

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL NO. 1203
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Pugh” and substitute “Pugh, Bronrott, Cane, Lawton, Montgomery, Stern, and Weir”.

AMENDMENT NO. 2

On page 1, in line 3, after “of” insert “prohibiting farmland, land zoned for agricultural use, and land under an agricultural preservation easement from being acquired by condemnation for the purposes of economic development;”; strike beginning with “requiring” in line 3 down through “party” in line 4 and substitute “expressing the intent of the General Assembly regarding the relocation of businesses”; in line 4, after “for” insert “urban renewal and”; strike beginning with “requiring” in line 5 down through “findings;” in line 7 and substitute “establishing the required elements of a comprehensive planning process that must be followed when eminent domain is used to condemn private property for the purposes of economic development;”; strike beginning with “establishing” in line 7 down through “owner;” in line 17 and substitute “establishing the amount a government unit that is a condemning authority must offer to the property owner before initiating an action for the condemnation of residential real property;”; strike beginning with “the” in line 17 down through “subdivision” in line 18 and substitute “a government unit”; strike beginning with the second “the” in line 20 down through “subdivision” in line 21 and substitute “a government unit”; and in line 31, after “limitations;” insert “requiring a certain office within the Department of Business and Economic Development to provide certain assistance to businesses condemned by eminent domain;”.

On pages 1 and 2, strike in their entirety the lines beginning with line 35 on page 1 through line 4 on page 2, inclusive, and substitute:

“BY renumbering

Article - Real Property

(Over)

Section 12-101
to be Section 12-101.1
Annotated Code of Maryland
(2003 Replacement Volume and 2005 Supplement)

BY repealing and reenacting, with amendments,
Article - Agriculture
Section 2-515(a)
Annotated Code of Maryland
(1999 Replacement Volume and 2005 Supplement)”.

AMENDMENT NO. 3

On page 2, in line 7, after “Section” insert “12-101.”; in the same line, after “12-102.1,” insert “12-102.2, 12-102.3.”; after line 9, insert:

“BY repealing and reenacting, with amendments,
Article - Real Property
Section 12-101.1
Annotated Code of Maryland
(2003 Replacement Volume and 2005 Supplement)
(As enacted by Section 1 of this Act)”;

after line 14, insert:

“BY repealing and reenacting, with amendments,
Article - Real Property
Section 12-205
Annotated Code of Maryland
(2003 Replacement Volume and 2005 Supplement)”;

and strike in their entirety lines 15 and 16 and substitute:

“SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That
Section(s) 12-101 of the Real Property Article of the Annotated Code of Maryland be renumbered to
be Section(s) 12-101.1.

SECTION 2. AND BE FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Agriculture

2-515.

(a) This subtitle does not prohibit an agency of the State or of a county from acquiring by condemnation land which is under an agricultural preservation easement held by the Foundation or a county agricultural land preservation program if such acquisition is for a public purpose THAT DOES NOT INCLUDE ECONOMIC DEVELOPMENT.”.

AMENDMENT NO. 4

On page 2, after line 17, insert:

“12-101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “BUSINESS” HAS THE MEANING STATED IN § 12-201 OF THIS TITLE.

(C) “ECONOMIC DEVELOPMENT” INCLUDES INCREASING TAX REVENUE, TAX BASE, EMPLOYMENT, OR GENERAL ECONOMIC HEALTH.

(D) “GOVERNMENT UNIT” MEANS THE STATE, AN AGENCY, AUTHORITY, BOARD, COMMISSION, COUNCIL, OFFICE, PUBLIC OR QUASI-PUBLIC CORPORATION, OR OTHER UNIT OR INSTRUMENTALITY OF THE STATE OR A COUNTY, POLITICAL SUBDIVISION, OR MUNICIPAL CORPORATION.”;

and in line 18, strike “12-101.” and substitute “12-101.1.”.

On pages 2 and 3, strike in their entirety the lines beginning with line 33 on page 2 through line 7 on page 3, inclusive.

On page 3, after line 7, insert:

(Over)

“12-102.1.

THE FOLLOWING LAND MAY NOT BE ACQUIRED BY CONDEMNATION TO BE USED FOR THE PURPOSES OF ECONOMIC DEVELOPMENT:

(1) FARMLAND ASSESSED UNDER §§ 8-209 AND 8-211 OF THE TAX - PROPERTY ARTICLE;

(2) LAND ZONED FOR AGRICULTURAL USE; AND

(3) LAND WHICH IS UNDER AN AGRICULTURAL PRESERVATION EASEMENT UNDER TITLE 2, SUBTITLE 5 OF THE AGRICULTURE ARTICLE.”.

AMENDMENT NO. 5

On page 3, before line 8, insert “12-102.2.”; in line 8, strike “(B)”; in line 9, strike “A”; in the same line, strike “BUSINESS OR FARM OPERATION” and substitute “EXISTING BUSINESSES”; in line 10, strike “WHENEVER” and substitute “WHERE”; in lines 10 and 11, strike “ACQUIRED BY CONDEMNATION” and substitute “RELOCATED BECAUSE OF CONDEMNATION”; strike beginning with “OTHER” in line 12 down through “AND” in line 13 and substitute “THE REDEVELOPMENT PLAN OR COMPREHENSIVE PLAN UNDER § 12-102.3 OF THIS SUBTITLE CANNOT FEASIBLY BE IMPLEMENTED WITHOUT THE RELOCATION OF THE BUSINESSES; AND”; in line 14, strike “IT IS NECESSARY TO ACQUIRE” and substitute “RELOCATING”; in lines 14 and 15, strike “OR FARM OPERATION BY CONDEMNATION, THE GOVERNMENT UNIT” and substitute “, THE GOVERNMENT UNIT THAT IS THE CONDEMNING AUTHORITY”; in line 15, strike “EVERY” and substitute “A”; in line 16, strike “OR FARM OPERATION”; in line 18, strike “AT ITS EXISTING LOCATION”; and in the same line, before the period insert “IF APPROPRIATE FACILITIES ARE AVAILABLE”.

On pages 3 and 4, strike in their entirety the lines beginning with line 19 on page 3 through line 20 on page 4, inclusive.

AMENDMENT NO. 6

On page 4, after line 20, insert:

“12-102.3.

(A) THIS SECTION APPLIES ONLY TO THE USE OF EMINENT DOMAIN FOR PURPOSES OF ECONOMIC DEVELOPMENT.

(B) THE DECISION TO USE EMINENT DOMAIN TO CONDEMN PRIVATE PROPERTY FOR THE PURPOSES OF ECONOMIC DEVELOPMENT MUST BE BASED ON REDEVELOPMENT PLANS OR COMPREHENSIVE PLANS THAT ARE DEVELOPED AND APPROVED THROUGH A COMPREHENSIVE PLANNING PROCESS THAT MEETS THE REQUIREMENTS OF THIS SECTION.

(C) (1) THE COMPREHENSIVE PLANNING PROCESS SHALL INCLUDE APPROPRIATE PUBLIC NOTICE AND AN OPPORTUNITY FOR PUBLIC COMMENT.

(2) APPROPRIATE PUBLIC NOTICE SHALL INCLUDE:

(I) NOTICE TO THE COMMUNITY AND THE AFFECTED PROPERTY OWNERS; AND

(II) POSTING OF NOTICE ON THE AFFECTED PROPERTY.

(3) AN OPPORTUNITY FOR PUBLIC COMMENT SHALL INCLUDE:

(I) MEETINGS AND HEARINGS THAT SHALL BE OPEN TO THE PUBLIC; AND

(II) AN OPPORTUNITY FOR AFFECTED PROPERTY OWNERS TO BE HEARD AT THE MEETINGS OR HEARINGS THEY ATTEND.

(D) (1) THE DRAFT REDEVELOPMENT PLAN OR COMPREHENSIVE PLAN SHALL BE REVIEWED BY THE LOCAL PLANNING COMMISSION AND THE LOCAL LEGISLATIVE BODY PRIOR TO THE APPROVAL OF THE PLAN.

(Over)

(2) THE LOCAL PLANNING COMMISSION SHALL PROVIDE APPROPRIATE PUBLIC NOTICE AND AN OPPORTUNITY FOR PUBLIC COMMENT ON THE PLAN.

(3) AFTER RECEIVING PUBLIC COMMENT, THE LOCAL PLANNING COMMISSION SHALL MAKE RECOMMENDATIONS REGARDING THE PLAN TO THE LOCAL LEGISLATIVE BODY.

(4) AFTER CONSIDERING THE RECOMMENDATIONS OF THE LOCAL PLANNING COMMISSION, THE LOCAL LEGISLATIVE BODY MAY INTRODUCE LEGISLATION TO IMPLEMENT THE PLAN.

(5) THE LOCAL LEGISLATIVE BODY SHALL PROVIDE APPROPRIATE PUBLIC NOTICE AND AN OPPORTUNITY FOR PUBLIC COMMENT ON THE LEGISLATION THAT IMPLEMENTS THE PLAN.

(6) THE DRAFT REDEVELOPMENT PLAN OR COMPREHENSIVE PLAN MAY ONLY BE IMPLEMENTED IF THE LOCAL LEGISLATIVE BODY PASSES LEGISLATION THAT IMPLEMENTS THE PLAN.

(E) IF THE LEGISLATION THAT IMPLEMENTS THE PLAN IS PASSED BY THE LOCAL LEGISLATIVE BODY, THE GOVERNMENT UNIT THAT IS THE CONDEMNING AUTHORITY SHALL:

(1) COMMISSION TWO APPRAISALS OF THE AFFECTED PROPERTY;

(2) SEND A CERTIFIED LETTER TO THE OWNER OF THE AFFECTED PROPERTY:

(I) OFFERING TO PURCHASE THE PROPERTY AT THE HIGHER OF THE TWO APPRAISALS; AND

(II) NOTIFYING THE OWNER OF THE OWNER'S RIGHT TO OBTAIN AN INDEPENDENT APPRAISAL OF THE AFFECTED PROPERTY; AND

(3) ATTEMPT TO NEGOTIATE WITH THE AFFECTED PROPERTY OWNER FOR PURPOSES OF REACHING A RESOLUTION WITHOUT A COURT FILING.

(F) (1) IF A RESOLUTION IS NOT REACHED WITH THE OWNER OF THE AFFECTED PROPERTY, THE GOVERNMENT UNIT THAT IS THE CONDEMNING AUTHORITY MAY FILE A COURT ACTION FOR CONDEMNATION OF THE AFFECTED PROPERTY.

(2) THE PROPERTY OWNER HAS THE RIGHT TO DUE PROCESS IN THE COURT ACTION.”.

AMENDMENT NO. 7

On pages 4 and 5, strike in their entirety the lines beginning with line 23 on page 4 through line 31 on page 5, inclusive, and substitute:

“(H) (1) IN THIS SUBSECTION, “RESIDENTIAL REAL PROPERTY” MEANS OWNER-OCCUPIED REAL PROPERTY THAT CONTAINS THE PRINCIPAL RESIDENCE OF THE PROPERTY OWNER.

(2) AT LEAST 30 DAYS BEFORE INITIATING AN ACTION FOR CONDEMNATION OF RESIDENTIAL REAL PROPERTY, THE GOVERNMENT UNIT THAT IS THE CONDEMNING AUTHORITY SHALL OFFER THE PROPERTY OWNER 110% OF THE HIGHEST APPRAISAL OF THE RESIDENTIAL REAL PROPERTY IF THE PROPERTY OWNER OWNED THE RESIDENTIAL REAL PROPERTY PRIOR TO THE EARLIER TO OCCUR OF THE SPECIFIC ADMINISTRATIVE OR LEGISLATIVE DETERMINATION TO ACQUIRE THE PROPERTY.

(3) THE OFFER REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION:

(1) DOES NOT PROHIBIT AN OFFER IN EXCESS OF 110% OF THE HIGHEST APPRAISAL OF THE RESIDENTIAL REAL PROPERTY ON A CASE-BY-CASE BASIS; AND

(Over)

(II) DOES NOT PROHIBIT AN OWNER OF RESIDENTIAL REAL PROPERTY FROM RECEIVING OTHER BENEFITS AUTHORIZED UNDER THIS TITLE.”.

AMENDMENT NO. 8

On page 5, strike beginning with “THE” in line 33 down through “SUBDIVISIONS” in line 34 and substitute “A GOVERNMENT UNIT”; in line 35, strike “FOR PUBLIC USE”; and in lines 35 and 38, in each instance, strike “3” and substitute “5”.

AMENDMENT NO. 9

On page 7, in line 16, strike the opening bracket; in the same line, strike “\$10,000];” and substitute “[\$10,000] \$50,000, WHICH SHALL BE ADJUSTED ANNUALLY USING THE ANNUAL CONSUMER PRICE INDEX FOR THE PERIOD ENDING EACH DECEMBER, AS PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE U.S. DEPARTMENT OF LABOR; AND”; in line 20, strike “OPERATION; AND” and substitute “OPERATION.”; and strike beginning with “(6)” in line 21 down through “VIABLE.” in line 26.

AMENDMENT NO. 10

On page 8, after line 3, insert:

“(4) THE MAXIMUM AMOUNT OF THE FIXED PAYMENT UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE ADJUSTED ANNUALLY USING THE ANNUAL CONSUMER PRICE INDEX FOR THE PERIOD ENDING EACH DECEMBER, AS PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE U.S. DEPARTMENT OF LABOR.”;

and in lines 7 and 8, strike “FOR PUBLIC USE”.

AMENDMENT NO. 11

On page 8, after line 13, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That the Governor’s Office of Business Advocacy and Small Business Assistance in the State Department of Business and Economic Development shall:

- (1) assist businesses that are condemned, in whole or in part, by eminent domain;
- (2) identify State loan programs that may be available to the condemned business; and
- (3) direct a condemned business, on request, to the appropriate person in State government to assist the business in obtaining a loan.”;

and in line 14, strike “2.” and substitute “4.”.