

# HOUSE BILL 548

C5, N1

8lr1110  
CF SB 1073

---

By: **Delegates Healey, B. Barnes, Beidle, Carey, Chang, Frush, Gaines, Holmes, Pena-Melnyk, Simonaire, Valentino-Smith, Vallario, and A. Washington**

Introduced and read first time: January 26, 2018

Assigned to: Environment and Transportation

---

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 27, 2018

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~**Railroad Companies—Condemnation Authority—Application**~~  
3 **Privately Owned Transportation Projects – Construction and Authorization to**  
4 **Use State-Owned Rights-of-Way and Property – Requirements**

5 FOR the purpose of ~~establishing that certain authority of railroad companies to acquire~~  
6 ~~property by condemnation does not apply to an entity that owns or operates certain~~  
7 ~~modes of transportation~~ providing that a certain project may not be constructed and  
8 the State may not authorize the use of or access to a State-owned right-of-way or  
9 State property for a certain project under certain circumstances; defining a certain  
10 term; and generally relating to privately owned transportation projects.

11 ~~BY repealing and reenacting, without amendments,~~  
12 ~~Article—Public Utilities~~  
13 ~~Section 5—405 through 5—408~~  
14 ~~Annotated Code of Maryland~~  
15 ~~(2010 Replacement Volume and 2017 Supplement)~~

16 ~~BY repealing and reenacting, with amendments,~~  
17 ~~Article—Public Utilities~~  
18 ~~Section 5—409~~  
19 ~~Annotated Code of Maryland~~  
20 ~~(2010 Replacement Volume and 2017 Supplement)~~

21 BY adding to

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Public Utilities  
 2 Section 5–412  
 3 Annotated Code of Maryland  
 4 (2010 Replacement Volume and 2017 Supplement)

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

7 **Article – Public Utilities**

8 ~~5–405.~~

9 ~~(a) A railroad company or its authorized agent may agree with the owner to~~  
 10 ~~purchase, use, occupy, or divert the owner's land, earth, gravel, stone, timber, streams,~~  
 11 ~~materials, or improvements that the company wants for the proper construction or repair~~  
 12 ~~of the railroad company's roads or works.~~

13 ~~(b) The company may acquire the property by condemnation under Title 12 of the~~  
 14 ~~Real Property Article if:~~

15 ~~(1) the company cannot agree with the owner of the property; or~~

16 ~~(2) an owner:~~

17 ~~(i) is a minor, is adjudged to be mentally incompetent, or is under~~  
 18 ~~any other legal disability to contract; or~~

19 ~~(ii) is absent from the county in which the property is located when~~  
 20 ~~the company wants the property.~~

21 ~~5–406.~~

22 ~~(a) (1) A railroad company may change the location or grade of any portion of~~  
 23 ~~its road if the company finds the change is necessary for any reasonable cause, including to~~  
 24 ~~avoid:~~

25 ~~(i) inconvenience to public travel;~~

26 ~~(ii) dangerous or difficult curves or grades; or~~

27 ~~(iii) unsafe or unsubstantial grounds or foundations.~~

28 ~~(2) A change of location or grade under this section shall follow the general~~  
 29 ~~route of the existing road.~~

1           ~~(3) A railroad company may enter on and take land and make surveys~~  
2 ~~necessary to make the change in location or grade in accordance with Title 12 of the Real~~  
3 ~~Property Article.~~

4           ~~(b) (1) A railroad company is liable to the owner of the land on which the road~~  
5 ~~was constructed for any damages caused by a change in location or grade of the road.~~

6           ~~(2) The amount of damages determined shall be paid to the owner or~~  
7 ~~deposited into court.~~

8           ~~(3) An owner shall claim damages within:~~

9                   ~~(i) 30 days after actual notice of the intended change has been given~~  
10 ~~to the owner, if the owner resides on the premises; or~~

11                   ~~(ii) 60 days after publication of notice in a newspaper in general~~  
12 ~~circulation in the county, if the owner is a nonresident.~~

13           ~~(e) If a railroad company condemns land under this section, the condemnation is~~  
14 ~~binding on the company, unless the company chooses to abandon the location within 30~~  
15 ~~days after making the condemnation.~~

16 ~~5-407.~~

17           ~~(a) A railroad company and the municipal corporation, public officer, or public~~  
18 ~~authority that owns or has control of any road, street, alley, or other public way or ground~~  
19 ~~necessary to locate any part of the railroad may agree on the manner, terms, and conditions~~  
20 ~~allowing the railroad company to use or occupy the road, street, alley, or other public way~~  
21 ~~or ground.~~

22           ~~(b) If the parties are unable to agree and the railroad company needs to use or~~  
23 ~~occupy the road, street, alley, or other public way or ground, the railroad company may~~  
24 ~~acquire the property by condemnation in accordance with Title 12 of the Real Property~~  
25 ~~Article.~~

26           ~~(e) (1) A railroad company that lays track on any public street, road, alley, or~~  
27 ~~other public way or ground is responsible for any damage done by the location of the track~~  
28 ~~to private property on or near the public way or ground.~~

29           ~~(2) The owner of the private property shall bring a civil action for damages~~  
30 ~~under this subsection within 2 years after the completion of the track.~~

31           ~~(d) A railroad company may not pass through Baltimore City without the consent~~  
32 ~~of the Mayor and City Council.~~

33 ~~5-408.~~

~~The power of a railroad company to condemn land and other property under this subtitle includes the power to condemn, for railroad purposes, private crossings or ways and land and other property to provide substitute outlets.~~

~~5-409.~~

~~(A) [Sections] SUBJECT TO SUBSECTION (B) OF THIS SECTION, §§ 5-405, 5-406, and 5-407 of this subtitle apply to all railroads operated by electricity, cable, or other improved motive power, whether the property proposed to be condemned is located in a county or Baltimore City, where streets and alleys have not been opened and occupied as city streets.~~

~~(B) SECTIONS 5-405 THROUGH 5-408 OF THIS SUBTITLE DO NOT APPLY TO AN ENTITY THAT OWNS OR OPERATES:~~

~~(1) A RAILROAD POWERED BY A MAGNETIC LEVITATION PROPULSION SYSTEM; OR~~

~~(2) PASSENGER OR FREIGHT TRANSPORTATION FOR WHICH PRESSURIZED CAPSULES OR PODS TRAVEL AT HIGH SPEED IN REDUCED PRESSURE TUBES ON A THIN LAYER OF PRESSURIZED AIR OR OTHER GAS.~~

~~5-412.~~

(A) IN THIS SECTION, "PROJECT" MEANS A PRIVATELY OWNED TRANSPORTATION PROJECT IN THE STATE THAT INCLUDES THE CONSTRUCTION OF ONE OR MORE TUNNELS WITH A DIAMETER OF 6 FEET OR GREATER THAT WILL BE PRIMARILY USED BY A COMMON CARRIER.

(B) NOTWITHSTANDING ANY OTHER LAW, A PROJECT MAY NOT BE CONSTRUCTED AND THE STATE MAY NOT AUTHORIZE THE USE OF OR ACCESS TO A STATE-OWNED RIGHT-OF-WAY OR STATE PROPERTY FOR A PROJECT UNLESS:

(1) (I) THE OWNER OF THE PROJECT HAS PREVIOUSLY OBTAINED A FRANCHISE FROM THE COMMISSION TO OPERATE AS A PUBLIC SERVICE COMPANY; OR

(II) THE PROJECT IS APPROVED BY THE COMMISSION; AND

(2) (I) 1. ~~AN~~ A RAIL ALIGNMENT ENVIRONMENTAL IMPACT STATEMENT IS PREPARED FOR THE PROJECT IN ACCORDANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT; AND

1                                   **2. THE RECORD OF DECISION ISSUED FOR THE RAIL**  
 2 **ALIGNMENT ENVIRONMENTAL IMPACT STATEMENT PREPARED UNDER ITEM 1 OF**  
 3 **THIS ITEM APPROVES THE RAIL ALIGNMENT FOR THE PROJECT; OR**

4                                   **(II) 1. AN ENVIRONMENTAL EFFECTS REPORT IS PREPARED**  
 5 **FOR THE PROJECT IN ACCORDANCE WITH § 1-304 OF THE NATURAL RESOURCES**  
 6 **ARTICLE; AND**

7                                   **2. THE ENVIRONMENTAL EFFECTS REPORT PREPARED**  
 8 **UNDER ITEM 1 OF THIS ITEM APPROVES THE RAIL ALIGNMENT FOR THE PROJECT.**

9                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 10 October 1, 2018.

Approved:

---

Governor.

---

Speaker of the House of Delegates.

---

President of the Senate.