

CONSTITUTIONAL AMENDMENT

L2

6lr2714

By: Senators Amoss and Craig

Introduced and read first time: February 12, 1996

Assigned to: Rules

A BILL ENTITLED

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:

22 **Article III - Legislative Department**

23 40A.

24 The General Assembly shall enact no law authorizing private propertyto be taken
25 for public use without just compensation, to be agreed upon between theparties, or
26 awarded by a jury, being first paid or tendered to the party entitled to such compensation,
27 but where such property is situated in Baltimore City and is desired bythis State or by the
28 Mayor and City Council of Baltimore, the General Assembly may provide that such
29 property may be taken immediately upon payment therefor to the owner oowners
30 thereof by the State or by the Mayor and City Council of Baltimore, or into court, such
31 amount as the State or the Mayor and City Council of Baltimore, as the case may be, shall
32 estimate to be the fair value of said property, provided such legislation also requires the
33 payment of any further sum that may subsequently be added by a jury; and further

2

1 provided that the authority and procedure for the immediate taking of property as it
2 applies to the Mayor and City Council of Baltimore on June 1, 1961, shall remain in force
3 and effect to and including June 1, 1963, and where such property is situated in Baltimore
4 County and is desired by Baltimore County, Maryland, the County Council of Baltimore
5 County, Maryland, may provide for the appointment of an appraiser or appraisers by a
6 Court of Record to value such property and that upon payment of the amount of such
7 evaluation, to the party entitled to compensation, or into Court, and securing the payment
8 of any further sum that may be awarded by a jury, such property may be taken; and where
9 such property is situated in Montgomery County and in the judgment of and upon a
10 finding by the County Council of said County that there is immediate need therefor for
11 right of way for County roads or streets, the County Council may provide that such
12 property may be taken immediately upon payment therefor to the owner or owners
13 thereof, or into court, such amount as a licensed real estate broker appointed by the
14 County Council shall estimate to be the fair market value of such property, provided that
15 the Council shall secure the payment of any further sum that may subsequently be
16 awarded by a jury. IF THE PROPERTY IS SITUATED IN HARFORD COUNTY, THE
17 COUNTY COUNCIL OF HARFORD COUNTY MAY PROVIDE THAT, WHEN THERE IS AN
18 IMMEDIATE NEED FOR THE PROPERTY FOR A RIGHT OF WAY FOR ROAD, STORM
19 DRAIN, SEWER, OR WATER CONSTRUCTION OR INSTALLATION, THE COUNTY MAY
20 TAKE IMMEDIATELY: (1) UP TO 20 FEET OF PROPERTY ALONG AN EXISTING COUNTY
21 ROAD, HIGHWAY, OR SIMILAR RIGHT OF WAY (INCLUDING THE PROPERTY UNDER
22 THE ROAD, HIGHWAY, OR SIMILAR RIGHT OF WAY), MEASURED FROM THE
23 PROPERTY LINE; (2) UP TO 20 FEET OF PROPERTY FOR THE CONSTRUCTION OR
24 INSTALLATION OF PUBLIC WATER, SEWERAGE, OR STORM DRAINS; AND (3) UP TO 10
25 FEET OF REVERTIBLE SLOPE OR CONSTRUCTION EASEMENT IMMEDIATELY
26 ADJACENT TO ANY TAKING AUTHORIZED HEREIN, AFTER THE COUNTY APPOINTS A
27 PROPERLY DESIGNATED REAL ESTATE APPRAISER LICENSED BY THE STATE TO
28 APPRAISE THE PROPERTY, PAYS TO THE OWNER OR INTO COURT THE FAIR MARKET
29 VALUE OF THE PROPERTY, AS DETERMINED BY THE APPRAISER, AND ASSURES
30 PAYMENT OF ANY ADDITIONAL AMOUNT THAT MAY SUBSEQUENTLY BE AWARDED
31 BY A JURY. A TAKING UNDER THIS PROVISION IN HARFORD COUNTY MAY NOT
32 RESULT IN LESS THAN 60 FEET BETWEEN THE NEW RIGHT OF WAY BOUNDARY AND
33 ANY RESIDENTIAL DWELLING OR COMMERCIAL BUILDING LOCATED ON THE
34 PARCEL OF PROPERTY SUBJECT TO THE TAKING. THE COUNTY MAY NOT CONDUCT
35 UNDER THIS PROVISION MORE THAN ONE TAKING FROM A SINGLE PARCEL OF
36 PROPERTY FOR THE CONSTRUCTION OR IMPROVEMENT OF A SINGLE COUNTY
37 ROAD, HIGHWAY, OR SIMILAR RIGHT OF WAY OR A SINGLE PUBLIC WATER,
38 SEWERAGE, OR STORM DRAIN CONSTRUCTION OR INSTALLATION PROJECT. In the
39 various municipal corporations within Cecil County, where in the judgment of and upon a
40 finding by the governing body of said municipal corporation that there is immediate need
41 therefor for right of way for municipal roads, streets and extension of municipal water
42 and sewage facilities, the governing body may provide that such property may be taken
43 immediately upon payment therefor to the owner or owners thereof, or into court, such
44 amount as a licensed real estate broker appointed by the particular governing body shall
45 estimate to be a fair market value of such property, provided that the municipal
46 corporation shall secure the payment of any further sum that subsequently may be
47 awarded by a jury. This Section 40A shall not apply in Montgomery County OR

3

1 HARFORD COUNTY or any of the various municipal corporations within Cecil County, if
2 the property actually to be taken includes a building or buildings.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
4 determines that the amendment to the Constitution of Maryland proposed by this Act
5 affects only one county and that the provisions of Article XIV, Section1 of the
6 Constitution concerning local approval of constitutional amendments apply.

7 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
8 proposed as an amendment to the Constitution of Maryland shall be submitted to the
9 legal and qualified voters of this State at the next general election to be held in
10 November, 1996 for their adoption or rejection in pursuance of directions contained in
11 Article XIV of the Constitution of this State. At that general election, the vote on this
12 proposed amendment to the Constitution shall be by ballot, and upon each ballot there
13 shall be printed the words "For the Constitutional Amendments" and "Against the
14 Constitutional Amendments," as now provided by law. Immediately after the election, all
15 returns shall be made to the Governor of the vote for and against the proposed
16 amendment, as directed by Article XIV of the Constitution, and further proceedings had
17 in accordance with Article XIV.