

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 275

(Senator Stone)

Judicial Proceedings

Environmental Matters

Real Property - Task Force on Business Owner Compensation in Condemnation Proceedings

This bill establishes a Task Force on Business Owner Compensation in Condemnation Proceedings. The task force will study: (1) the concept of business goodwill, with a focus on small business goodwill, and the appropriateness of developing a method to determine its value to calculate compensation in condemnation proceedings; (2) the feasibility of requiring condemning agencies to study the effect of condemnation on businesses; (3) the appropriateness of establishing a fund to provide financial assistance for affected businesses; (4) the feasibility of shortening the condemnation process to lessen uncertainty for businesses; (5) the appropriateness of making a legislative proposal on business owner compensation in condemnation proceedings; and (6) the circumstances in which condemnation can be used. The Maryland Department of Transportation will provide staff for the task force. The task force is required to report to the Governor and the General Assembly by December 31, 2005.

The bill takes effect July 1, 2004 and terminates December 31, 2005.

Fiscal Summary

State Effect: None. Any expense reimbursements for the task force members and staffing costs for the Maryland Department of Transportation are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Background: Generally, the damages for a taking in a condemnation proceeding is the fair market value of the land taken. A business's goodwill is not considered in determining fair market value.

When land is acquired by condemnation, the condemning agency must pay a displaced person for: (1) actual reasonable moving expenses for moving the person, the person's family, business, farm operation, or other personal property; (2) actual direct loss of tangible personal property as a result of moving or discontinuing a business or farm operation, up to the agency's determination of the reasonable expenses that would have been required to relocate the personal property; (3) actual reasonable expenses in searching for a replacement business or farm; and (4) actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, up to \$10,000.

In lieu of those allowable expenses, a person who is displaced from a place of business or farm operation and meets criteria established by the agency may elect to accept a fixed payment from the agency. Such payments range from \$1,000 to \$20,000, or the amount provided under the federal Uniform Relocation Assistance Act, whichever is greater. The limits are the same under the federal Act.

A person at whose expense any personal property, dead body, grave marker, or monument must be removed as a reasonably necessary consequence of condemnation is generally entitled to an allowance for the cost of removing and placing the item or body in another location. The allowance does not include any compensation for loss of profit, goodwill, or for the acquisition of another location.

Additional Information

Prior Introductions: None.

Cross File: HB 386 (Delegate Rosenberg, *et al.*) – Environmental Matters.

Information Source(s): Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2004
lc/jr Revised - Senate Third Reader - March 29, 2004

Analysis by: Ryan Wilson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510