
By: Delegate Minnick (Baltimore County Administration)

Introduced and read first time: January 23, 1997

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County - Evaluation of Private Property for Public Use - Right of Entry**

3 FOR the purpose of authorizing agents, employees, and consultants of Baltimore County
4 to enter upon private property to conduct certain studies and operations in order to
5 determine the suitability of the property for public use; requiring prior consent of a
6 property owner; authorizing the County to obtain a court order when consent
7 cannot be obtained; specifying certain notice requirements; requiring the County to
8 replace topsoil in a certain manner under certain circumstances; providing that the
9 County is liable for certain damage; and generally relating to authorization for
10 Baltimore County to enter private property to conduct environmental and
11 engineering studies in evaluating property for a public use.

12 BY adding to

13 Article - Real Property
14 Section 12-111(h)
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1996 Supplement)

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

19 **Article - Real Property**

20 12-111.

21 (H) (1) IN BALTIMORE COUNTY, AGENTS, EMPLOYEES, AND CONSULTANTS
22 OF THE COUNTY MAY ENTER UPON PRIVATE PROPERTY TO CONDUCT
23 ENVIRONMENTAL AND ENGINEERING STUDIES, INCLUDING SOIL BORING AND
24 EXCAVATION, NECESSARY TO DETERMINE THE SUITABILITY OF THE PROPERTY FOR
25 PUBLIC USE.

26 (2) (I) ENTRY ONTO PRIVATE PROPERTY UNDER THIS SUBSECTION
27 MAY NOT BE UNDERTAKEN WITHOUT PRIOR CONSENT OF THE PROPERTY OWNER.

28 (II) IF, AFTER A BONA FIDE EFFORT, THE CONSENT OF THE
29 PROPERTY OWNER CANNOT BE SECURED, THE COUNTY MAY APPLY TO THE CIRCUIT
30 COURT FOR BALTIMORE COUNTY FOR AN ORDER DIRECTING THAT ENTRY BE
31 ALLOWED.

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1 (III) "BONA FIDE EFFORT" SHALL INCLUDE EITHER 30 DAYS
2 ADVANCE NOTICE IN WRITING BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
3 TO THE LAST KNOWN ADDRESS OF THE PROPERTY OWNER OR POSTING NOTICE ON
4 THE PROPERTY NOT LESS THAN 30 DAYS IN ADVANCE, AND ANY OTHER
5 REQUIREMENTS THE COURT MAY CONSIDER APPROPRIATE.

6 (3) THE COUNTY, WHEN REMOVING, DISPLACING, BORING, OR
7 EXCAVATING SOIL UNDER THE PROVISIONS OF THIS SUBSECTION, SHALL REPLACE
8 THE TOPSOIL IN A MANNER THAT WILL APPROACH THE LEVEL OF COMPACTION
9 AND CONTOUR AS WHEN REMOVED.

10 (4) (I) THE COUNTY SHALL REIMBURSE THE LANDOWNER OR LESSEE
11 WHO IS FARMING THE PROPERTY FOR AGRICULTURAL PRODUCTS DESTROYED OR
12 DAMAGED BY ITS AGENTS, EMPLOYEES, OR CONSULTANTS.

13 (II) THE COUNTY ALSO SHALL BE RESPONSIBLE FOR ANY OTHER
14 DAMAGES THAT MAY BE INCURRED AS A RESULT OF ENTRY ONTO PRIVATE
15 PROPERTY UNDER THIS SUBSECTION.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 1997.