER LICENSED BY THE STATE TO
 40 APPRAISE THE PROPERTY, PAYS TO THE OWNER OR INTO COURT THE FAIR MARKET
 41 VALUE OF THE PROPERTY, AS DETERMINED BY THE APPRAISER, AND ASSURES
 42 PAYMENT OF ANY ADDITIONAL AMOUNT THAT MAY SUBSEQUENTLY BE AWARDED
 43 BY A JURY. A TAKING UNDER THIS PROVISION IN HARFORD COUNTY MAY NOT
 44 RESULT IN LESS THAN 60 FEET BETWEEN THE NEW RIGHT OF WAY BOUNDARY AND
 45 ANY RESIDENTIAL DWELLING OR COMMERCIAL BUILDING LOCATED ON THE
 46 PARCEL OF PROPERTY SUBJECT TO THE TAKING. THE COUNTY MAY NOT CONDUCT
 47 UNDER THIS PROVISION MORE THAN ONE TAKING FROM A SINGLE PARCEL OF

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1 PROPERTY FOR THE CONSTRUCTION OR IMPROVEMENT OF A SINGLE COUNTY
 2 ROAD, HIGHWAY, OR SIMILAR RIGHT OF WAY OR A SINGLE PUBLIC WATER,
 3 SEWERAGE, OR STORM DRAIN CONSTRUCTION OR INSTALLATION PROJECT. In the
 4 various municipal corporations within Cecil County, where in the judgment of and upon a
 5 finding by the governing body of said municipal corporation that there is immediate need
 6 therefor for right of way for municipal roads, streets and extension of municipal water
 7 and sewage facilities, the governing body may provide that such property may be taken
 8 immediately upon payment therefor to the owner or owners thereof, or into court, such
 9 amount as a licensed real estate broker appointed by the particular governing body shall
 10 estimate to be a fair market value of such property, provided that the municipal
 11 corporation shall secure the payment of any further sum that subsequently may be
 12 awarded by a jury. This Section 40A shall not apply in Montgomery County OR
 13 HANFORD COUNTY or any of the various municipal corporations within Cecil County, if
 14 the property actually to be taken includes a building or buildings.

15 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
 16 determines that the amendment to the Constitution of Maryland proposed by this Act
 17 affects only one county and that the provisions of Article XIV, Section 1 of the
 18 Constitution concerning local approval of constitutional amendments apply.

19 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
 20 proposed as an amendment to the Constitution of Maryland shall be submitted to the
 21 legal and qualified voters of this State at the next general election to be held in
 22 November, 1996 for their adoption or rejection in pursuance of directions contained in
 23 Article XIV of the Constitution of this State. At that general election, the vote on this
 24 proposed amendment to the Constitution shall be by ballot, and upon each ballot there
 25 shall be printed the words "For the Constitutional Amendments" and "Against the
 26 Constitutional Amendments," as now provided by law. Immediately after the election, all
 27 returns shall be made to the Governor of the vote for and against the proposed
 28 amendment, as directed by Article XIV of the Constitution, and further proceedings had
 29 in accordance with Article XIV.