
By: Delegate Minnick (Baltimore County Administration)

Introduced and read first time: January 23, 1997

Assigned to: Commerce and Government Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 25, 1997

CHAPTER ____

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

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1 EXCAVATION, NECESSARY TO DETERMINE THE SUITABILITY OF THE PROPERTY FOR
2 PUBLIC USE.

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

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

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

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

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

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

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