

(PRE-FILED)

By: **Delegates Boteler and Cluster**

Requested: August 24, 2005

Introduced and read first time: January 11, 2006

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Eminent Domain - Limitation on Condemnation Authority**

3 FOR the purpose of limiting the condemnation of private property for certain
4 purposes; requiring a certain condemnor that does not use and wants to sell
5 certain condemned property to first offer the property at a certain price to the
6 condemnee or the condemnee's heirs or assignees; establishing that the
7 condemnee or the condemnee's heirs or assignees have the right to repurchase
8 the condemned property within a certain period of time; authorizing the
9 condemnor to sell the property to any other person if the offer is not accepted;
10 defining a certain term; making stylistic changes; and generally relating to the
11 condemnation of private property.

12 BY renumbering

13 Article - Real Property

14 Section 12-101

15 to be Section 12-101.2

16 Annotated Code of Maryland

17 (2003 Replacement Volume and 2005 Supplement)

18 BY adding to

19 Article - Real Property

20 Section 12-101 and 12-101.1

21 Annotated Code of Maryland

22 (2003 Replacement Volume and 2005 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article - Real Property

25 Section 12-101.2

26 Annotated Code of Maryland

27 (2003 Replacement Volume and 2005 Supplement)

28 (As enacted by Section 1 of this Act)

1 BY repealing and reenacting, with amendments,
2 Article - Real Property
3 Section 12-108
4 Annotated Code of Maryland
5 (2003 Replacement Volume and 2005 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That Section(s) 12-101 of Article - Real Property of the Annotated Code
8 of Maryland be renumbered to be Section(s) 12-101.2.

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

11 **Article - Real Property**

12 12-101.

13 (A) IN THIS TITLE, "PUBLIC USE" MEANS:

14 (1) PUBLIC OWNERSHIP OR CONTROL; OR

15 (2) PHYSICAL USE OR ACCESS BY THE GENERAL PUBLIC.

16 (B) "PUBLIC USE" INCLUDES THE:

17 (1) POSSESSION, USE, AND ENJOYMENT OF PROPERTY BY THE PUBLIC,
18 THE STATE, AN INSTRUMENTALITY OF THE STATE, OR A POLITICAL SUBDIVISION;

19 (2) USE OF PROPERTY FOR THE CREATION OR OPERATION OF A PUBLIC
20 UTILITY OR COMMON CARRIER;

21 (3) USE OF PROPERTY FOR A PUBLIC EMERGENCY OR DISASTER RELIEF;
22 OR

23 (4) DESTRUCTION OF PROPERTY TO PREVENT A PUBLIC CATASTROPHE.

24 12-101.1.

25 NOTWITHSTANDING ANY OTHER LAW, THE STATE OR ANY OF ITS
26 INSTRUMENTALITIES OR POLITICAL SUBDIVISIONS MAY NOT ACQUIRE PRIVATE
27 PROPERTY BY CONDEMNATION UNLESS THE PRIVATE PROPERTY IS NECESSARY FOR
28 A PUBLIC USE.

29 12-101.2.

30 (A) All proceedings for the acquisition of private property for public use by
31 condemnation are governed by the provisions of this title and of Title 12, Chapter 200
32 of the Maryland Rules.

33 (B) [Nothing in this] THIS title [prevents] DOES NOT PREVENT:

1 (1) [this] THIS State or any of its instrumentalities or political
2 subdivisions, acting under statute or ordinance passed pursuant to Article III of the
3 Maryland Constitution, from taking private property for public use immediately on
4 making the required payment and giving any required security[. In addition, this
5 title does not prevent];

6 (2) [the] THE State Roads Commission from using the procedures set
7 forth in Title 8, Subtitle 3 of the Transportation Article[, or prevent]; OR

8 (3) Baltimore City from using the procedure set forth in the Charter of
9 Baltimore City and §§ 21-12 through 21-22, inclusive, of the Public Local Laws of
10 Baltimore City.

11 12-108.

12 (a) On payment of the judgment and costs by the plaintiff pursuant to the
13 provisions of Title 12, Chapter 200 of the Maryland Rules, the plaintiff immediately
14 shall become vested with the title, estate, or interest of the defendant in the
15 condemned property.

16 (b) The title acquired in a condemnation proceeding shall be an absolute or
17 fee-simple title including the right, title, and interest of each of the defendants in the
18 proceeding whose property has been condemned unless a different title is specified in
19 the inquisition.

20 (C) (1) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, A PLAINTIFF
21 THAT IS NOT USING PROPERTY ACQUIRED IN A CONDEMNATION PROCEEDING AND
22 THAT WANTS TO SELL THE PROPERTY SHALL FIRST MAKE AN OFFER IN WRITING TO
23 THE DEFENDANT FROM WHOM THE PROPERTY WAS ACQUIRED OR THE HEIRS OR
24 ASSIGNEES OF THE DEFENDANT FOR AN AMOUNT AS DESCRIBED IN PARAGRAPH (2)
25 OF THIS SUBSECTION.

26 (2) THE SALES PRICE FOR THE CONDEMNED PROPERTY SHALL BE THE
27 AMOUNT OF THE AWARD OF COMPENSATION PAID FOR THE PROPERTY LESS
28 DOCUMENTED TAXES AND OTHER EXPENSES PAID BY THE DEFENDANT THAT WERE
29 NOT REIMBURSED BY THE PLAINTIFF DURING THE CONDEMNATION PROCEEDING.

30 (3) (I) THE DEFENDANT OR THE HEIRS OR ASSIGNEES OF THE
31 DEFENDANT HAVE THE RIGHT TO REPURCHASE THE CONDEMNED PROPERTY
32 WITHIN 90 DAYS AFTER THE DATE OF THE WRITTEN OFFER.

33 (II) IF THE DEFENDANT OR THE HEIRS OR ASSIGNEES OF THE
34 DEFENDANT DO NOT ACCEPT THE OFFER OF SALE WITHIN THE TIME PERIOD
35 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PLAINTIFF MAY SELL
36 THE PROPERTY TO ANY OTHER PERSON IN ACCORDANCE WITH PROCEDURES
37 ESTABLISHED IN LAW.

38 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
39 October 1, 2006.