

HOUSE BILL 997

Unofficial Copy
R1

1999 Regular Session
9r1502
CF 9r2408

By: **Delegate Wood**

Introduced and read first time: February 12, 1999

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Highways - Right of Access - Process and Review**

3 FOR the purpose of authorizing a property owner whose property abuts certain State
4 highways to petition the State Highway Administration (SHA) to sell a right of
5 access; requiring the SHA to take specified actions in response to a petition
6 within prescribed times; establishing a State Highway Access Appeals Board to
7 review certain decisions of the SHA; providing for the composition of the Board
8 and requiring SHA to provide staff support to the Board; authorizing certain
9 persons to appeal certain access decisions to the Board; requiring the Board to
10 take certain actions in relation to the appeal; specifying certain substantive and
11 procedural requirements; providing that certain decisions of the Board are
12 binding on the SHA, but subject to approval of the Board of Public Works; and
13 generally relating to a process under which certain property owners may seek a
14 right of access to State highways.

15 BY adding to
16 Article - Transportation
17 Section 8-310
18 Annotated Code of Maryland
19 (1993 Replacement Volume and 1998 Supplement)

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

22 **Article - Transportation**

23 8-310.

24 (A) IN THIS SECTION, "BOARD" MEANS THE STATE HIGHWAY ACCESS APPEALS
25 BOARD.

26 (B) (1) THE SECRETARY SHALL ESTABLISH A STATE HIGHWAY ACCESS
27 APPEALS BOARD IN THE ADMINISTRATION.

28 (2) THE BOARD SHALL CONSIST OF:

1 (I) THE ADMINISTRATOR OR THE ADMINISTRATOR'S DESIGNEE;

2 (II) THE DIRECTOR OF THE OFFICE OF PLANNING OR THE
3 DIRECTOR'S DESIGNEE; AND

4 (III) THE SECRETARY OF THE DEPARTMENT OF BUSINESS AND
5 ECONOMIC DEVELOPMENT OR THE SECRETARY'S DESIGNEE.

6 (3) THE ADMINISTRATOR OR THE ADMINISTRATOR'S DESIGNEE SHALL
7 SERVE AS CHAIRMAN OF THE BOARD.

8 (4) THE BOARD SHALL DETERMINE THE TIMES AND LOCATIONS OF ITS
9 MEETINGS AND SHALL CONDUCT BUSINESS IN ACCORDANCE WITH PROCEDURES
10 ESTABLISHED BY THE BOARD.

11 (5) A MEMBER OF THE BOARD:

12 (I) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
13 BOARD; BUT

14 (II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
15 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

16 (6) THE ADMINISTRATION SHALL PROVIDE STAFF TO THE BOARD.

17 (C) (1) THIS SUBSECTION DOES NOT APPLY TO AN INTERSTATE HIGHWAY.

18 (2) IF AN OWNER OF PROPERTY THAT ABUTS A STATE HIGHWAY WHERE
19 THE STATE OWNS CONTROL OF ACCESS SEEKS TO PURCHASE A RIGHT OF ACCESS TO
20 THE HIGHWAY, THE OWNER MAY PETITION THE ADMINISTRATION TO SELL TO THE
21 OWNER A RIGHT OF ACCESS.

22 (3) WITHIN 60 DAYS OF RECEIVING A PETITION UNDER PARAGRAPH (2)
23 OF THIS SUBSECTION, THE ADMINISTRATION SHALL ACT ON THE PETITION.

24 (4) THE ADMINISTRATION SHALL:

25 (I) APPROVE THE GRANTING OF THE RIGHT TO ACCESS THE STATE
26 HIGHWAY, THE TERMS GOVERNING ACCESS, AND, IF AVAILABLE AT THE TIME, THE
27 COST OF THE RIGHT OF ACCESS; OR

28 (II) DENY THE PETITION, CITING THE ADMINISTRATION'S REASONS
29 FOR DENIAL.

30 (5) IF THE ADMINISTRATION IS WILLING TO GRANT ACCESS TO A STATE
31 HIGHWAY TO THE OWNER OF ABUTTING PROPERTY BUT IS UNABLE TO DETERMINE
32 THE COST WITHIN THE TIME REQUIRED UNDER PARAGRAPH (3) OF THIS
33 SUBSECTION, THE ADMINISTRATION SHALL INFORM THE PROPERTY OWNER OF THE
34 COST OF THE RIGHT OF ACCESS WITHIN 60 DAYS AFTER ITS RESPONSE UNDER
35 PARAGRAPH (4)(I) OF THIS SUBSECTION.

1 (D) IF A PETITIONER IS NOT SATISFIED WITH THE DECISION OF THE
2 ADMINISTRATION UNDER SUBSECTION (C)(4) OR (5) OF THIS SECTION, THE OWNER
3 MAY APPEAL THE ADMINISTRATION'S DECISION TO THE BOARD.

4 (E) FOLLOWING RECEIPT OF AN APPEAL UNDER SUBSECTION (D) OF THIS
5 SECTION, THE BOARD SHALL:

6 (1) REVIEW THE APPLICATION AND REQUEST ANY DOCUMENTATION
7 THAT THE BOARD CONSIDERS NECESSARY TO FULLY CONSIDER THE PROPERTY
8 OWNER'S REQUEST TO PURCHASE THE RIGHT OF ACCESS AND THE
9 ADMINISTRATION'S RESPONSE;

10 (2) HOLD AT LEAST ONE PUBLIC HEARING ON THE APPLICATION OF THE
11 PROPERTY OWNER AND RESPONSE OF THE ADMINISTRATION; AND

12 (3) FULLY EVALUATE THE APPLICATION IN TERMS OF THE IMPACT
13 THAT A GRANT OF ACCESS RIGHTS WOULD HAVE ON TRAFFIC FLOW, ECONOMIC
14 DEVELOPMENT, ENVIRONMENTAL PROTECTION, AND OTHER POLICY
15 CONSIDERATIONS THAT THE BOARD CONSIDERS RELEVANT.

16 (F) (1) AT ANY TIME FOLLOWING THE PUBLIC HEARING, BUT WITHIN 6
17 MONTHS OF THE DATE OF THE PETITION, THE BOARD SHALL RENDER A FINAL
18 DECISION ON THE APPLICATION.

19 (2) THE BOARD MAY AFFIRM, REVERSE, OR MODIFY THE DECISION OF
20 THE ADMINISTRATION FROM WHICH THE PROPERTY OWNER APPEALED.

21 (3) IF THE BOARD GRANTS A RIGHT OF ACCESS, THE BOARD SHALL
22 INCLUDE IN ITS DECISION THE COST OF THE RIGHT OF ACCESS AND THE TERMS
23 GOVERNING THE SALE OF ACCESS RIGHTS.

24 (4) A DECISION BY THE BOARD UNDER THIS SUBSECTION:

25 (I) SHALL BE BASED ON THE RECORD DEVELOPED BY THE BOARD;

26 (II) SHALL REQUIRE THE AFFIRMATIVE VOTE OF AT LEAST TWO
27 MEMBERS OF THE BOARD; AND

28 (III) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SHALL BE
29 BINDING ON THE ADMINISTRATION, BUT SUBJECT TO APPROVAL OF THE BOARD OF
30 PUBLIC WORKS.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
32 effect October 1, 1999.