

HOUSE BILL 314

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2001 Regular Session  
1r0478

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By: **Delegates Rosenberg, Krysiak, Hammen, McIntosh, Gordon, Mitchell,  
and Minnick**

Introduced and read first time: January 29, 2001

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Eminent Domain - Loss of Goodwill**

3 FOR the purpose of requiring compensation for a business owner for loss of goodwill  
4 in eminent domain cases; defining certain terms; providing for the application of  
5 this Act; and generally relating to required compensation for a business owner  
6 for loss of goodwill in eminent domain cases.

7 BY adding to  
8 Article - Real Property  
9 Section 12-104.1  
10 Annotated Code of Maryland  
11 (1996 Replacement Volume and 2000 Supplement)

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

14 **Article - Real Property**

15 12-104.1.

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
17 INDICATED.

18 (2) "BUSINESS" MEANS A LAWFUL ACTIVITY, WHETHER OR NOT FOR  
19 PROFIT, OTHER THAN A FARM OPERATION, CONDUCTED PRIMARILY FOR THE  
20 PURCHASE, SALE, LEASE, RENTAL, MANUFACTURE, PROCESSING, OR MARKETING OF  
21 PRODUCTS, COMMODITIES, OR OTHER PROPERTY, OR FOR PROVIDING SERVICES.

22 (3) "GOODWILL" MEANS THE BENEFITS THAT ACCRUE TO A BUSINESS AS  
23 A RESULT OF ITS LOCATION, REPUTATION FOR DEPENDABILITY, SKILL, OR QUALITY,  
24 AND ANY OTHER CIRCUMSTANCES RESULTING IN PROBABLE RETENTION OF OLD OR  
25 ACQUISITION OF NEW PATRONAGE.

26 (B) IN ADDITION TO FAIR MARKET VALUE DETERMINED UNDER § 12-105 OF  
27 THIS SUBTITLE, THE OWNER OF A BUSINESS CONDUCTED ON PROPERTY TAKEN, OR

1 ON THE REMAINDER IF THERE IS A PARTIAL TAKING, SHALL BE COMPENSATED FOR  
2 LOSS OF GOODWILL ONLY IF THE OWNER PROVES THAT THE LOSS:

3 (1) IS CAUSED BY THE TAKING OF THE PROPERTY OR THE INJURY TO  
4 THE REMAINDER;

5 (2) CANNOT REASONABLY BE PREVENTED BY A RELOCATION OF THE  
6 BUSINESS OR BY TAKING STEPS AND ADOPTING PROCEDURES THAT A REASONABLY  
7 PRUDENT PERSON WOULD TAKE AND ADOPT IN PRESERVING GOODWILL;

8 (3) WILL NOT BE INCLUDED IN RELOCATION PAYMENTS UNDER § 12-205  
9 OF THIS TITLE; AND

10 (4) WILL NOT BE DUPLICATED IN THE COMPENSATION AWARDED TO  
11 THE OWNER.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
13 construed only prospectively and may not be applied or interpreted to have any effect  
14 on or application to any case filed before the effective date of this Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2001.